

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

**THE BOEING COMPANY**

**and**

**Case 19-CA-32431**

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

**ACTING GENERAL COUNSEL'S OPPOSITION  
TO MOTION OF SIXTEEN STATE ATTORNEYS GENERAL  
TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT  
AND MOTION TO STRIKE PROPOSED BRIEF**

Counsel for the Acting General Counsel opposes the motion to file an amicus curiae brief filed by sixteen State Attorneys General ("Movants") on June 9, 2011, and moves for the Administrative Law Judge to strike the brief that accompanied that motion. Movants, who are State Attorneys General, state that they are requesting to file an amicus brief based upon their interest in "the potential economic impact on their states of the NLRB's proposed course of action" and "their desire to promote the evenhanded application of the labor laws." (Motion at 1) Movants oppose the Complaint and the remedy requested by the Acting General Counsel. As explained below, Movants' arguments are more

appropriately raised before the National Labor Relations Board (the "Board") on exceptions, if at all.

Under Federal Rule of Appellate Procedure 26, a motion for leave to file an amicus brief must establish: (1) an adequate interest in the proceedings, (2) desirability of the brief, and (3) relevance of the brief to the proceedings.

*Neonatology Assoc. v. Comm'r of Internal Revenue*, 293 F.3d 128, 131 (3d Cir. 2002). Thus, a judge should not "grant rote permission to file an amicus curiae brief," and should never "grant permission to file an amicus curiae brief that essentially merely duplicates the brief of one of the parties." *Nat'l Org. for Women v. Scheidler*, 223 F.3d 615, 617 (7th Cir. 2000). Movants' asserted interests in this proceeding are closely aligned with those of Respondent, which shares with Movants the objective of opposing the Complaint and the requested remedy. Movants have not identified any argument that they intend to advance that will not be advanced by Respondent The Boeing Company.

Moreover, Movants' arguments appear to be based on policy concerns about the potential economic impact of the relief sought. As noted by the Administrative Law Judge in his ruling on a motion to intervene filed by three employees, requests to file amicus curiae briefs seeking to address such policy concerns are "best directed to the Board in considering any remedy in this case on exceptions," as "[i]t is only at the Board level and thereafter that policy arguments should be made." (Ruling on Motion to Intervene at n. 8) Counsel for the Acting General Counsel therefore respectfully requests that the Administrative Law Judge

deny Movants' motion to file an amicus brief and strike the proposed brief that accompanied the Motion.

**DATED** at Seattle, Washington, this 13<sup>th</sup> day of June, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mara-Louise Anzalone', written over a horizontal line.

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## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of June, 2011, I caused copies of Acting General Counsel's Opposition to Motion of Sixteen State Attorneys General to File Amicus Curiae Brief in Support of Respondent and Motion to Strike Proposed Brief to be served upon the following parties:

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