UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FDRLST MEDIA, LLC,
Respondent,

-and-

JOEL FLEMING,
Charging Party.

Case No. 02-CA-243109

RESPONDENT FDRLST MEDIA, LLC'S REPLY BRIEF IN SUPPORT OF EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION (ORAL ARGUMENT REQUESTED, 29 C.F.R. § 102.46(g))

July 20, 2020

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INTRODUCTION

This case involves extraordinary administrative overreach. The General Counsel instituted an unfair-labor-practice action in a jurisdiction and venue with no connection to FDRLST or the underlying allegation, based on a charge filed by a person with no connection to FDRLST or the underlying allegation, to suppress a satirical tweet that those with a connection to FDRLST saw for the joke that it was. In response to the fatal jurisdictional and constitutional defects that Respondent has identified, the General Counsel argues, essentially, that its authority to prosecute unfair labor practices is boundless. He rejects all limits on his authority and the authority of this Board. But federal agencies have only the power that Congress gives to them—power that cannot go beyond the bounds of the Constitution. Respondent asks this Board to apply well-established law, which the Region 2 ALJ refused to do, and to dismiss this action in its entirety.

ARGUMENT

I. NLRB LACKS SUBJECT-MATTER JURISDICTION OVER THIS ACTION

FDRLST has explained that the plain text of Section 160(b) limits the authority of NLRB to investigate and prosecute unfair labor practices to instances in which a "person aggrieved []by" an alleged unfair labor practice files a charge with the appropriate Regional Director.

Rather than engage with Respondent's statutory analysis, or conduct its own statutory analysis, the General Counsel relies solely on *dicta* from a single Supreme Court decision, *NLRB v. Indiana & Michigan Electric Co.*, 318 U.S. 9 (1943), and its progeny of inapposite cases. *See* Gen. Counsel Resp. Br. at 7 [hereinafter "GC Br."] ("The Court *explicitly held* that the status of a charging party could not deprive the Board of jurisdiction[.]") (emphasis altered). But the Court in *Indiana & Michigan Electric* made no such "explicit[]" holding. Nor could it have. The charging party in that case was a labor union—not a stranger to the employees like Joel Fleming is here—and the issue was whether the charging party's ill motives can deprive the charging party of "person aggrieved" status and thereby deprive the Board of subject-matter jurisdiction. *See id.* at 14. The Court concluded that the charging party's unclean hands are not sufficient to strip its "person aggrieved" status where the charging party satisfactorily alleges, and then proves, that it is in fact aggrieved by the employer's action. *Id.* at 18.

Whether a complete stranger could have triggered NLRB's statutory authority was not at issue in *Indiana & Michigan Electric*. The Supreme Court could not, then, have held that any stranger to an employment relationship may trigger the Board's subject-matter jurisdiction by filing a charge under Section 160(b). *See Waters v. Churchill*, 511 U.S. 661, 678 (1994) (plurality) ("[C]ases cannot be read as foreclosing an argument that they never dealt with."); *Webster v. Fall*, 266 U.S. 507, 511 (1925) ("Questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents.").

The progeny of cases from the courts of appeals that the General Counsel lists in its brief are equally inapposite. *See* GC Br. at 7. Each of those cases considered whether a charge filed by an employee, labor union, or employer satisfied Section 160(b).[1] Consequently, the charging party in each of those cases came within the "zone of interests protected by the law invoked," *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 129 (2014), and was thereby "aggrieved" within the meaning of Section 160(b). Not so here. Unlike the labor unions and employees who filed the charges in *Indiana & Michigan Electric* and the General Counsel's other cited cases, Mr. Fleming is a stranger to the employment relationship at FDRLST. The language of Section 160(b) requires an actual aggrieved charging party to trigger the Board's subject-matter jurisdiction. Without the aggrievement requirement, the Board would have roving jurisdiction, and nothing would stop an NLRB employee from filing a charge

[1] *See Elec. Contractors, Inc. v. NLRB*, 245 F.3d 109, 112, 121 (2d Cir. 2001) (charging party was Local 90, "a 'labor organization'" that wanted to be recognized as the collective-bargaining representative of the respondent's employees); *NLRB v. Television & Radio Broad. Studio Emp., Local 804*, 315 F.2d 398, 399–401 (3d Cir. 1963) (charging party was an employer alleging unfair labor practices by the recognized collective-bargaining representative of its employees); *NLRB v. Chauffeurs, Teamsters & Helpers, Local No. 364, Int'l Bhd. of Teamsters, Warehousemen & Helpers of Am.*, 274 F.2d 19, 24 (7th Cir. 1960) ("[T]he charge was filed by Light, the primary employer, who was engaged in the labor dispute."); *S. Furniture Mfg. Co. v. NLRB*, 194 F.2d 59, 60 (5th Cir. 1952) ("The amended charge upon which the present complaint was predicated alleges the discriminatory discharge of 33 named employees, and was signed only by … one of the discharged employees."); *NLRB v. Gen. Shoe Corp.*, 192 F.2d 504, 505 (6th Cir. 1951) (charging party was "Boot and Shoe Workers Union, A.F. of L.," a union representing boot and shoe workers that alleged a shoe manufacturer had engaged in unfair labor practices); *NLRB v. Fulton Bag & Cotton Mills*, 180 F.2d 68, 70 (10th Cir. 1950) (charging party was "a representative of the union to which [a terminated employee] belonged"); *NLRB v. J.G. Boswell Co.*, 136 F.2d 585, 588, 590 (9th Cir. 1943) (charging parties were "Cotton Products and Grain Workers Union, Local 21798" and an employee who the respondent had discharged because of the employee's "membership and activities" in the labor union).

to activate the machinery of the federal government against any employer whose conduct has "more than a *de minimis* effect on interstate commerce." GC Br. at 8.

The General Counsel fails to explain how its reading of Section 160(b) would preclude this absurd result. Instead, the General Counsel ignores the statutory text entirely and boldly argues that whether a charging party is aggrieved is "entirely beside the point." GC Br. at 6. But the words Congress used must mean something. Logically, Congress would have suspended the statute of limitations for all soldiers, not just for aggrieved soldiers, if a charging party's aggrievement did not matter. *See, e.g.*, *N.Y. v. Mountain Tobacco Co.*, 942 F.3d 536, 547 (2d Cir. 2019) ("[A] statute should be interpreted in a way that avoids absurd results."). The only reasonable reading of Section 160(b) is that "person[s] aggrieved []by" an unfair labor practice are the subject of the passive-voice first sentence. *See Repub. of Sudan v. Harrison*, 139 S. Ct. 1048, 1060 (2019) ("[I]ts ordinary meaning better harmonizes the various provisions in [the statute] and avoids the oddities that respondents' interpretation would create.").

The General Counsel also misses the point of why Article III standing is relevant to the inquiry into the Board's subject-matter jurisdiction. The General Counsel tries to create a distraction by arguing that the Charging Party is not a proper "plaintiff."[2] GC. Br. at 8. An Article III standing inquiry, however, is still relevant to determining the plain meaning of Section 160(b). As Respondent explained in its Brief in Support of Exceptions, the Supreme Court has ruled that a statute limiting actions to "persons aggrieved" demonstrates "a congressional intention to define standing as broadly as is permitted by Article III of the Constitution." *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 209 (1972). Respondent's argument is not, and has never been, that Mr. Fleming could not file a charge because he was a plaintiff lacking Article III standing; rather, Respondent contends that the Article III standing cases are helpful for the Board to properly and diligently conduct a statutory construction analysis. The problem underlying this entire action is that Mr. Fleming was not aggrieved by any alleged unfair labor practice, which is clear because he would not have Article III standing to pursue an action against

[2] The Charging Party is, however, a party to the action, 29 C.F.R. § 102.1(h) ("The term party means … including, without limitation, any person filing a charge"); is responsible for serving process, 29 C.F.R. § 102.14(b); and has standing to lodge an appeal under the Board's rules, 29 C.F.R. § 102.46(a) ("[A]ny party may … file … exceptions").

FDRLST in an Article III court. *See id.* Mr. Fleming is not aggrieved—nor does anyone contend otherwise. Without a "person aggrieved" filing a charge against FDRLST, the Board lacked subject-matter jurisdiction *ab initio* to investigate or institute this action, and it must be dismissed.

II. NLRB LACKED PERSONAL JURISDICTION OVER FDRLST IN REGION 2

FDRLST has not questioned that this Board has nationwide jurisdiction. Rather, the issue is that NLRB lacked personal jurisdiction over Respondent *in Region 2*—the region in which Mr. Fleming filed his charge and where the proceedings below were held.[3] *But see* GC Br. at 8–9 (suggesting that the Commerce Clause somehow gives the Board personal jurisdiction; arguing that the Board's regions are "inapplicable to the issue"). The General Counsel's insistence that NLRB can disregard its regional boundaries and NLRB rules to exercise personal jurisdiction over non-residents in Region 2 is at odds with centuries of precedent limiting a forum's jurisdictional reach to its physical boundaries.

NLRB's ALJs, like any state or federal court, must have personal jurisdiction over a defendant in order to issue a ruling binding that defendant. *Picquet v. Swan*, 19 F. Cas. 609, 611 (C.C.D. Mass. 1828) (Story, J.) ("It matters not, whether it be a kingdom, a state, a county, or a city, or other local district. If it be the former, it is necessarily bounded and limited by the sovereignty of the government itself, which cannot be extra-territorial; if the latter, then the judicial interpretation is, that the sovereign has chosen to assign this special limit, short of his general authority."); *see also Robertson v. R.R. Labor Bd.*, 268 U.S. 619, 622–23 (1925) ("No distinction has been drawn between the case where the plaintiff is the Government and where he is a private citizen."). "The requirement that a court have personal jurisdiction flows not from Art[icle] III, but from the Due Process Clause. … It represents a restriction on judicial power not as a matter of sovereignty, but as a matter of individual liberty." *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982); *see also Peay v. Bellsouth Med. Assistance Plan*, 205 F.3d 1206, 1212 (10th Cir. 2000) ("[T]he Fifth Amendment 'protects individual litigants against the burdens of litigation in an unduly inconvenient forum.'").

[3] Venue is improper under the "same standard" that applies to personal jurisdiction. *Gulf Ins. Co. v. Glasbrenner*, 417 F.3d 353, 355 (2d Cir. 2005).

Since before the founding, regional boundaries have constricted the jurisdictional reach of adjudicatory bodies. *See Omni Capital Int'l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987) ("At common law, a court lacked authority to issue process outside its district[.]"); *see also Harkness v. Hyde*, 98 U.S. 476, 478 (1878) ("There can be no jurisdiction in a court of a Territory to render a personal judgment against any one upon service made outside its limits."); *Picquet*, 19 F. Cas. at 611 (setting out the "general principle … that a court created within and for a particular territory is bounded in the exercise of its power by the limits of such territory."); *Ex Parte Graham*, 10 F. Cas. 911, 912 (C.C.E.D. Pa. 1818) (Washington, J.) ("This division and appointment of particular courts, for each district, necessarily confines the jurisdiction of the local tribunals, within the bounds of the respective districts, within which they are directed to be holden.").

The First Congress "made this same restriction the general rule when it enacted the Judiciary Act of Sept. 24, 1789, § 11, 1 Stat. 79." *Omni Capital*, 484 U.S. at 108-9 (citing *Labor Board*, 268 U.S. at 622–23). Congress "divided the United States into judicial districts," and each district and the circuit in which it lay are "bounded by its local limits." *Toland v. Sprague*, 37 U.S. 300, 328 (1839). "[I]n respect to persons and property," Congress mandated that personal jurisdiction "can only be exercised within the limits of the district." *Id.* The Court reasoned that "Congress *might* have authorized civil process from any circuit court[] to have run into any state in the Union[,]" but Congress "has not done so." *Id.* (emphasis added). The "process of a circuit court cannot be served without the district in which it is established; without the special authority of law therefor." *Id.* at 329.

Absent an explicit grant of statutory authority to allow a tribunal to exercise nationwide jurisdiction, the default rule is that the division of the nation into regions limits the authority of each region to exercise its jurisdiction over only persons and property within its regional boundaries. *See Omni Capital*, 484 U.S. at 109 ("This Court in the past repeatedly has stated that a legislative grant of authority is necessary."); *Graham*, 10 F. Cas. at 913 ("In the exercise of a jurisdiction over persons not inhabitants of, or found within the district where the suit is brought, there are difficulties, which, in the opinion of the court, nothing but an act of congress can remove.").

This default rule at common law persists. In 1925, for instance, the Supreme Court rejected an argument by the Railroad Labor Board that Congress implicitly allowed it to ignore jurisdictional boundaries. *Labor Board*, 268 U.S. at 622. The statute at issue allowed the Labor Board to "invoke the aid of any United States District Court" to issue subpoenas; but the Court held that the phrase "any court" must mean "any such court 'of competent jurisdiction.'" *Id.* at 627. The Court reasoned that its ruling was consistent with "the general rule" that a federal court's *in personam* jurisdiction is "limited to the district of which the defendant is an inhabitant or in which he can be found." *Id.* "It is not lightly to be assumed that Congress intended to depart from a long-established policy." *Id.*

More recently, the Supreme Court illustrated the continued importance and effect of the default rule. The Court explained that a tribunal can exercise personal jurisdiction only when there is "notice to the defendant," "a constitutionally sufficient relationship," and "a basis for the defendant's amenability to service of summons." *See Omni Capital*, 484 U.S. at 104. In federal court, Rule 4 of the Federal Rules of Civil Procedure typically governs amenability to service. *Id.* at 104–05; *see also* 29 C.F.R. § 102.14(b) (adopting Rules 4 and 5 as the methods of service to be used by the Regional Director). Under Rule 4, federal courts exercise personal jurisdiction only if the defendant is subject to the jurisdiction of a state court where the district court is located, unless a separate federal statute expands their jurisdiction further. *See* Fed. R. Civ. P. 4(k)(1); *see also Molock v. Whole Foods Mkt. Grp.*, 952 F.3d 293, 308 (D.C. Cir. 2020) (Silberman, J., dissenting) ("[I]n the absence of another statute or Rule expanding the reach of effective service of process, a district court's analysis of personal jurisdiction in a civil action will be identical to the Fourteenth Amendment inquiry undertaken by the relevant state court."). It would be unwise, the *Omni Capital* Court reasoned, to expand the default rule through a court's common-law power because the statutes and rules that set the scope of jurisdiction have been developed with the default rule in mind. 484 U.S. at 109–10; *see also id.* at 106 ("Congress knows how to authorize nationwide service of process when it wants to provide for it.").

Returning to the General Counsel's arguments, the New York long-arm statute matters because federal tribunals within the state's territorial boundaries, like NLRB Region 2, may exercise personal jurisdiction only as far as a New York state court unless a separate federal statute expands

their jurisdictional reach. *See* FDRLST Exceptions Br. at 21–22; *Mussat v. IQVIA, Inc.*, 953 F.3d 441, 448 (7th Cir. 2020) ("[W]ith certain exceptions, a federal district court has personal jurisdiction only over a party who would be subject to the jurisdiction of the state court where the federal district court is located."). In this case, the General Counsel has not identified any such statute or rule that explicitly grants Region 2 nationwide jurisdiction. To the contrary, NLRB's organic statute and its rules conform with the default rule's assumption that Region 2's jurisdiction is territorially limited.

NLRA Section 160(b) authorizes the Board to issue service with no mention of jurisdictional boundaries. We know from *Labor Board* and *Omni Capital*, however, that any departure from the default rule's limitations on jurisdiction must be explicit in the statute. *See* 484 U.S. at 106; 268 U.S. at 627. Rather than an explicit grant of nationwide jurisdiction, Section 160(e) limits the jurisdictions in which the Board can enforce any such order: "The Board shall have power to petition any court of appeals of the United States, or … any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business[.]" *See also* 29 U.S.C. § 161(2) (limiting the Board's enforcement of subpoenas to federal courts "within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business").

Even if the Board itself could in some circumstance exercise nationwide jurisdiction, that does not mean each region can too. NLRB's creation of regions and delegation of its authority to regional directors curtails the *in personam* jurisdictional reach of each region to its geographical boundaries. *See, e.g.*, 29 U.S.C. § 154(a) (authorizing the Board to delegate its authority to regional directors).

NLRB's regions, and its delegation of authority to the directors of those regions, pre-dates the current Board and its organic statute. *See* 1 NLRB Ann. Rep. at 4, 16 (1936), *available at* https://www.nlrb.gov/sites/default/files/attachments/pages/node-131/nlrb1936.pdf ("The [pre-NLRA] Board … established 20 regional boards … to adjust cases and hold hearings in the regions where the controversies arose, and thus expedite the cases and enable the parties to avoid the burden of coming to Washington." … "The National Labor Relations Board retained the system of regional offices which had been in existence under the old National Labor Relations Board."). One must

assume, then, when drafting the NLRA, Congress had in mind these already-existing territorial boundaries. *See, e.g.*, 29 U.S.C. § 154(a) ("The Board may establish or utilize such regional, local, or other agencies[.]"). The Board kept its regions in place. *Cf.* 29 C.F.R. § 102.1(d) ("Region means that part of the United States or any territory thereof fixed by the Board as a particular Region.").

The Board's rules confirm the limited jurisdiction of each region. Specifically, under the Board's rules, the Charging Party must file a charge "with the Regional Director for the Region in which the alleged unfair labor practice has occurred or is occurring." 29 C.F.R. § 102.10 ("Where to file"); 29 C.F.R. § 102.33(a) ("Whenever the General Counsel deems it necessary to effectuate the purposes of the Act or to avoid unnecessary costs or delay, a charge may be filed with the General Counsel in Washington, DC, or, at any time after a charge has been filed with a Regional Director, the General Counsel may order that such charge and any proceeding regarding the charge be" transferred, consolidated, or severed.). It is then the Charging Party's obligation to effect "timely and proper service" of the charge "upon the person against whom such charge is made." 29 C.F.R. § 102.14(a).

Nothing in these service rules suggests that the Board has even attempted to depart from the default rule limiting service against non-residents. *Mississippi Pub. Corp. v. Murphree*, 326 U.S. 438, 444–45 (1946) ("[S]ervice of summons is the procedure by which a court … asserts jurisdiction over the person of the party served."). An ALJ in Region 2 is, therefore, not authorized to exercise personal jurisdiction over non-residents who are not amenable to service in its regional boundaries. The Board's nationwide subject-matter jurisdiction does not change this fact. *Cf.* GC Br. at 8–9.

Even if a statute or rule allowed an ALJ in Region 2 to reach beyond its regional boundaries, its exercise of jurisdiction would still have to comport with the Due Process Clause. *See Peay*, 205 F.3d at 1212 ("Like the Eleventh Circuit, we discern no reason why the Fourteenth Amendment's fairness and reasonableness requirements 'should be discarded completely when jurisdiction is asserted under a federal statute.'"). The due-process inquiry—under the Fifth and Fourteenth Amendments alike—balances the interests of the plaintiff, the defendant, the forum, and the public generally. *See id.* at

1211–12 (setting out factors to weigh under the Fifth Amendment due-process analysis).[4] The General Counsel has not identified a single relevant interest advanced by prosecuting this action in Region 2—a forum with no connection to the alleged unfair labor practice, the Respondent, the Respondent's employees, or the Charging Party. *See* FDRLST Exceptions Br. at 25–26. The General Counsel has failed to prove that personal jurisdiction existed in Region 2.

III. FDRLST DID NOT COMMIT AN UNFAIR LABOR PRACTICE

The General Counsel's response further lays bare its bald attempt to disguise this persecution of a disfavored viewpoint as an "objective" standard. Throughout these proceedings, the General Counsel advanced a *per se* rule against satire by media organizations that it believes hold anti-union viewpoints. Applying this so-called objective test, the ALJ accepted as fact—without evidence—that Mr. Domenech's tweet was "clearly" an attempt to convey to his employees "his displeasure with the VOX walkout." ALJ Decision at 6. The General Counsel's belief that Mr. Domenech dislikes unions cannot transform an innocuous joke into a threat—especially without consideration of how Respondent's employees viewed the tweet. *The Federalist* has six employees (two of whom submitted affidavits); objectivity did not require the ALJ to substitute his viewpoint for that of the actual employees.

Moreover, the General Counsel's purportedly objective test distorts the "*totality* of the circumstances" by inviting the ALJ to consider an employer's supposed (but unproven) subjective viewpoint on unions while completely ignoring all evidence that the employees share the employer's viewpoint and sense of humor. *See* ALJ Decision at 5 (emphasis added). For instance, the General Counsel has

[4] Courts disagree about the scope of Fifth Amendment due-process protections when Congress explicitly allows for nationwide service. *See, e.g.*, *Livnat v. Palestinian Auth.*, 851 F.3d 45, 55 & n.6 (D.C. Cir. 2017) (collecting cases but declining to resolve the issue). But the statutory inquiry into the reach of service cannot swallow the due-process analysis. *Cf. Waldman v. Palestine Liberation Org.*, 835 F.3d 317, 343 (2d Cir. 2016) (Due-process "considerations of minimum contacts and reasonableness" must "appl[y] even when the federal service-of-process statutes are satisfied."). It would be "nonsensical" to allow Congress to "dictate personal jurisdiction through the enactment of nationwide service of process provisions, unquestioned by the judiciary[.]"*Peay*, 205 F.3d at 1211 (cleaned up); *see also* 4 Charles Wright & Arthur Miller, *Federal Practice & Procedure* § 1067.1 (1987) ("If due process is to have any application at all in federal cases—and the Fifth Amendment requires that it does—it seems impossible that Congress could empower a plaintiff to force a defendant to litigate any claim, no matter how trifling, in whatever forum the plaintiff chooses, regardless of the burden on the defendant."). Regardless, the Board need not resolve the precise due-process boundary in this case because Congress did not *sub silentio* abandon the default rule in favor of nationwide service under NLRA Section 160. The due-process inquiry here must focus on Respondent's contacts with Region 2.

argued, on the one hand, that *The Federalist* is an anti-union publication. R-8 at 14:4–14, 22:17–24. If so, it stands to reason that such a publication would hire anti-union writers. But on the other hand, the General Counsel insists that the viewpoints of the six employees who write for this allegedly anti-union publication are irrelevant under the Board's "objective" test. GC Br. at 16. This double standard is thus willfully blind to how a FDRLST employee objectively would perceive Mr. Domenech's tweet, and it results in a *per se* prohibition on personal speech that the General Counsel considers to be anti-union.

The lack of an aggrieved party in this case further compounds the problem with the "objective" test. Without an internal complaint (or one by a charging party within the NLRA's zone of interests), the General Counsel's approach permits a complete stranger to the company to interfere with the relationship between an employer and employees who all share the same viewpoint (and sense of humor). Under the guise of objectivity, the General Counsel and ALJ then seek to cast aside the First Amendment by falsely characterizing disfavored speech as threatening. That is not what 29 U.S.C. § 158(c) permits. Mr. Domenech's tweet from his personal twitter account did not restrain or coerce FRDLST employees in any way. FDRLST has no salt mines; Mr. Domenech possesses no authority to send FDRLST employees to Russian work camps.[5] The General Counsel's suggestion that "Respondent employees … are subject to the power of Domenech 'to send [them] back to the salt mine[,]'" GC. Br. at 11, is as laughable as Mr. Domenech's satirical tweet. The First Amendment fully protects satire, no matter how humorless an agency General Counsel or ALJ might be.

If the Board has jurisdiction, it must account for circumstances in which no employees are threatened by anti-union jokes and not interfere with the employment relationship by turning loose NLRB's investigatory and enforcement machinery based on a harmless witticism.

CONCLUSION

The Board should reverse the ALJ's decision and dismiss the complaint against Respondent.

Respectfully submitted, on the 20th day of July, 2020.

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[5] Tellingly, the General Counsel makes no attempt to defend ALJ Chu's ruling that salt mines are somehow an idiom for "tedious" work. *See* GC Br. at 13.

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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2020, Respondent's "Reply Brief in Support of Exceptions to the Administrative Law Judge's Decision" was electronically filed and served by e-mail, return receipt requested on the following parties:

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