UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

DUQUESNE UNIVERSITY OF THE HOLY SPIRIT,

Employer,

v. **No. 06-RC-080933**

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

Petitioner.

EMPLOYER'S REPLY TO UNION'S OPPOSITION TO DUQUESNE UNIVERSITY OF THE HOLY SPIRIT'S REQUEST FOR SPECIAL PERMISSION TO APPEAL AND REQUEST FOR EXPEDITED REVIEW

The Union's Opposition is without foundation in fact or law.

The Union asserts that "even if the Employer were entitled to a hearing in which it could prove its claims, the facts do not support a claim for religious exemption here."[1]

The Union's assertion is flatly contradicted by the language of the Stipulated Election Agreement upon which the union places such heavy reliance. The Agreement provides that "the parties AGREE AS FOLLOWS: ". . . The Employer, a Pennsylvania corporation with its sole facility in Pittsburgh, Pennsylvania, is a University which **provides religious and other higher**

[1] Union Opposition, page 9.

education . . . ." (Emphasis added.) Clearly, the very factual underpinning of the Stipulated Election Agreement agreed to by the Union underscores that an exercise of jurisdiction over Duquesne University of the Holy Spirit creates the sort of risks contemplated by *Catholic Bishop*.

The very religious character of the University is protected from NLRB jurisdiction. The Union further asserts that it cannot be said that the exercise of Board jurisdiction would somehow be burdensome upon the Employer.[2] Such a preposterous contention directly conflicts with the United States Supreme Court's landmark decision in *Catholic Bishop v. NLRB*, 440 U.S. 490 (1979). As the Supreme Court emphasized in *Catholic Bishop*, "It is not only the conclusions that may be reached by the Board which may impinge on rights guaranteed by the Religion Clauses, but also the very process of inquiry leading to findings and conclusions." *Id.* at 502.

The silence of the Union regarding the Supreme Court's decision is deafening. According to the Union, the governing case that the facts herein do not support a claim for religious exemption is *Livingston College*, 286 NLRB 1308, 1308-1310 (1987).[3] However, the support for religious exemption is <u>not</u> governed by the Board decision in *Livingston*, but rather by the Supreme Court's decision in *Catholic Bishop,* which the Union conspicuously ignores.

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[2] Union Opposition, page 10.
[3] Union Opposition, page 9.

CONCLUSION

Employer renews its Request for Special Permission to Appeal and Request for Expedited Review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certified that a true and correct copy of the foregoing was served electronically on the following on this 27th day of June, 2012:

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