

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

STERICYCLE, INC.

and

**Cases 04-CA-137660,
04-CA-145466,
04-CA-158277 and
04-CA-160621**

TEAMSTERS LOCAL 628

**COUNSEL FOR THE GENERAL COUNSEL'S EXCEPTIONS
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

Pursuant to Section 102.46 of the Board's Rules and Regulations, Series 8, as amended, the undersigned Counsel for the General Counsel respectfully files the following Exceptions to the Supplemental Decision issued by Administrative Law Judge Michael A. Rosas on September 4, 2020:

1. To the Judge's inadvertent mistake in stating that Respondent's Morgantown facility is located in West Virginia instead of Pennsylvania. (ALJSD 1)¹
2. To the Judge's inadvertent mistake in stating that the handbook was distributed to Respondent's Morgantown employees in February 2016 instead of February 2015. (ALJSD 1)
3. To the Judge's finding that the business justifications for Respondent's policy requiring confidentiality during an investigation as found by the Board in *Apogee Retail LLC d/b/a Unique Thrift Store*, 368 NLRB No. 144, slip op. at 11 (2019)– protecting evidence and maintaining the

¹ Throughout the Exceptions, abbreviated references are employed as follows: "ALJSD" followed by page and line numbers to designate the ALJ's Supplemental Decision.

integrity of the investigation – become irrelevant once an investigation concludes. (ALJSD 6:14-16)

4. To the Judge’s finding that “the only remaining rationale” for requiring confidentiality after a harassment investigation concludes “pertains to the protection of witnesses and victims from retaliation.” (ALJSD 6:16-18)

5. To the Judge’s determination that the portion of Respondent’s Retaliation policy requiring confidentiality “to the fullest extent practicable,” as reasonably interpreted is too vague. (ALJSD 6:19-20)

6. To the Judge’s determination that a reasonable employee would believe that there are adverse consequences if they do not abide by the confidentiality portion of Respondent’s Retaliation policy despite the omission of the lack of any discipline for the Retaliation policy in the handbook. (ALJSD 6:27-31)

7. To the Judge’s determination that since the confidentiality portion of Respondent’s Retaliation “rule appears in an employee handbook along with other rules that are punishable, it is reasonable for an employee to believe that there may be adverse consequences if they fail to maintain confidentiality.” (ALJSD 6:29-31)

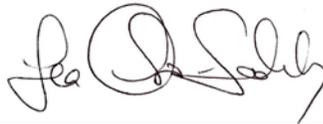
8. To the Judge’s conclusion that as reasonably interpreted, the confidentiality portion of Respondent’s Retaliation “policy classifying harassment complaints as confidential” after the investigation is concluded “is excessively and unjustifiably broad with the potential to infringe upon protected communications between employees after an investigation concludes.” (ALJSD 6:43-45)

9. To the Judge’s conclusion that the confidentiality portion of Respondent’s Retaliation policy violates Section 8(a)(1). (ALJSD 6:45-46; ALJSD 8:33-37))

10. To the Judge's inadvertent failure to include in the recommended order a provision requiring that Respondent take affirmative action to rescind the unlawful rules for Respondent's facilities nationwide. (ALJSD 11:4-17)

11. To the ALJ's inadvertent failure to provide Notice A and B referred to in the Order. (ALJSD 11)

Respectfully submitted,



Dated: November 2, 2020

LEA F. ALVO-SADIKY
Counsel for the General Counsel
National Labor Relations Board
Fourth Region
The Wanamaker Building
100 Penn Square East, Suite 403
Philadelphia, PA 19107
215-597-7630

CERTIFICATE OF SERVICE

I hereby certify that copies of **Counsel for the General Counsel’s Exceptions to the Administrative Law Judge’s Supplemental Decision** in *Stericycle, Inc*, Cases 04-CA-137660, et al., were served by E-Filing and Email on the 2nd day of November 2020, on the following persons:

Via E-Filing:

Office of the Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

Via Email:

Charles Roberts, Esquire
Constangy, Brooks, Smith & Prophete, LLP
100 N. Cherry Street
Suite 300
Winston-Salem, NC 27101-4016
Email: CRoberts@constangy.com

Claiborne S. Newlin, Esquire
Markowitz & Richman
123 South Broad Street
Suite 2020
Philadelphia, PA 19109
Email: cnewlin@markowitzandrichman.com

Respectfully submitted,



LEA F. ALVO-SADIKY
Counsel for the General Counsel
National Labor Relations Board
Fourth Region
The Wanamaker Building
100 Penn Square East, Suite 403
Philadelphia, Pennsylvania 19107
lea.alvo-sadiky@nlrb.gov