

## November 3, 2009

To: Mary Johnson

Fax:

202-692-5085

Phone:

Fax #(s) verified before sending (initial):

**National Mediation Board** 

From:

llyse Wolens Schuman

Fax: 202,478.2215

Phone:

202.423.2223

Length, including this cover letter:

Pages 4

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Littler Mendelson, P.C.

1150 17th Street N.W., Suite 900, Washington, DC 20036
Tel: 202.842.3400 Fax: 202.842.0011 www.littler.com



Littler Mendelson, P.C. 1150 17th Street N.W. Suite 900 Washington, DC 20036

November 3, 2009

Ilyse Wolens Schuman 202,423,2223 direct 202,842,3400 main 202,478,2215 fax ischuman@littler.com

VIA FACSIMILE (202) 692-5085 AND U.S. MAIL

National Mediation Board Mary Johnson General Counsel, Office of Legal Affairs 1301 K Street, N.W. Suite 250E Washington, D.C. 20005

Re: Freedom of Information Act Request

Dear Ms. Johnson:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, 29 C.F.R. § 1208, and the National Mediation Board's ("Board") Freedom of Information Act Reference Guide, Littler Mendelson hereby requests the following information related to the Board's Notice of Proposed Rule Making concerning Representation Election Procedures, Docket No. C-6964, dated October 28, 2009, published at FR Doc. 2009-26437:

- All communications, including but not limited to, correspondence; e-mails; faxes; voice mails or notes, between Members Harry Hoglander, Linda Puchala and/or Board Chairman Elizabeth Dougherty and any labor organizations or collective bargaining representatives as defined by either the Railway Labor Act or the National Labor Relations Act, their officers or agents, concerning the above-referenced proposed rule change or any request that the Board alter representation election procedures, from January 1, 2009 until the present.
- All communications, including but not limited to, correspondence; e-mails; faxes; voice
  mails or notes, between Members Hoglander, Puchala and/or Chairman Dougherty and
  any other outside parties, including but not limited to, Members of Congress, the White
  House, their staffs, or congressional committees and their staffs, concerning the abovereferenced proposed rule change, from January 1, 2009 until the present.
- All calendar entries reflecting the above-referenced subject matter of Members Hoglander, Puchala and/or Chairman Dougherty, and maintained in their official capacities as Members/Chairman of the Board from January 1, 2009 until the present.

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- All minutes and/or notes from deliberations conducted by the Members/Chairman of the Board, including but not limited to correspondence, notes, e-mails or voice mails from January 1, 2009 until the present.
- All opinion memoranda or other non-privileged advice or counsel sought by and/or received by Members Hoglander and/or Puchala and/or Chairman Dougherty in conjunction with their consideration of the proposed rule, including but not limited to, memoranda, advice or counsel regarding the scope of the Board's statutory authority, if any, to implement such a change, from January 1, 2009 until the present.

We also ask that the Board take steps to ensure that all of the aforementioned information sought is retained and protected against loss or destruction, including but not limited to, information that might be required to be produced pursuant to Federal Rules of Civil Procedure 34.

It is our position that this Request falls under the fee waiver exception as outlined in 29 U.S.C. § 1208.6(b)(3)(i) in that the information sought is in the public interest because it is likely to contribute significantly to the public's understanding of the operations or activities of the government and, also, the Request is not primarily in the commercial interest of Littler Mendelson as the requester of this information. If, however, it is the Board's position that this exception does not apply, Littler Mendelson agrees to pay all fees associated with responding to this Request.

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Further, because we are already inside the 60-day comments period, we ask that the National Mediation Board reply to this Request on an expedited basis.

Sincerely,

Dhyse Wolens Schuman

cc: Littler Mendelson Transportation Core Group

Ellen Bronchetti

Ron Holland

Kevin Kraham

Jack Lambremont

Don Maliniak

Chip McWilliams

Peter Petesch

Patrick Ray

John Telford

C. Scott Williams