

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

NEXEO SOLUTIONS, LLC,	:	
	:	
Respondent,	:	
	:	Cases 13-CA-46694
and	:	13-CA-62072
	:	20-CA-35519
TRUCK DRIVERS, OIL DRIVERS, FILLING	:	
STATION AND PLATFORM WORKERS'	:	
UNION, LOCAL NO. 705, AN AFFILIATE OF	:	
THE INTERNATIONAL BROTHERHOOD OF	:	
TEAMSTERS,	:	
	:	
and	:	
	:	
BROTHERHOOD OF TEAMSTERS AND	:	
AUTO TRUCK DRIVERS, LOCAL NO. 70	:	
OF ALAMEDA COUNTY, AFFILIATED WITH	:	
THE INTERNATIONAL BROTHERHOOD OF	:	
TEAMSTERS	:	
	:	
Charging Parties.	:	

**RESPONDENT NEXEO SOLUTION, LLC'S ANSWERING BRIEF TO
TEAMSTERS LOCAL 70'S EXCEPTIONS
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

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Dated: November 30, 2012

As in its response to the exceptions filed by Local 70¹ on October 18, 2012, to the decision and recommended order issued by the ALJ in these cases on August 30, 2012, Nexeo incorporates herein the Statement of Facts and arguments it makes in its briefs answering the General Counsel's exceptions and Local 705's exceptions. The contentions advanced by Local 70 that are different from the ones made by the General Counsel and Local 705 are addressed in this brief.

Local 70 devotes most of its brief to a number of unique arguments relating to the terms of the APS and the overall structure of Nexeo's agreement to purchase the assets of Ashland Distribution. The arguments, however, do not fit, and the Union does not argue that they fit, under the test adopted by the Board in *Spruce Up Corp.*, 209 NLRB 194, (1974), *enforced*, 529 F.2d 516 (4th Cir. 1975), for determining perfectly clear successor status.

Local 70 also argues that Ashland's and Nexeo's obligations under the WARN Act, 29 U.S.C. § 2101, *et seq.*, and the Age Discrimination in Employment Act, 29 U.S.C. § 621, *et seq.*, served to ensure that Nexeo would retain Ashland Distribution's employees. The short answer to this argument is that those acts had no such effect.

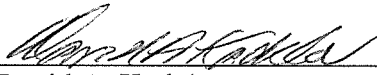
Lastly, Local 70 argues that the ALJ erred in narrowing an expansive document subpoena that Local 70 served upon Nexeo to cover only documents relating to the terms and conditions of employment of the Local 70-represented employees. The ALJ, however, correctly recognized

¹ Counsel for the Acting General Counsel are referred to herein as the "General Counsel"; Respondent Nexeo Solutions, LLC is referred to as "Nexeo" or the "Company"; Nexeo's predecessor, Ashland, Inc., is referred to as "Ashland"; Charging Party Truck Drivers, Oil Drivers, Filling Station and Platform Workers' Union, Local No. 705, is referred to as "Local 705"; Charging Party Brotherhood of Teamsters and Auto Truck Drivers, Local No. 70 of Alameda County, is referred to as "Local 70" or the Union; Administrative Law Judge William G. Kocol is referred to as the "ALJ"; references to the ALJ's decision and recommended order are abbreviated "ALJD p. __"; the Agreement of Purchase and Sale between Ashland and Nexeo is referred to as the "APS."

that the Union had requested documents that had no possible relevance to the issues involved here and that requiring Nexeo to comply with the subpoena would be unduly burdensome, time-consuming and costly. He properly exercised his discretion in narrowing the subpoena the way he did.

For these reasons and the reasons stated in its briefs answering the General Counsel's and Local 705's exceptions, Nexeo respectfully requests that the Board adopt the ALJ's findings that the General Counsel failed to prove, and the ALJ's recommended order dismissing the paragraphs of the complaint alleging, that Nexeo is a perfectly clear successor and violated the Act by unilaterally implementing its retirement and healthcare plans in place of the plans in which the Local 70- and Local 705-represented employees participated as Ashland employees.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November 2012, I served the foregoing Brief upon the following via email:

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