

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMPERSAND PUBLISHING, LLC d/b/a SANTA
BARBARA NEWS-PRESS

Case 31-CA-028589
31-CA-028661
31-CA-028667
31-CA-028700
31-CA-028733
31-CA-028734
31-CA-028738
31-CA-028799
31-CA-028889
31-CA-028890
31-CA-028944
31-CA-029032
31-CA-029076
31-CA-029099
31-CA-029124

and

GRAPHIC COMMUNICATIONS CONFERENCE,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

**COUNSEL FOR THE GENERAL COUNSEL'S LIMITED CROSS-
EXCEPTION TO THE ADMINISTRATIVE LAW JUDGE'S DECISION AND
RECOMMENDED SUPPLEMENTAL ORDER**

Submitted by:



Julia M. Durkin
Counsel for the General Counsel
National Labor Relations Board, Region 27
1961 Stout Street, Suite 13-103
Denver, Colorado 80294
(720) 598-7403

Table of Contents

	Page
Table of Authorities	ii
I. CROSS-EXCEPTION	1
II. ISSUE	1
A. Whether the Judge inadvertently erred in failing to correct the transcript of Dennis Moran’s testimony, and whether the transcript should now be corrected to preserve an accurate record.	1
III. FACTS	1
IV. ANALYSIS	3
A. <i>The Judge inadvertently erred in failing to correct the transcript, and the transcript should now be corrected to preserve an accurate record.</i>	3
V. CONCLUSION	3

Table of Authorities

Cases	Page(s)
<i>In re United Union of Roofers, Waterproofers & Allied-Workers,</i> 331 NLRB 164 (2000)	3

Pursuant to Section 102.46 of the Board’s Rules and Regulations, Counsel for the General Counsel files a limited cross-exception to the Administrative Law Judge’s Decision and Recommended Supplemental Order issued by Administrative Law Judge Dickie Montemayor on September 4, 2020, along with the supporting facts and analysis.

I. CROSS EXCEPTION

The General Counsel takes exception to the following:¹

1. The Judge’s failure to correct the hearing transcript on page 590, line 17, to accurately reflect the testimony of Dennis Moran that he paid “about 900 dollars a month rent...,” and not that he paid “about 100 dollars a month rent...” (ALJD 1-19).²

II. ISSUE³

The General Counsel’s limited cross-exception presents the following issue:

- A. Whether the Judge inadvertently erred in failing to correct the transcript of Dennis Moran’s testimony, and whether the transcript should now be corrected to preserve an accurate record.

III. FACTS⁴

Discriminatee Dennis Moran (Moran) testified in the compliance hearing in this matter on Friday, December 13, 2020. (Tr. 568). On direct examination, Moran testified about his living expenses in several locations during the backpay period. In pertinent part, his testimony appears in the transcript as follows:

Q: Did you continue working for ABC-CLIO in Colorado?

¹ References to the Administrative Law Judge’s Decision and Recommended Order appear as (ALJD __:__).

² The General Counsel cites to the entire Judge’s Decision and Recommended Supplemental Order in this cross-exception insofar as the Judge did not address the transcript correction in any part of the Decision and Recommended Supplemental Order.

³ At the outset, the General Counsel notes that she informed Respondent and the Charging Party that the General Counsel would move for a correction to the transcript at page 590, line 17, and both parties affirmatively stated that they do not oppose the correction.

⁴ References to the transcript in this matter are identified as “Tr.,” followed by the appropriate page and line numbers. References to the General Counsel’s post-hearing brief to the Administrative Law Judge are identified as “GC Brief, pg. __.”

A: Yes, for a -- well, 13 months, I think.

Q: And do you recall approximately what your rent was when you lived in Santa Barbara just before moving to Colorado?

A: Yes. I shared a house in Santa Barbara, and my part of that was 950 or 980, something in that area, a month, and that included, you know, utilities.

Q: And do you recall what your living expenses in terms of rent or mortgage were when you moved to Colorado?

A: Yes. It was about 100 dollars a month rent, and I also had to pay utilities. And I don't have a figure off the top of my head, but there was a -- there were a couple utility bills. It was a one-bedroom apartment.

(Tr. 590:8-20).

In its post-hearing brief to the Judge, the General Counsel moved “to correct the transcript at page 590, line 17, which incorrectly states 100, where it should state ‘\$900’ or ‘nine hundred.’” The General Counsel further urged that “Moran testified that his rent in Colorado was \$900 per month.” (GC Brief pg. 68, fn. 22). After the General Counsel filed its post-hearing brief, neither Respondent nor the Charging Party registered any objection to the proposed transcript correction.

The Judge’s Decision and Recommended Supplemental Order issued on September 4, 2020 does not address the General Counsel’s request for a transcript correction. The Judge did not approve, deny, or discuss the request in his Decision. Moreover, in the relevant discussion of Moran’s decision to quit his employment in Colorado, the Judge’s Decision does not incorporate or rely on this portion of the transcript at page 590, in either uncorrected or corrected form. (ALJD 12:28).

IV. ANALYSIS

A. The Judge inadvertently erred in failing to correct the transcript, and the transcript should now be corrected to preserve an accurate record.

The General Counsel submits that the Judge inadvertently erred in failing to incorporate the proposed transcript correction in his Decision and Recommended Supplemental Order. Respondent is not prejudiced by the transcript correction. Respondent's Exceptions to the Administrative Law Judge's Decision and Recommended Supplemental Order, and its supporting brief, filed on October 2, 2020, do not cite to, incorporate, or rely on the relevant section of the transcript at page 590, line 17, or the amount of Moran's rent in Colorado.

Furthermore, to the extent that the General Counsel herein moves that the Board correct the transcript at page 590, line 17, the General Counsel expressly notified Respondent and the Charging Party after issuance of the Judge's Decision that it would make such a motion. Both parties affirmatively stated to the General Counsel that they have no objections.

Based on the foregoing, it is appropriate for the Board to correct the transcript on page 590, line 17 to reflect Moran's testimony as that he paid "about 900 dollars a month rent..." *See e.g., In re United Union of Roofers, Waterproofers & Allied-Workers*, 331 NLRB 164, 164, fn. 1 (2000) (Board upheld respondent's exception that judge failed to incorporate all unopposed transcript corrections, and approved the transcript corrections).

V. CONCLUSION

Based on the foregoing considerations, Counsel for the General Counsel respectfully requests that the Board correct the transcript in the above-captioned matter.

DATED at Denver, Colorado, this 23rd day of October, 2020.

Respectfully submitted,



Julia M. Durkin
Counsel for the General Counsel
National Labor Relations Board, Region 27
1961 Stout Street, Suite 13-103
Denver, CO 80294
(720) 598-7403

CERTIFICATE OF SERVICE

I hereby certify that a copy of **Counsel for the General Counsel’s Limited Cross-Exceptions to the Administrative Law Judge’s Decision and Recommended Supplemental Order**, together with this Certificate of Service, was E-Filed, or E-mailed, as indicated below, to the following parties on October 23, 2020.

Office of the Executive Secretary
National Labor Relations Board
1015 Half St. SE
Washington, D.C. 20570
By E-Filing at www.nlr.gov

Yolanda Apodaca
Director of Human Resources
Ampersand Publishing, LLC d/b/a Santa Barbara News-Press
715 Anacapa St.
Santa Barbara, CA 93101-2203
By Email: yapodaca@newspress.com

Christopher Frost, Esq.
Michael Eisner, Esq.
Eisner Jaffe
9601 Wilshire Blvd. Ste. 700
Beverly Hills, CA 90210-5211
By Email: cfrost@eisnerlaw.com
meisner@eisnerlaw.com

Nicholas Caruso
Graphic Communications Conference IBT
2315 Jewell Lane
South Saint Paul, MN 55075
By Email: ncaruso@gciu.org

Ira L. Gottlieb, Esq.
Bush Gottlieb, A Law Corporation
801 North Brand Blvd., Suite 950
Glendale, CA 91203-1260
Via Email: igottlieb@bushgottlieb.com

/s/ Julia Durkin
Julia M. Durkin
Counsel for the General Counsel
National Labor Relations Board, Region 27
1961 Stout Street, Suite 13-103
Denver, Colorado 80294
(720) 598-7403