

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES – WASHINGTON, D.C. OFFICE**

**CELLCO PARTNERSHIP d/b/a
VERIZON WIRELESS**

and

Case 28-CA-145221

SARA PARRISH, an Individual

**GENERAL COUNSEL'S MOTION TO WITHDRAW
CERTAIN ALLEGATIONS FROM COMPLAINT
AND FOR REMAND TO REGIONAL DIRECTOR**

For the reasons set forth below, the Counsel for the General Counsel (General Counsel) files this motion to withdraw certain allegations from the Complaint and Notice of Hearing (Complaint) and respectfully requests that the Chief Administrative Law Judge (the CALJ) remand the matter to the Regional Director for further action consistent with the National Labor Relations Board's (the Board) decision in *The Boeing Company*, 365 NLRB No. 154 (2017) (*Boeing*).

On April 30, 2015, the General Counsel, through the Regional Director for Region 28, issued the Complaint, as amended on August 4, 2015, alleging that Respondent engaged in unfair labor practices in violation of Section 8(a)(1) of the Act. As it pertains to this Motion, the Complaint alleged, in pertinent part:

4. (e) Prior to August 2014, Respondent, by its code of conduct, promulgated and since then maintained the following rules at all of its offices and places of business throughout the United States, including Respondent's facility:

[. . .]

(2) 2.1.3 Activities Outside of Verizon Wireless

Many employees participate in an individual capacity in outside organizations (such as their local school board or homeowners' association). Memberships in these associations can cause conflicts if they require decisions regarding Verizon Wireless or its products. If you are a member of an outside organization, you must remove yourself from discussing or voting on any matter that involves the interests of Verizon Wireless or its competitors. You must also disclose this conflict to your outside organization without disclosing non-public company information and you must disclose any such potential conflict to the VZ Compliance Guideline. Participation in any outside organization should not interfere with your work for Verizon Wireless. To the extent that your participation infringes on company time or involves the use of Verizon Wireless resources, your supervisor's approval is required;

[...]

(5) Conclusion

The following are examples of actions considered illegal or unacceptable:

Theft or unauthorized access, use or disclosure of company, customer or employee records, data, funds, property or information (whether or not it is proprietary);

Disparaging or misrepresenting the company's products or services or its employees.

(f) Prior to August 2014, Respondent, by its code of conduct, promulgated and from then until April 29, 2015, maintained the following rule at all of its offices and places of business throughout the United States, including Respondent's facility:

1.8 Employee Privacy

Verizon Wireless acquires and retains personal information about its employees in the normal course of operations, such as for employee identification purposes and provision of employee benefits. You must take appropriate steps to protect all personal employee information, including social security numbers, identification numbers, passwords, financial information and residential telephone numbers and addresses.

You should never access, obtain or disclose another employee's personal information to persons inside or outside of Verizon Wireless unless you are acting for legitimate business purposes and in accordance with applicable laws, legal process and company policies, including obtaining any approvals necessary under those policies;

(g) About April 29, 2015, Respondent, by its code of conduct, promulgated and since then maintained following rule at most of its offices and places of business throughout the United States, including Respondent's facility:

Section 1.8 Employee Privacy:

You must take appropriate steps to protect confidential personal employee information, including social security numbers, identification numbers, passwords, bank account information and medical information. You should never access or obtain, and may not disclose outside of Verizon, another employee's personal information obtained from Verizon business records or systems unless you are acting for legitimate business purposes and in accordance with applicable laws, legal process and company policies, including obtaining any approvals necessary under those policies.

(h) Since prior to August 2014, Respondent, by its code of conduct, has maintained the rule described above in paragraph 4(f) at all of its offices and places of business in the United States where it did not promulgate and maintain the rule described above in paragraph 4(g).

On February 24, 2017, the Board issued its Decision and Order, affirming in part and reversing in part Administrative Law Judge Mary Miller Cracraft's decision, finding that the Respondent violated Section 8(a)(1) of the Act by maintaining certain work rules in its 2014 and 2015 Codes of Conduct. *Cellco Partnership d/b/a Verizon Wireless*, 365 NLRB No. 38 (2017).

On December 14, 2017, the Board issued its decision in *Boeing*, which overruled the “reasonably construe” standard in *Lutheran Heritage Village-Lithonia*, 343 NLRB 646 (2004), and announced a new standard for evaluating facially, neutral policies, rules, or handbook provisions.

On August 30, 2019, the Board issued a Corrected Notice to Show Cause as to why this case should not be remanded for further consideration under *Boeing*. On May 18, 2020, the Board issued an Order Remanding and Notice to Show Cause whereby “the complaint allegations involving Sections 1.8 and 2.1.3 and two bullet points in the Conclusion of the Respondent’s 2014 and 2015 Codes of Conduct are remanded for the purpose of reopening the record, if necessary, and the preparation of a supplemental decision addressing the complaint allegations affected by *Boeing* and setting forth credibility resolutions, findings of fact, conclusions of law, and a recommended Order.”¹ Those allegations at issue are Complaint paragraphs 4(e)(2), 4(e)(5), and 4(f) through 4(h).

In view of the Board’s new standard under *Boeing*, General Counsel respectfully moves to withdraw the Complaint allegations that are currently before the CALJ and requests that the CALJ remand the case as it pertains to these allegations to the Regional Director for further action consistent with *Boeing*.

General Counsel has notified counsel for both Respondent and the Charging Party of General Counsel’s Motion. Respondent has informed General Counsel that it does not oppose

¹ Additionally, the Board severed and retained for future consideration the allegations that Sections 1.6 (Complaint paragraph 4(e)(1)) and 3.4.1 (Complaint paragraph 4(e)(4)) of Respondent’s 2014 and 2015 Codes of Conduct were unlawful. On July 22, 2020, the Board dismissed those allegations on the merits. On August 26, 2020, the Board denied the Charging Party’s Motion for Reconsideration.

the Motion. As of the filing of this Motion, the Charging Party has not informed General Counsel of its position regarding the Motion.

Dated at Phoenix, Arizona this 17th day of September 2020.

Respectfully submitted,

/s/ Fernando Anzaldua

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CERTIFICATE OF SERVICE

I hereby certify that a copy of **GENERAL COUNSEL'S MOTION TO WITHDRAW CERTAIN ALLEGATIONS FROM COMPLAINT AND FOR REMAND TO REGION DIRECTOR** in *Cellco Partnership d/b/a Verizon Wireless*, Case 28-CA-145221, was served by E-Gov, E-Filing and E-Mail on this 17th day of September 2020 on the following:

Via E-Gov, E-Filing:

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