

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SAN FRANCISCO DIVISION OF JUDGES

THE BOEING COMPANY

and

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS DISTRICT LODGE 751, affiliated
with
INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS

Case 19-CA-32431

**THE BOEING COMPANY'S RESPONSE TO THE MOTION TO INTERVENE OF
DENNIS MURRAY, CYNTHIA RAMAKER, AND MEREDITH GOING**

Respondent The Boeing Company ("Boeing") hereby responds to Judge Anderson's June 3, 2011 Order providing the current parties with "an opportunity to submit positions" regarding the Motion to Intervene filed by Dennis Murray, Cynthia Ramaker, and Meredith Going ("Intervenors"), who are employees of Boeing in its facilities in Charleston, South Carolina. Boeing supports the intervention and submits that the motion should be granted because Intervenors have a direct interest in the outcome of this case.

Under the governing regulations, an Administrative Law Judge may grant a motion to intervene "to such extent and upon such terms as he may deem proper," 29 C.F.R. § 102.29, upon due consideration of the importance of "giv[ing] all interested parties opportunity for . . . submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit." 5 U.S.C. § 554(c); *Camay*

Drilling Co., 239 N.L.R.B. 997, 998 (1978) (quoting the language of § 552(c) to allow the trustees of the charging party’s pension fund to intervene in a case concerning the employer’s payment of increased wages into said fund); *see also* NLRB Casehandling Manual § 10388.1 (Dec. 2009) (Counsel for the General Counsel should “not oppose intervention by parties or interested persons with direct interest in the outcome of the proceeding.”). In that regard, Section 7 of the National Labor Relations Act protects the interests of non-union employees, as well as union employees, to engage in “concerted activities for the purpose of . . . mutual aid or protection.” 29 U.S.C. § 157.

The Intervenors have important interests at stake that warrant their participation in the case, particularly given the extraordinary (and unprecedented) remedy sought by the Acting General Counsel in this case—an order requiring Boeing to “operate its second line of 787 Dreamliner aircraft assembly production in the State of Washington,” instead of its current location in Charleston, South Carolina, “utilizing supply lines maintained by the [Charging Party’s bargaining unit],” instead of supply lines operated in part in South Carolina. Compl. ¶ 13(a). As the Charleston final assembly facility was designed and constructed to assemble the 787 Dreamliner, the Acting General Counsel’s efforts to force this work to be done in Puget Sound would result in the cessation of operations in that facility. Therefore, the mere filing of this complaint casts a cloud of uncertainty not only over The Boeing Company, but over the lives and futures of thousands of employees currently working for Boeing in South Carolina—including the more than one thousand who have been specifically trained to assemble 787s there. Given the risk to employment that this complaint poses to intervenors, it is clear that they are “interested parties” having a “direct interest in the outcome of the proceeding.” 5 U.S.C. § 554(c); Casehandling Manual § 10388.1.

Further, the Motion to Intervene itself is a form of “concerted activity” for “mutual aid or protection” which is protected by Section 7. The protections of the NRLA extend to unrepresented employees as well as represented employees, and include the right to choose not to be represented by a labor organization. *Chamber of Commerce of the United States v. Brown*, 554 U.S. 60, 67 (2008). The Acting General Counsel, though obligated to represent the interests of represented and unrepresented workers, has sought only to serve the IAM’s interests and has failed to take into account or mitigate in any way the severe consequences his complaint and requested remedy would have for the workers in South Carolina. The Intervenors’ participation will ensure that unrepresented employees in South Carolina, who will be greatly affected by the Acting General Counsel’s proposed remedy, are afforded the opportunity to directly express their interests in this case.

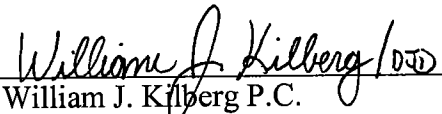
Finally, the Intervenors may be able to provide information regarding the impact that the complaint and the requested remedy have had and will have on the public interest, especially the interests of citizens of South Carolina, which also is a factor in deciding whether to grant the relief the Acting General Counsel seeks. *See eBay Inc. v. mercExchange, L.L.C.*, 547 U.S. 388, 390 (2006); *Winn-Dixie Stores, Inc.*, 147 N.L.R.B. 788, 790 (1964) (citing *Renton News Record*, 136 N.L.R.B. 1294 (1962)).

Boeing is mindful that proceedings in this case are expected to be lengthy and that, accordingly, it may be appropriate to place reasonable limitations on the time allocated to Intervenors to present their case. Boeing also reserves the right to object to particular evidence offered by Intervenors on the basis of relevance and other grounds, including evidence identified in Intervenors’ Motion. However, Intervenors plainly have important interests that merit their

participation, and for all of the reasons set forth above, Respondent submits that the Motion to Intervene should be granted.

Respectfully Submitted,

Dated: June 7, 2011



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CERTIFICATE OF SERVICE

I certify that a copy of Respondent's Response to the Motion to Intervene was electronically served on June 7, 2011 and sent by overnight mail to the following parties, and by email to the parties with email addresses indicated:

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DATED this 7th day of June, 2011

A handwritten signature in black ink, appearing to read "D.J. Davis", written over a horizontal line.

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