

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**AMEX CARD SERVICES COMPANY, a subsidiary
of AMERICAN EXPRESS TRAVEL RELATED
SERVICES COMPANY, INC., a subsidiary
OF AMERICAN EXPRESS COMPANY**

and

Case 28-CA-123865

**ERANDI ACEVEDO, JENNIFER FLYNN, and
JOHNATHAN LONGNECKER, Individuals**

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

On May 22, 2014, the Regional Director issued a complaint alleging that Respondent's maintenance of an arbitration policy and related acknowledgement interfered with, restrained, and coerced employees in the exercise of their rights under Section 7 of the National Labor Relations Act (the Act) and amounted to an unfair labor practice within the meaning of Section 8(a)(1) of the Act.

On June 24, 2015, the parties submitted the matter to the National Labor Relations Board (the Board) through a joint motion and stipulation of facts, and, on November 10, 2015, the Board issued a Decision and Order finding the maintenance of the arbitration policy and related acknowledgement to be unlawful as alleged.

Respondent petitioned for review with the Fifth Circuit Court of Appeals and subsequently filed an unopposed motion seeking an order summarily granting review of the portion of the Board's Order governed by *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612 (2018), and seeking remand of the remaining portion of the Board's Order (finding that the policy and acknowledgement at issue interfered with the right of employees to pursue charges with the

Board) to the Board for further proceedings in light of *Boeing Co.*, 365 NLRB No. 154 (2017) (overruling the “reasonably construe” prong of the standard for assessing the lawfulness of employer rules set forth in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004)).

Respondent’s motion was granted, and the remaining portion of the Board’s Order, involving the allegation that the policy and acknowledgement at issue interfered with the right of employees to pursue charges with the Board, is pending before the Board.

Counsel for the General Counsel (General Counsel) now respectfully requests to withdraw the remanded allegations and requests that the matter be remanded to the Regional Director for further action consistent with *Boeing Co.* and subsequent cases applying *Boeing Co.* to arbitration policies, including *Hobby Lobby Stores, Inc.*, 369 NLRB No. 129 (2020); *Royal Motor Sales*, 369 NLRB No. 70 (2020); *Keiser University*, 368 NLRB No. 123 (2019); *Wendy's Restaurant*, 368 NLRB No. 72 (2019); and *Prime Healthcare Paradise Valley, LLC*, 368 NLRB No. 10 (2019).

Dated at Albuquerque, New Mexico this 25th day of September 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the GENERAL COUNSEL'S MOTION TO WITHDRAW COMPLAINT ALLEGATIONS AND REQUEST FOR REMAND TO REGIONAL DIRECTOR in *AMEX Card Services Company, a subsidiary of American Express Travel Related Services Company, Inc., a subsidiary of American Express Company*, Case 28-CA-123865, was served by E-Gov, E-Filing and E-Mail on this 25th day of September 2020 on the following:

Via E-Gov, E-Filing:

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