

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9**

SMYRNA READY MIX CONCRETE, LLC	:	CASE NO. 09-CA-251578
	:	09-CA-252487
	:	09-CA-255573
and	:	09-CA-258273
	:	
GENERAL DRIVERS, WAREHOUSEMEN AND HELPERS, LOCAL UNION NO. 89, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS	:	

**RESPONDENT’S MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT’S
EXCEPTIONS AND BRIEF IN SUPPORT OF EXCEPTIONS
DUE TO EXCUSABLE NEGLIGENCE**

Respectfully submitted,

Stephen A. Watring (0007761)
AUMAN, MAHAN & FURRY
110 N. Main St., Suite 1000
Dayton, Ohio 45402
Ph: (937) 223-6003 / Fax: (937) 223-8550
saw@amfdayton.com

s/ Kimberly S. Veirs
Tim K. Garrett (BPR# 012083)
Robert W. Horton (BPR# 017417)
Mary Leigh Pirtle (BPR# 022659)
Kimberly S. Veirs (BPR# 034811)
BASS, BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, Tennessee 37201
Ph: (615) 742-6200 / Fax: (615) 742-2799
tgarrett@bassberry.com
rhorton@bassberry.com
mpirtle@bassberry.com
kveirs@bassberry.com

Attorneys for Respondent

I. Introduction

Respondent, Smyrna Ready Mix Concrete, LLC (“SRM” or “Respondent”) pursuant to Section 102.2(d) of the Board’s Rules and Regulations, as amended hereby requests that the Board accept its late filed Exceptions and Brief in Support of Exceptions due to the NLRB.gov website being “down” and the NLRB’s E-filing system being “unable to handle this request.” SRM submits the reasons underlying its late filing, which was denied by the Deputy Executive Secretary on September 30, 2020, constitutes excusable neglect as it was a technical error on the part of the Board, and not SRM, as explained below.

II. Procedural Background

Administrative Law Judge Arthur Amchan issued his decision and order in the above-referenced case on September 1, 2020. Therefore under Sections 102.46(a) and 102.2(b) of the Board’s Rules and Regulations, any exceptions and briefing in support of exceptions were due within 28 days from the service of the order transferring the case to the Board, or September 29, 2020 by 11:59 p.m. (EDT). However, when Respondent’s counsel’s office attempted to timely file its Exceptions and Brief in Support of Exceptions, Respondent’s counsel and support staff all encountered the same error messages stating that nlr.gov and apps.nlr.gov were down and unable to process filings. (See attached affidavit of Kimberly S. Veirs “Aff.” ¶¶ 2-3, Aff. Exs. A & B). Upon Respondent’s counsel’s support staff receiving these error messages, three of Respondent’s counsel attempted to login to the NLRB’s e-filing system from separate computers and using separate internet connectivity, and received the same error messages. (Aff. ¶ 4, Ex. C).

Specifically, the NLRB.gov website landing page stated “The NLRB public website is currently down. We apologize for the inconvenience” but provided a link for e-filing. (Aff. ¶ 2). Respondent’s counsel were about to input the login credentials. However, after the user

credentials were entered, Respondent's counsel were then immediately re-directed to another error page stating "this page isn't working, apps.nlr.gov is currently unable to handle this request." (Aff. ¶ 3). Respondent's counsel and support staff repeatedly attempted to log into the system from 10:00 p.m. to 11:59 p.m. (EST) using various internet browsers but continued to encounter the same NLRB.gov technical difficulties.¹ (Aff. ¶ 4).

To ensure proper service, in spite of the technical difficulties encountered on the NLRB's E-filing system, Respondent's counsel provided service copies of Respondent's Exceptions and Brief in Support of Exceptions to all parties at 11:22 p.m. (EDT) with an explanation of the technical difficulties, including screenshots of the NLRB.gov website. (Aff. ¶ 5, Ex. D). Two of Respondent's attorneys called the NLRB tech support phone number at or around 11:30 p.m. (EDT), but there was no answer. Respondent's counsel continued attempting to access the NLRB's e-filing system throughout the evening until the system came back up at approximately 1:00 a.m. (EDT). (Aff. ¶ 8). Respondent's counsel then filed Respondent's Exceptions and Brief in Support of Exceptions at 1:39 a.m. (EDT). (Aff. Ex. E). Respondent's counsel contacted the NLRB on the morning of September 30, 2020 and explained that Respondent made every effort to E-file its submission prior to the stated deadline, but that the NLRB.gov website was experiencing technical failure outside of Respondent's control until approximately 1:00 a.m. Respondent further explained that it had timely served all parties with copies of its filings regardless of these technical difficulties and could provide screenshots of the NLRB's communication that it was unable to process our filing. However, immediately after this

¹ The NLRB's electronic filing procedures indicate that if the E-filing system is unable to receive documents for a continuous period of more than 2 hours after 12 noon (Eastern Time), the site will be declared to be in technical failure and that if such a failure prohibited a party from E-filing, then the documents must be filed by 5:00 p.m. (Eastern Time) on the next business day. It is Respondent's position that the NLRB's website should be declared to have been in technical failure on September 29, 2020, thus Respondent's filings should automatically be deemed timely under this rule. However, even if the NLRB's website was not in "technical failure," the technical problems encountered by Respondent's counsel constitute excusable neglect under the Board's Rules and Regulations.

discussion, the parties received a letter from Deputy Executive Secretary, Farah Z. Quershi, rejecting the filings as untimely. (See the September 30, 2020 letter attached hereto as Exhibit 1).

III. Argument

Section 102.2(d) of the Board's Rules and Regulations allows for exceptions and briefs to be late-filed "within a reasonable time after the time prescribed by these Rules only upon good cause shown based on excusable neglect and when no undue prejudice would result." (29 C.F.R. § 102.2(d)). In determining whether neglect is excusable, the Board considers all relevant circumstances, including: any prejudice to the nonmoving party, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith. See, e.g., *Int'l Union of Elevator Constructors, Local No. 2*, 337 NLRB 426, 427 (2002) (applying *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993)). The Board places the greatest weight on the reasons for the delay. *Id.*

Perhaps most important to this case, the reasons for Respondent's delay in filing were completely outside of Respondent's control. Respondent's counsel could not access the NLRB's filing system due to the Board's own technical failure. (Aff. ¶¶ 2-3). Three of Respondent's attorneys and one support staff personnel all attempted to log on to the NLRB's E-filing system from different computers, in different locations, using different connectivity and browsers to confirm that this was not a user error – and all were confronted with the same notice that the NLRB.gov website was inoperable. (Aff. ¶ 4). Respondent diligently continued to monitor the E-filing system for the next two hours until the website came back up, and Respondent filed the filings at its first opportunity at 1:39 a.m. (EDT). (Aff. ¶ 8). Respondent further acted in good

faith by preemptively serving copies of its Exceptions and Brief in Support of Exceptions on all parties and explaining this technical issue prior to the filing deadline in spite of the technical failure of the NLRB's E-filing system. (Aff. ¶ 5, Ex. D). Thus, there was no prejudice to the General Counsel or the Union, as they were provided with copies of our filings *prior* to the deadline. Second, with regard to length of the delay, Respondent's brief was filed one hour and thirty-nine minutes late due to the unavailability of the NLRB's filing system. Such delay is certainly within a "reasonable time" after the deadline of 11:59 p.m. (ET) as it has absolutely no impact on the judicial proceedings.

IV. Conclusion

For the foregoing reasons, Respondent respectfully requests that the Board accept its Exceptions and Brief in Support of Exceptions.

Respectfully submitted,

/s/Kimberly S. Veirs

Tim K. Garrett (BPR# 012083)

Robert W. Horton (BPR# 017417)

Mary Leigh Pirtle (BPR# 022659)

Kimberly S. Veirs (BPR# 034811)

BASS, BERRY & SIMS PLC

150 Third Avenue South, Suite 2800

Nashville, Tennessee 37201

Ph: (615) 742-6200 / Fax: (615) 742-2799

tgarrett@bassberry.com

rhorton@bassberry.com

mpirtle@bassberry.com

kveirs@bassberry.com

Stephen A. Watring (0007761)

AUMAN, MAHAN & FURRY

110 N. Main St., Suite 1000

Dayton, Ohio 45402

Ph: (937) 223-6003 / Fax: (937) 223-8550

saw@amfd Dayton.com

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October 2020, a copy of the foregoing was filed electronically with the NLRB and copies of same forwarded via e-mail to:

Zuzana Murarova
Counsel for General Counsel
NLRB, Region 9
Zuzana.murarova@nlrb.gov

David O'Brien Suetholz
Pamela M. Newport
davids@bsjfirm.com
pamelan@bsjfirm.com

/s/ Kimberly S. Veirs
Kimberly S. Veirs

EXHIBIT 1



United States Government

NATIONAL LABOR RELATIONS BOARD

Office of the Executive Secretary

1015 Half Street, SE

Washington, DC 20570

Telephone: 202-273-1949

Fax: 202-273-4270

farah.gureshi@nlrb.gov

www.nlrb.gov

September 30, 2020

Tim Garrett
Robert Horton
Mary Leigh Pirtle
Kimberly S. Veirs
BASS BERRY SIMS, PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201

Re: SMYRNA READY MIX CONCRETE, LLC
Case 09-CA-251578

Dear Counsels:

This letter acknowledges receipt of the Respondent's Exceptions and Brief in Support of Exceptions, filed with the Board on September 30, 2020.

Section 102.46(a) of the Board's Rules and Regulations provides for the filing of exceptions and briefs in support of exceptions with the Board "within 28 days...from the service of the order transferring the case to the Board." The Order Transferring Proceeding to the National Labor Relations Board was served on the parties on September 1, 2020. See NLRB Rules and Regulations Sec. 102.3. The due date for the filing of exceptions, as stated in that Order, was September 29, 2020. The Respondent's exceptions and brief in support were filed at 1:39 a.m. (ET) on September 30, 2020. Accordingly, the Respondent's filings are untimely and will not be forwarded to the Board for consideration.

Very truly yours,

/s/ Farah Z. Qureshi
Deputy Executive Secretary

CC: Parties
Region 9

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9**

SMYRNA READY MIX CONCRETE, LLC	:	CASE NO. 09-CA-251578
	:	09-CA-252487
	:	09-CA-255573
and	:	09-CA-258273
	:	
GENERAL DRIVERS, WAREHOUSEMEN AND HELPERS, LOCAL UNION NO. 89, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS	:	

AFFIDAVIT OF KIMBERLY S. VEIRS

I, Kimberly S. Veirs, hereby declare as follows:

1. I am over the age of 18. I have personal knowledge of the information set forth in this Affidavit, and I provide this Affidavit in support of Respondent's Motion for Extension of Time to File Respondent's Exceptions and Brief in Support of Exceptions Due to Excusable Neglect.

2. Respondent, through counsel Tim Garrett, Mary Leigh Pirtle, and myself, as well as counsel's paralegal Michelle Harding, attempted to file Respondent's Exceptions and Brief in Support of Exceptions multiple times on the evening of September 29, 2020. Paralegal Harding received an error message attached as Exhibit A upon going to the website nlr.gov stating "the NLRB public website is currently down. We apologize for the inconvenience. For all NLRB e-filing services, you may use the following links...." (See Exhibit A).

3. Upon clicking the links provided which all eventually led to apps.nlr.gov for parties to e-file documents, Paralegal Harding received an error message attached as Exhibit B stating “This page isn’t working...apps.nlr.gov is currently unable to handle this request.” (See Exhibit B).

4. Paralegal Harding alerted myself and attorneys Garrett and Pirtle who each then attempted to access the NLRB.gov website and e-filing system from different computers and using different internet browsers and connectivity, and all counsel received the same error messages in Exhibits A and B. (See internet histories attached hereto as Exhibit C¹).

5. Therefore, at 11:22 p.m. (EDT), and prior to the 11:59 p.m. (EDT) filing deadline, Respondent’s counsel provided service copies of Respondent’s Exceptions and Brief in Support of Exceptions to all parties via email and explained the technical issues with Exhibits A and B attached. (See Exhibit D attached hereto).

6. I, along with Mary Leigh Pirtle, attempted to contact the NLRB’s tech support phone number at or around 11:30 p.m. (EDT), but there was no answer.

7. Throughout the evening, myself, Pirtle, Garrett and Harding continued attempting to access the NLRB’s e-filing system as demonstrated in the attached Internet History Reports. (See Exhibit C). Further, Respondent’s counsel even “googled” NLRB website down” and viewed the NLRB’s Twitter page to determine whether the NLRB had further acknowledged their system errors. (See Exhibit C).

¹ Note that all times contained in Exhibit C are in Central Time due to Respondent’s location in Nashville, Tennessee.

8. The NLRB.gov website landing page became accessible only after 1:00 a.m. (EDT), and I immediately created an account on the NLRB's e-filing system and filed Respondent's Exceptions and Brief in Support of Exceptions at 1:39 a.m. (EDT). (See Confirmation of Filing Exhibit E)

9. Respondent's Counsel contacted the Executive Secretary's Office on the morning of September 30, 2019 to alert the NLRB regarding these technical difficulties. However, the representative stated that it had already denied Respondent's filing as untimely.

FURTHER AFFIANT SAITH NOT.

DATED this 30th day of September, 2020.

Kimberly S. Veirs
Kimberly S. Veirs

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Sworn to and subscribed before me, a Notary Public in and for the above county and state, this 30th day of September, 2020.

Wanda L. Hinson
NOTARY PUBLIC

My Commission Expires:

July 9, 2024



EXHIBIT A



National Labor Relations Board

The NLRB public website is currently down. We apologize for the inconvenience.

For all NLRB e-filing services, you may use the following links:

- [E-File Case Documents](#)
- [E-File Change / Deletion](#)
- [My Account Portal](#)

For more information, please email publicinfo@nlrb.gov



EXHIBIT B



This page isn't working

apps.nlr.gov is currently unable to handle this request.

HTTP ERROR 500

Reload

EXHIBIT C

MICHELLE HARDING
INTERNET HISTORY AND PHONE
SCREENSHOTS

Edge | edge://history/yesterday

Yesterday - Tuesday, September 29, 2020

31494315.pdf
Open file

<input type="checkbox"/>	Self Service	apps.nlr.gov	10:41 PM	X
<input type="checkbox"/>	Self Service	apps.nlr.gov	10:41 PM	X
<input type="checkbox"/>	login.gov - Welcome	secure.login.gov	10:13 PM	X
<input type="checkbox"/>	Self Service	apps.nlr.gov	10:13 PM	X
<input type="checkbox"/>	Self Service	apps.nlr.gov	10:13 PM	X
<input type="checkbox"/>	NLRB	apps.nlr.gov	10:12 PM	X
<input type="checkbox"/>	nlrb - Bing	www.bing.com	10:12 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:59 PM	X
<input type="checkbox"/>	login.gov	secure.login.gov	9:59 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:59 PM	X
<input type="checkbox"/>	login.gov - Welcome	secure.login.gov	9:57 PM	X
<input type="checkbox"/>	apps.nlr.gov	secure.login.gov	9:57 PM	X
<input type="checkbox"/>	NRLB filing - Bing	www.bing.com	9:56 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:52 PM	X
<input type="checkbox"/>	apps.nlr.gov	secure.login.gov	9:51 PM	X

Show all X

11:36 AM 9/30/2020

Edge | edge://history/yesterday

Yesterday - Tuesday, September 29, 2020

31494315.pdf
Open file

<input type="checkbox"/>	Self Service	apps.nlr.gov	10:13 PM	X
<input type="checkbox"/>	NLRB	apps.nlr.gov	10:12 PM	X
<input type="checkbox"/>	nlrb - Bing	www.bing.com	10:12 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:59 PM	X
<input type="checkbox"/>	login.gov	secure.login.gov	9:59 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:59 PM	X
<input type="checkbox"/>	login.gov - Welcome	secure.login.gov	9:57 PM	X
<input type="checkbox"/>	apps.nlr.gov	secure.login.gov	9:57 PM	X
<input type="checkbox"/>	NRLB filing - Bing	www.bing.com	9:56 PM	X
<input type="checkbox"/>	apps.nlr.gov	apps.nlr.gov	9:52 PM	X
<input type="checkbox"/>	apps.nlr.gov	secure.login.gov	9:51 PM	X
<input type="checkbox"/>	login.gov - Enter the secure one-time security code	secure.login.gov	9:51 PM	X
<input type="checkbox"/>	login.gov - Enter the secure one-time security code	secure.login.gov	9:51 PM	X
<input type="checkbox"/>	login.gov - Send your security code via text message (SMS) or ...	secure.login.gov	9:50 PM	X
<input type="checkbox"/>	login.gov - Choose a password	secure.login.gov	9:48 PM	X

Show all X

11:35 AM 9/30/2020

History | chrome://history

Search history

Chrome history

Tabs from other devices

Clear browsing data

Your browser is managed by your organization

<input type="checkbox"/>	10:32 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:24 PM	login.gov - Your connected accounts	secure.login.gov	
<input type="checkbox"/>	10:23 PM	login.gov Help	www.login.gov	
<input type="checkbox"/>	10:23 PM	login.gov - Account	secure.login.gov	
<input type="checkbox"/>	10:23 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:22 PM	login.gov - Welcome	secure.login.gov	
<input type="checkbox"/>	10:16 PM	national labor review board - Google Search	www.google.com	
<input type="checkbox"/>	10:10 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:09 PM	login.gov - Welcome	secure.login.gov	
<input type="checkbox"/>	10:09 PM	NLRB - Google Search	www.google.com	
<input type="checkbox"/>	10:01 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:00 PM	login.gov - Account	secure.login.gov	
<input type="checkbox"/>	10:00 PM	NLRB - Google Search	www.google.com	
<input type="checkbox"/>	9:56 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	9:53 PM	login.gov - Welcome	secure.login.gov	
<input type="checkbox"/>	9:53 PM	login.gov - Sign up for an account	secure.login.gov	
<input type="checkbox"/>	9:53 PM	login.gov - Check your email	secure.login.gov	

11:32 AM 9/30/2020

History | chrome://history

Search history

Chrome history

Tabs from other devices

Clear browsing data

Your browser is managed by your organization

<input type="checkbox"/>	10:44 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:44 PM	apps.nlr.gov	secure.login.gov	
<input type="checkbox"/>	10:43 PM	login.gov - Enter the secure one-time security code	secure.login.gov	
<input type="checkbox"/>	10:38 PM	login.gov - Welcome	secure.login.gov	
<input type="checkbox"/>	10:38 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:38 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:38 PM	NLRB Charge and Petition	apps.nlr.gov	
<input type="checkbox"/>	10:38 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:38 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:38 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:35 PM	Self Service	apps.nlr.gov	
<input type="checkbox"/>	10:34 PM	Front Page National Labor Relations Board	www.nlr.gov	
<input type="checkbox"/>	10:34 PM	nlrb - Google Search	www.google.com	
<input type="checkbox"/>	10:33 PM	login.gov - Enter the secure one-time security code	secure.login.gov	
<input type="checkbox"/>	10:32 PM	apps.nlr.gov	apps.nlr.gov	
<input type="checkbox"/>	10:32 PM	login.gov - Welcome	secure.login.gov	
<input type="checkbox"/>	10:32 PM	apps.nlr.gov	apps.nlr.gov	

11:31 AM 9/30/2020

11:29



780-08 >

Text Message
Yesterday 9:51 PM

Enter [887743](#) in [login.gov](#) to confirm your phone number. This security code will expire in 10 minutes.

Enter [677927](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [998764](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [431372](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [647014](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10

11:29



780-08 >

Enter [431372](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [647014](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [678328](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [819295](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

Enter [365838](#) in [login.gov](#) to continue signing in to your account. This security code will expire in 10 minutes.

TIM GARRETT
INTERNET HISTORY

history x +

Chrome | chrome://history

History

Chrome history

Tabs from other devices

Clear browsing data

Your browser is managed by your organization

Your Google Account may have other forms of browsing history at myactivity.google.com

Yesterday - Tuesday, September 29, 2020

- 10:19 PM login.gov - Select your authentication method secure.login.gov
- 10:19 PM login.gov - Enter the secure one-time security code secure.login.gov
- 10:19 PM login.gov - Welcome secure.login.gov
- 10:19 PM Self Service apps.nrb.gov
- 10:18 PM Self Service apps.nrb.gov
- 10:18 PM NLRB | apps.nrb.gov
- 10:18 PM nrb - douglas beauchamp www.google.com
- 10:18 PM nrb.gov nrb.gov
- 10:11 PM login.gov - Welcome secure.login.gov
- 10:10 PM login.gov - Change the password for your account secure.login.gov

Monday, September 28, 2020

MARY LEIGH PIRTLE
INTERNET HISTORY

History

Chrome | chrome://history

Search history

Chrome history

Tabs from other devices

Clear browsing data

Yesterday - Tuesday, September 29, 2020

<input type="checkbox"/>	10:36 PM	NLRB apps.nrb.gov	
<input type="checkbox"/>	10:35 PM	nrb tech support - Google Search	www.google.com
<input type="checkbox"/>	10:35 PM	nrb website down - Google Search	www.google.com
<input type="checkbox"/>	10:34 PM	NLRB (@NLRB) / Twitter	twitter.com
<input type="checkbox"/>	10:34 PM	apps.nrb.gov	apps.nrb.gov
<input type="checkbox"/>	10:34 PM	login.gov - Enter the secure one-time security code	secure.login.gov
<input type="checkbox"/>	10:34 PM	nrb website down - Google Search	www.google.com
<input type="checkbox"/>	10:31 PM	login.gov - Welcome	secure.login.gov
<input type="checkbox"/>	10:31 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:31 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:10 PM	login.gov - Enter the secure one-time security code	secure.login.gov
<input type="checkbox"/>	10:09 PM	login.gov - Welcome	secure.login.gov
<input type="checkbox"/>	10:08 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:08 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:02 PM	abbs nrb.gov - Google Search	www.google.com

History

Chrome | chrome://history

Search history

Chrome history

Tabs from other devices

Clear browsing data

Yesterday - Tuesday, September 29, 2020

<input type="checkbox"/>	10:36 PM	NLRB apps.nrb.gov	
<input type="checkbox"/>	10:35 PM	nrb tech support - Google Search	www.google.com
<input type="checkbox"/>	10:35 PM	nrb website down - Google Search	www.google.com
<input type="checkbox"/>	10:34 PM	NLRB (@NLRB) / Twitter	twitter.com
<input type="checkbox"/>	10:34 PM	apps.nrb.gov	apps.nrb.gov
<input type="checkbox"/>	10:34 PM	login.gov - Enter the secure one-time security code	secure.login.gov
<input type="checkbox"/>	10:34 PM	nrb website down - Google Search	www.google.com
<input type="checkbox"/>	10:31 PM	login.gov - Welcome	secure.login.gov
<input type="checkbox"/>	10:31 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:31 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:10 PM	login.gov - Enter the secure one-time security code	secure.login.gov
<input type="checkbox"/>	10:09 PM	login.gov - Welcome	secure.login.gov
<input type="checkbox"/>	10:08 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:08 PM	Self Service	apps.nrb.gov
<input type="checkbox"/>	10:02 PM	abbs nrb.gov - Google Search	www.google.com

KIMBERLY VEIRS
INTERNET HISTORY

History

Search history

- All
- Today
- Yesterday
- Last week
- Older

Recently closed

<input type="checkbox"/>	 Exceptions to ALJD.pdf	file:	12:48 AM	✕
<input type="checkbox"/>	 NLRB Link to Document	apps.nlr.gov	12:48 AM	✕
<input type="checkbox"/>	 How to Take a Screenshot on a Windows PC Digital Trends	www.digitaltrends.com	12:46 AM	✕
<input type="checkbox"/>	 how to screenshot on computer - Bing	www.bing.com	12:43 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:39 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:36 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:36 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:35 AM	✕
<input type="checkbox"/>	 Search Results : exceptions	www.bassintranet.com	12:35 AM	✕
<input type="checkbox"/>	 Search Results : exceptions	www.bassintranet.com	12:35 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:20 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:09 AM	✕
<input type="checkbox"/>	 Self Service	apps.nlr.gov	12:09 AM	✕
<input type="checkbox"/>	 login.gov - Welcome	secure.login.gov	12:09 AM	✕
<input type="checkbox"/>	 login.gov - Enter the secure one-time security code	secure.login.gov	12:00 AM	✕

Yesterday - Tuesday, September 29, 2020

<input type="checkbox"/>	 login.gov - Select your authentication method	secure.login.gov	11:59 PM	✕
<input type="checkbox"/>	 login.gov - Enter the secure one-time security code	secure.login.gov	11:58 PM	✕
<input type="checkbox"/>	 login.gov - Welcome	secure.login.gov	11:58 PM	✕

History

Search history

All

Today

Yesterday

Last week

Older

Recently closed

<input type="checkbox"/>	 login.gov - Enter the secure one-time security code	secure.login.gov	11:58 PM	>
<input type="checkbox"/>	 login.gov - Welcome	secure.login.gov	11:58 PM	>
<input type="checkbox"/>	 Self Service	apps.nlr.gov	11:57 PM	>
<input type="checkbox"/>	 Self Service	apps.nlr.gov	11:57 PM	>
<input type="checkbox"/>	 Front Page National Labor Relations Board	www.nlr.gov	11:57 PM	>
<input type="checkbox"/>	 nlr.gov - Bing	www.bing.com	11:57 PM	>
<input type="checkbox"/>	 nlr.gov - Bing	www.bing.com	11:57 PM	>
<input type="checkbox"/>	 nlr tech support - Bing	www.bing.com	10:37 PM	>
<input type="checkbox"/>	 NLRB	apps.nlr.gov	10:37 PM	>
<input type="checkbox"/>	 Contact Us U.S. Department of Labor	www.dol.gov	10:36 PM	>
<input type="checkbox"/>	 nlr filing system down - Bing	www.bing.com	10:35 PM	>
<input type="checkbox"/>	 nlr filing system down - Bing News	www.bing.com	10:35 PM	>
<input type="checkbox"/>	 nlr filing deadline when technical difficulties - Bing	www.bing.com	10:32 PM	>
<input type="checkbox"/>	 login.gov - Enter the secure one-time security code	secure.login.gov	10:10 PM	>
<input type="checkbox"/>	 login.gov - Welcome	secure.login.gov	10:08 PM	>
<input type="checkbox"/>	 Self Service	apps.nlr.gov	10:08 PM	>
<input type="checkbox"/>	 Self Service	apps.nlr.gov	10:08 PM	>
<input type="checkbox"/>	 Search Results 102.46 Westlaw	1.next.westlaw.com	9:09 PM	>

EXHIBIT D

Harding, Michelle R.

From: Harding, Michelle R.
Sent: Tuesday, September 29, 2020 10:22 PM
To: 'Zuzana.murarova@nlrb.gov'; 'davids@bsjfirm.com'; 'pamelan@bsjfirm.com'
Cc: Garrett, Tim; Horton, Robert; Pirtle, Mary L.; Veirs, Kimberly; 'saw@amfd Dayton.com'
Subject: Smyrna Ready Mix Concrete, LLC Case No. 09-CA-251578, 09-CA-252487, 09-CA-255573, 09-CA-258273
Attachments: Brief.pdf; Exceptions.pdf; apps.nlr.gov.pdf; website.pdf

Counsel –

We have been attempting to e-file the attached documents this evening and we are encountering messages indicating the “NLRB public website is current down. We apologize for the inconvenience.” When we log into the portal, we are receiving a similar message and are unable to upload our filing because “this page isn’t working.” See attached screenshots. We are proving you with service copies now in accordance with NLRB rules, and will be contacting the NLRB tomorrow to resolve this filing issue.

Thanks,

BASS BERRY + SIMS

Michelle Harding
Paralegal

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-259-6762 phone • 615-742-2848 fax
michelle.harding@bassberry.com • www.bassberry.com

EXHIBIT E

Harding, Michelle R.

From: ExecSec@nlrb.gov <e-Service@service.nlrb.gov>
Sent: Wednesday, September 30, 2020 12:47 AM
To: Veirs, Kimberly
Subject: RE: 09-CA-251578 - Exceptions, Brief in Support of Exceptions

Confirmation Number: 1056105911

You have successfully accomplished the steps for E-Filing document(s) with the NLRB Office of Executive Secretary. This E-mail notes the official date and time of the receipt of your submission. Please save this E-mail for future reference.

Date Submitted:	Wednesday, September 30, 2020 1:39 AM (UTC-05:00) Eastern Time (US & Canada)
Case Name:	SMYRNA READY MIX CONCRETE, LLC
Case Number:	09-CA-251578
Filing Party:	Charged Party / Respondent
Name:	Kimberly Veirs
Email:	kveirs@bassberry.com
Address:	150 Third Avenue South
	Suite 2800
	Nashville TN 37201
Telephone:	(423) 366-1628
Attachments:	Exceptions: Exceptions.pdf Brief in Support of Exceptions: Brief.pdf

DO NOT REPLY TO THIS MESSAGE. THIS IS A POST-ONLY NOTIFICATION.
MESSAGES SENT DIRECTLY TO THE EMAIL ADDRESS LISTED ABOVE WILL NOT BE READ.
