

Exhibit G

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

In the Matter of:

EXELA ENTERPRISE SOLUTIONS, INC.

Employer,

and

**UNITED STEEL, PAPER AND
FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO-
CLC,**

Petitioner.

Case No. 22-RC-237040

**EMPLOYER'S EXCEPTIONS TO HEARING OFFICER'S REPORT ON
OBJECTIONS**

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the "Board"), the Employer, Exela Enterprise Solutions, Inc. (the "Employer"), by and through its undersigned counsel, hereby files Employer's Exceptions to the Hearing Officer's Report on Objections (the "Report") issued on June 27, 2019, for the following reasons:

1. The Hearing Officer erred by overruling Objection #1. (Report, at 4-5).¹
2. The Hearing Officer erred by finding Fred Johnson's discussion with three eligible voters shortly before the election commenced was a "chance encounter" and "not a massed meeting nor a mandatory speech to employees...." (Report, at 5).

¹ "(Report, at __)" refers to pages of the Hearing Officer's Report on Objections.

3. The Hearing Officer erred by finding that Fred Johnson speaking to only a “few unit employees of the Employer” did not amount to objectionable conduct. (Report, at 5).

4. The Hearing Officer erred by placing the burden on the Employer to “establish that the discussion was specifically about the election or to even have an inkling of the nature of the discussion.” (Report, at 5).

5. The Hearing Officer erred by failing to consider the context in which Fred Johnson’s interaction with the eligible voters took place. (Report, at 5).

6. The Hearing Officer erred by failing to draw an adverse inference against the Union for its failure to call Fred Johnson as a witness at the April 24, 2019 hearing.

7. The Hearing Officer erred by overruling Objection #2. (Report, at 5-8).

8. The Hearing Officer erred by limiting his analysis of Objection #2 exclusively to Milchem, 170 NLRB 362 (1968). (Report, at 1, 7-8).

9. The Hearing Officer erred by failing to find that the Union representatives’ failure to adhere to the Board agent’s instructions to leave the premises amounted to objectionable conduct. (Report, at 7-8).

Accordingly, for the foregoing reasons, and the reasons set forth in the Employer’s Brief in Support of Exceptions to Hearing Officer’s Report on Objections, the Hearing Officer’s recommendation regarding the Employer’s Objections should be overruled and a new election ordered.

Respectfully submitted,

JACKSON LEWIS P.C.
666 Third Avenue
New York, NY 10017

/s Daniel Schudroff
Daniel D. Schudroff

ATTORNEYS FOR EXELA ENTERPRISE SOLUTIONS, INC.

Dated: July 19, 2019

CERTIFICATE OF SERVICE

Case Name: Exela Enterprise Solutions, Inc.
Case No.: 22-RC-237040

I hereby certify that, on July 19, 2019, I caused a true and correct copy of the **EMPLOYER'S EXCEPTIONS TO HEARING OFFICER'S REPORT ON OBJECTIONS** in connection with Case Number 22-RC-237040 to be served upon counsel of record for United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied & Industrial Service Workers International Union, AFL-CIO-CLC, Brad Manzollilo, via e-mail at bmanzollilo@usw.org.

/s Daniel Schudroff

Daniel D. Schudroff

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**BRIEF IN SUPPORT OF EMPLOYER'S EXCEPTIONS TO HEARING OFFICER'S
REPORT ON OBJECTIONS**

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the "Board"), the Employer, Exela Enterprise Solutions, Inc. (the "Employer"), by and through its undersigned counsel, hereby files this Brief in Support of Employer's Exceptions to the Hearing Officer's Report on Objections (the "Report") issued on June 27, 2019. As discussed below, the Hearing Officer's Report should not be followed, and the Employer's Objections sustained.

As to Objection 1, the Hearing Officer improperly interpreted Peerless Plywood, 107 NLRB 427 (1954), and ignored the undisputed fact that the Union's agent, Fred Johnson, was "huddling" with a group of eligible voters, all of whom were on working time, less than one hour prior to when the election commenced. There was no legitimate business purpose for this Union agent to engage in this type of unusual behavior. However, the Hearing Officer improperly placed

the burden on the Employer to affirmatively demonstrate that the topic of the Union agent's discussions with the eligible voters concerned the imminent election. Further, the Hearing Officer should have drawn an adverse inference for the Union's failure to call Mr. Johnson at the April 24, 2019 hearing.

As to Objection 2, the Hearing Officer ignored that the Union's representatives failed to adhere to the Board agent's instructions to promptly vacate the polling place. Rather, the evidence demonstrates the Union's representatives languished in the adjacent parking lot, potentially visible to voters, without any justification.

Accordingly, the Employer respectfully requests that the Regional Director reverse the Hearing Officer's findings and direct a second election based upon the Union's objectionable conduct which destroyed laboratory conditions for a free election.

I. STATEMENT OF THE CASE

On March 1, 2019, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("Union") filed a petition for an election at the Employer's 1 Squibb Drive, New Brunswick, New Jersey site. On March 18, 2019, the parties signed a Stipulated Election Agreement, agreeing to the following voting unit:

Included: All Full-time and Regular Part-Time Customer Service Associates, including Customer Service Associates – Coffee Associates, Customer Service Technical Specialist, Team Leads, Forklift Operators, CSA TS Client Services, TL Tech Serv. And Shipping and Receiving Hazmat Associates, employed by the Employer at its 1 Squibb Drive, New Brunswick, New Jersey facility.

Excluded: All Office Clerical employees, Professional employees, Guard and Supervisors as defined in the Act, and all other employees.

The election was conducted on March 29, 2019, with the following results: eight votes for the Petitioner, six votes against the Petitioner, and zero ballots challenged. On April 5,

2019, the Employer timely filed Objections to the Conduct of the Election and to Conduct Affecting the Results of the Election (“Objections”).

These Objections stated as follows:

1. Within the twenty-four hour period immediately preceding the opening of the polls in the subject election, the Union, through its agents, visited groups of voters on working time at the Employer’s job site and engaged in pro-union electioneering meetings and talks, in contravention of the rule established by Peerless Plywood Co., 107 NLRB 427 (1954), and its progeny.
2. The Union, through its agents, engaged in objectionable conduct by improperly electioneering near the entrance to the polling site during the March 29, 2019 election.¹

On April 19, 2019, the Acting Regional Director issued an Order Directing Hearing and Notice of Hearing on Objections. On April 24, 2019, a hearing was held before Hearing Officer Eric Pomianowski. Three witnesses testified on the Employer’s behalf: Wanda Rodriguez, Jo Ann Lee, and Karen Brewer. Two witnesses testified for the Union: Brian Callow and Clifford Gray. On June 29, 2019, the Hearing Officer issued his Report, overruling both of the Employer’s Objections.

II. **BACKGROUND**

The Employer contracts with Jones Lang LaSalle (“JLL”) to provide office-based services and facilities management at Bristol-Myers Squibb’s (“BMS”) office located at 1 Squibb

¹ The Hearing Officer’s Report adds the phrase “in violation of the rule established by *Milchem, Inc.*, 170 NLRB 362 (1968).” (Report, at 1). To the extent this addition served to narrow the scope of the Employer’s Objection 2, the Hearing Officer erred.

Johnson replied that he was looking for a package, but, soon thereafter, he left the area without a package and without interacting with the staff. (Tr. 33); (Er. Ex. 2).²

Based upon an arrangement made the day prior, Mr. Johnson drove Mr. Gray to the polling site at the Rutgers Labor Education Center on March 29, 2019.³

IV. THE HEARING OFFICER'S FINDINGS CONCERNING OBJECTION 1

The Hearing Officer overruled the Employer's Objection 1, finding the facts did not fall within the proscription of the rule set forth in Peerless Plywood Co., 107 NLRB 427 (1954). In doing so, and without drawing an adverse inference for Mr. Johnson's failure to testify, the Hearing Officer found: (1) Mr. Johnson's interaction was a chance meeting, not a massed meeting or mandatory speech; (2) Mr. Johnson is often in the Employer's work area to pick up packages; and (3) none of the Employer's witnesses heard what Mr. Johnson was saying to the assembly of employees less than an hour before the election commenced. (Report, at 4). According to the Hearing Officer, the Employer failed to satisfy its burden to establish that Mr. Johnson's discussion with eligible voters concerned the election. (Report, at 5).

V. ARGUMENT – OBJECTION #1 SHOULD BE SUSTAINED

This case involves the atypical scenario where a *Union's* agent had unfettered access to eligible voters during working time and in their work areas less than an hour before the election started. The Hearing Officer failed to consider the context in which this episode transpired

² At 9:15 a.m., Ms. Lee e-mailed herself to memorialize her observations and interactions with the group, including Mr. Johnson. (Er. Ex. 2). At 9:18 a.m., Ms. Rodriguez e-mailed Ms. Lee to memorialize her observations. (Er. Ex. 1).

³ Notably, Mr. Gray was unnecessarily evasive when asked on cross-examination about his relationship with Mr. Johnson. (Tr. 104-105). Additionally, Mr. Gray tried to provide elusive answers to questions about whether Mr. Johnson was affiliated with the Union, requiring the Employer's counsel to request intervention from the Hearing Officer to direct the witness to answer the question. (Tr. 108).

and how Mr. Johnson's conduct destroyed laboratory conditions. Rather, the Hearing Officer erred by relying solely on the fact that the exact nature of the conversation between Mr. Johnson and the employees with whom he was huddling was unknown. Moreover, the Hearing Officer failed to draw an adverse inference based on the Union's failure to call Mr. Johnson at the hearing.

A. The Board's Laboratory Conditions Framework

"At all times, the Board's paramount concern has been, and still is, assuring employees full and complete choice in selecting a bargaining representative." See Kalin Construction Co., 321 NLRB 649, 651 (1996). One of the hallmark cases in this area is General Shoe Corp., 77 NLRB 124, 127 (1948) where the Board held:

In election proceedings, it is the Board's function to provide a laboratory in which an experiment may be conducted, under conditions as nearly ideal as possible, to determine the uninhibited desires of the employees. It is our duty to establish those conditions; it is also our duty to determine whether they have been fulfilled. When, in the rare extreme case, the standard drops too low, because of our fault or that of others, the requisite laboratory conditions are not present and the experiment must be conducted over again.

After General Shoe Corp., the Board has expounded upon this "laboratory conditions" standard in various ways. For example, in the seminal Peerless Plywood case, the Board explained its view concerning last-minute speeches to groups of employees:

It is our considered view, based on experience with conducting representation elections, that last-minute speeches by either employers or unions delivered to massed assemblies of employees on company time have an unwholesome and unsettling effect and tend to interfere with that sober and thoughtful choice which a free election is designed to reflect. We believe that the real vice is in the last-minute character of the speech coupled with the fact that it is made on company time whether delivered by the employer or the union or both. Such a speech, because of its timing, tends to create a mass psychology which overrides arguments made through other campaign media and gives an unfair advantage to the party, whether employer or union, who in this manner obtains the last most telling word.

Id. at 427.

Notably, the Board has held that the term “massed assemblies,” as referenced in Peerless Plywood, is not “necessarily limited to all or most of the unit employees, or to any certain proportion of them, or to an assemblage of such employees whose votes would affect the outcome of the election.” The Great Atlantic & Pacific Tea Company, 111 NLRB 623, 626 (1955).

Further, conspicuously absent from the Board’s holding in Peerless Plywood is any suggestion that the actual content of the discussion is relevant for purposes of determining whether objectionable conduct transpired. Notably, in Flurocarbon Co., 168 NLRB 629, 656 (1967), the Board affirmed a Trial Examiner’s decision which found that the content of a particular speech was not a dispositive factor in the Peerless Plywood analysis. Specifically, the Trial Examiner explained “[w]ithin the Board’s view, the combined circumstance of (1) the use of company time for preelection speeches, and (2) the delivery of such speeches on the eve of the election, **regardless of their noncoercive content**, tends to destroy freedom of choice, and serves to establish an atmosphere within which a free election cannot be held.” Id. (Emphasis added).

In a slightly different “laboratory conditions” context, in Milchem, Inc., 170 NLRB 362 (1968), the Board established a bright-line rule prohibiting parties from engaging in “prolonged conversations between representatives of any party to the election and voters waiting to cast ballots.” The Board’s concern was “the potential for distraction, last minute electioneering or pressure, and unfair advantage” and stressed that the “final minutes before an employee casts his vote should be his own, as free from interference as possible.” Id. Of particular importance here, the Board applies the Milchem rule “without inquiry into the nature of the conversations.” Id. Critically, “[i]mplicit in the Peerless Plywood and Milchem rules is the Board’s judgment that conduct that is otherwise unobjectionable can disturb laboratory conditions if it occurs during, or

immediately before, the election.” Kalin Construction, 321 NLRB at 651. So, the Board does in fact view these two doctrines in tandem.

It is against this backdrop that the Hearing Officer’s recommendations should be assessed.

B. Mr. Johnson, Acting On The Union’s Behalf, Engaged In Objectionable Conduct

In the present case, the evidence demonstrates that Mr. Johnson was a Union agent and that he engaged in objectionable conduct.

1. Mr. Johnson Was The Union’s Agent

Although the Hearing Officer “determined through witness testimony that Mr. Johnson that Mr. Johnson was a United Steelworkers shop steward for an existing unit of JLL employees...,” he did not make a specific determination concerning whether Mr. Johnson was a Union agent. (Report, at 4). However, the evidence unequivocally commands that he was. In assessing whether a particular individual is a party’s agent, the Board relies upon common law agency principles. The Board has held:

...[A]ctual authority refers to the power of an agent to act on his principal’s behalf when that power is created by the principal’s manifestation to him. That manifestation may be either express or implied. Apparent authority, on the other hand, results from a manifestation by a principal to a third party that another is his agent. Under this concept, an individual will be held responsible for actions of his agent when he knows or ‘should know’ that his conduct in relation to the agent is likely to cause third parties to believe that the agent has authority to act for him. Restatement 2d, Agency, § 27.

See e.g. Communications Workers Local 9431 (Pacific Bell), 304 NLRB 446, n. 4 (1991).

In the present case, Mr. Johnson had both actual and apparent authority to represent the Union. With respect to actual authority, “[t]he Board has placed probative value on an alleged agent’s position as steward, finding that a steward is ‘the first union representative the members

look to, and the man from whom they take their cues insofar as union policy is concerned.” Tyson Fresh Meats, 343 NLRB 1335, 1337 (2004) (internal citations omitted). In the present case, despite his initial evasiveness, and upon being instructed by the Hearing Officer to answer the question, Mr. Gray finally admitted that Mr. Johnson was a Union shop steward. (Tr. 108). Accordingly, Mr. Johnson had actual authority to act on behalf of the Union.

With respect to apparent authority, the evidence “established that the Union created a perception among employees that the steward[] represented it” when speaking to employees less than an hour before the polls opened. Tyson Fresh Foods, 343 NLRB at 1337. In this regard, Ms. Rodriguez testified that she went to speak with her supervisor, Ms. Lee, to inquire whether the Union’s representative was supposed to be huddling with eligible voters. (Tr. 20; Er. Ex. 1). Ms. Rodriguez also indicated she memorialized her observations of Mr. Johnson’s interactions with the eligible voters specifically because she knew Mr. Johnson was a Union representative. (Tr. 22; Er. Ex. 1).

As a result, it is beyond dispute that Mr. Johnson is a Union agent and the Board has held that “[a] principal is responsible for its agents’ conduct if such action is done in furtherance of the principal’s interest and is within the general scope of authority attributed to the agent, even if the principal did not authorize the particular act.” Bio-Medical Applications of Puerto Rico, Inc., 269 NLRB 827, 828 (1984). Here, in light of Mr. Johnson’s steward status, the Union is responsible for his objectionable conduct.

2. Mr. Johnson Engaged In Objectionable Conduct

In the present case, the Hearing Officer ignored Ms. Rodriguez’s uncontroverted testimony that she observed Mr. Johnson “huddling” with at least three eligible voters. That is not, as the Hearing Officer characterized the interaction, a “chance meeting.” (Report, at 5). In fact,

such a finding completely disregards the context in which this episode took place. First, the Hearing Officer did not consider that this interaction took place while eligible voters were on working time and in a working area. In other words, they could not have escaped Mr. Johnson. Second, from a timing perspective, this “huddling” took place less than one hour before the polls opened and less than a half hour before the 9:30 pre-election conference in which Mr. Gray participated and to which Mr. Johnson drove Mr. Gray. (Er. Ex. 1, 2; Tr. 103). Third, the Hearing Officer overemphasized the fact that, at times, Mr. Johnson appears in the Employer’s work area to pick up packages. Again, context is key. Ms. Rodriguez supplied uncontroverted testimony that if Mr. Johnson was truly picking up a package, he would interact with one of the Employer’s employees, not three, and certainly would not need to “huddle” with them to pick up a package. (Tr. 21). The clear implication here is that Mr. Johnson was engaged in conduct prohibited by Peerless Plywood.⁴

The Hearing Officer also found that Mr. Johnson did not speak to a “massed assembly” because he only spoke to a few employees. As described above, the actual number of employees Mr. Johnson spoke to is irrelevant. See The Great Atlantic & Pacific Tea Company, discussed supra. The Hearing Officer ignored that Mr. Johnson’s conduct was sufficiently troublesome to Ms. Rodriguez that she contacted her supervisor to ascertain whether Mr. Johnson should have been in the area in the first place. (Tr. 20-22; Er. Ex. 1). Based on these omissions, the Hearing Officer’s findings are flawed and a new election is warranted.

⁴ The Hearing Officer’s reliance upon Business Aviation, Inc., 202 NLRB 1025 (1973) is misplaced because in that case, unlike here, the casual solicitation of three employees transpired on non-working time. The same is true for the Hearing Officer’s reliance upon Comcast Cablevision of New Haven, 325 NLRB 833, 838 (1998) which is inapposite because the union’s remarks to employees in that case were when the employees were entering and leaving the facility. In this case, the employees Mr. Johnson “huddled” with were on working time and in their working areas.

The Hearing Officer also overstressed the fact that neither of the Employer's witnesses heard what Mr. Johnson was saying to the eligible voters during this interaction. As noted above, the actual content of the conversation is irrelevant. See Flurocarbon Co., discussed supra. And, the rationale of Flurocarbon is bolstered by Peerless Plywood's younger cousin, Milchem, 170 NLRB at 362, where the Board established a bright-line rule proscribing conversations with employees waiting to vote "without inquiry into the nature of the conversations." Thus, in light of the fact that Milchem and Peerless Plywood are direct offspring of General Shoe, it is evident that in considering whether objectionable conduct has transpired, the Board is not concerned with the actual content of the discussion, but rather, as is the case here, the uncontroverted fact that the discussion actually took place.

In addition, the Hearing Officer's finding that the content of Mr. Johnson's speech is critical to a finding of objectionable conduct puts the Employer (and employers generally) between a rock and a hard place. If the Employer had tried to ascertain the contents of the conversation, it could very well have been accused of unlawful/objectionable surveillance or interrogation. That is especially true in this case where one vote could have changed the outcome of the election. The Board certainly would not sanction such a nonsensical obligation which would cause an employer to potentially destroy laboratory conditions to ascertain whether laboratory conditions were infringed upon by the Union. Therefore, the Hearing Officer's findings should be reversed.

C. An Adverse Inference Should Be Drawn Against The Union For Failing To Call Fred Johnson

Even if the content of Mr. Johnson's discussion with eligible voters was relevant, which for the reasons described above the Employer submits it is not, the Hearing Officer should have nevertheless drawn an adverse inference against the Union for failing to call Mr. Johnson as

a witness. As noted above, Mr. Johnson is the Union's agent. The adverse inference rule is predicated upon common sense in that "when a party has relevant evidence within his control which he fails to produce, that failure gives rise to an inference that the evidence is unfavorable to him." Auto Workers v. NLRB, 459 F.2d 1329, 1335-1336 (D.C. Cir. 1972); Metro-West Ambulance Service, Inc., 360 NLRB No. 124 at p. 2-3, n. 13 (2014); SKC Electric, 350 NLRB 857, 872 (2007).

Accordingly, the Board will draw an adverse inference upon a party's decision not to call a witness within its control who has particular knowledge of the pertinent facts concerning a key aspect of an interaction. See Chipotle Services, LLC, 363 NLRB No. 37, p. 1, fn. 1, p. 13 (2015). In fact, in Chipotle Services, the Board found an adverse inference was particularly appropriate when the uncalled witness was one of the party's agents. Id. See also Dump Drivers Local 420, 257 NLRB 1306, 1316 (1981) (adverse inference drawn against union for failing to call business agent to corroborate testimony of other union officer); Battle Creek Health System, 341 NLRB 882, 884 (2004).

In the present case, because Mr. Johnson is the Union's agent, it could have called him as a witness to testify about the specifics of his discussion with eligible voters. The Union chose not to do so. In fact, given Mr. Gray's evasive testimony concerning the non-controversial issue of whether Mr. Johnson was even a Union steward, an adverse inference that the discussion concerned the election is even more appropriate here. As a result, presuming the content of the discussion is a relevant factor for determining whether Mr. Johnson's (and derivatively, the Union's) conduct destroyed laboratory conditions, based on such an adverse inference, it is justifiable to conclude that Mr. Johnson was speaking about the election when he huddled with the

eligible voters. Therefore, he engaged in objectionable conduct attributed to the Union, warranting a second election.

* * *

For the foregoing reasons, the Hearing Officer's recommendation concerning Objection #1 should be reversed.

VI. FACTS PERTINENT TO OBJECTION NO. 2

The March 29, 2019 election was held at the Rutgers Labor Education Center, located at 50 Labor Center Way in New Brunswick, New Jersey. Karen Brewer, the Employer's Human Resources Business Partner, served as the Employer's representative at the pre-election conference that morning. (Tr. 13, 49-50). Arturo Archila and Brian Callow participated in the pre-election conference for the Union. (Tr. 50-52). During the pre-election conference, the assigned Board Agent covering the election, Anett Rodrigues, directed the participants to vacate the premises and go "[f]ar, far away" by 9:59 a.m. because the polls opened up at 10:00 a.m. (Tr. 52, 54; Er. Ex. 5). Ms. Brewer followed Board Agent Rodrigues' instructions and left the building where the polls were and proceeded to her car parked in Parking Lot 96. (Tr. 54; Er. Ex. 6). Before she left the parking lot, at 9:59 a.m., Ms. Brewer observed Mr. Archila and Mr. Callow standing on the driveway near the entrance to the building. (Tr. 55, 60; Er. Ex. 5).

According to Mr. Callow, he left the building with Mr. Archila and stopped to smoke a cigarette on the driveway and in the parking lot. (Tr. 88). Mr. Callow acknowledged that it could have taken him at least four minutes to smoke the cigarette which would have put him and Mr. Archila in the parking lot after 10:00 a.m. (Tr. 88). Mr. Callow stated he then proceeded to Mr. Archila's car to head to a local Sears store. (Tr. 88). Accordingly, it was possible that eligible voters would have seen Mr. Archila, who was wearing a Union jacket, and Mr. Callow in the

parking lot. (Tr. 58, 89). There is only one entrance to the parking lot such that eligible voters would have had to drive through the parking lot where Mr. Archila and Mr. Callow were standing in order to gain access to the Labor Education Center. (Er. Ex. 6).

VI. THE HEARING OFFICER'S FINDINGS CONCERNING OBJECTION # 2

Relying upon Milchem, 170 NLRB at 362, the Hearing Officer recommended overruling the objection on the grounds there was no evidence of any electioneering in the polling area. (Report, at 7). He also found there was no evidence Mr. Archila or Mr. Callow were still in the parking lot after the polls opened. (Report, at 7).

VII. ARGUMENT – OBJECTION #2 SHOULD HAVE BEEN SUSTAINED

The Hearing Officer limited his analysis to Milchem, 170 NLRB at 36, but did not consider other possible alternative grounds for objectionable conduct, including the Union's failure to adhere to a Board agent's instructions and improper surveillance. As a threshold matter, the Hearing Officer did not consider Messrs. Arturo and Callow's disregard of the Board Agent's directive that the participants in the pre-election conference go "far, far away." (Tr. 52, 54; Er. Ex. 5). Rather, Mr. Callow lit a cigarette after exiting the Labor Education Center and acknowledged that he could have been in the parking lot after the polls opened. (Tr. 88). In Electric Hose Co., 262 NLRB 186, 216 (1982), the Board affirmed an ALJ's decision finding that an employer engaged in objectionable conduct when a supervisor stationed himself near the polling area without any justification. The ALJ found "it can only be concluded that his purpose in observing the event was to effectively survey the union activities of the employees and to convey to these employees the impression that they were being watched." Id. As a result, the ALJ found such conduct to destroy laboratory conditions.

CERTIFICATE OF SERVICE

Case Name: Exela Enterprise Solutions, Inc.
Case No.: 22-RC-237040

I hereby certify that, on July 19, 2019, I caused a true and correct copy of the **BRIEF IN SUPPORT OF EMPLOYER'S EXCEPTIONS TO HEARING OFFICER'S REPORT ON OBJECTIONS** in connection with Case Number 22-RC-237040 to be served upon counsel of record for United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied & Industrial Service Workers International Union, AFL-CIO-CLC, Brad Manzolillo, via e-mail at bmanzolillo@usw.org.

/s Daniel Schudroff

Daniel D. Schudroff