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**Jones Lang LaSalle Americas, Inc. and International Union of Operating Engineers, Stationary Engineers, Local 39, AFL-CIO.** Case 20-CA-328308

March 17, 2026

BY MEMBERS PROUTY, MURPHY, AND MAYER

SUPPLEMENTAL DECISION AND ORDER

On March 21, 2024, the National Labor Relations Board issued a decision in this case, finding that the Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act by failing and refusing to bargain with International Union of Operating Engineers, Stationary Engineers, Local 39, AFL-CIO (the Union) and, accordingly, ordering the Respondent to bargain with the Union on request.<sup>1</sup> At that time, the Board severed and retained the issue of whether the Board should grant the General Counsel's request for the Board to overrule *Ex-Cell-O Corp.*, 185 NLRB 107 (1970), and adopt a remedy that would require employers to compensate employees "for the lost opportunity to engage in collective bargaining at the time

<sup>1</sup> *Jones Lang LaSalle Americas, Inc.*, 373 NLRB No. 37 (2024), enfd. 128 F.4th 1288 (D.C. Cir. 2025).

<sup>2</sup> For the reasons stated in his dissent in *Longmont United Hospital*, supra, and in order to effectuate Sec. 10(c) of the Act, Member Prouty would overrule *Ex-Cell-O Corp.* and impose the additional remedies

and in the manner contemplated by the Act" in test-of-certification cases.

On February 26, 2026, the Board issued its decision in *Longmont United Hospital*, 374 NLRB No. 52, declining to depart from its longstanding remedial practices where an employer has defended its refusal to bargain on grounds that it is challenging the union's certification. Consistent with that decision, we decline to order the additional remedy requested.<sup>2</sup>

Dated, Washington, D.C. March 17, 2026

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David M. Prouty, Member

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James R. Murphy, Member

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Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

outlined in his dissent, including ordering the employer to make affected employees whole for any provable, reasonably quantifiable economic harm resulting from the employer's unlawful refusal to bargain. See *Longmont*, supra, slip op. at 2-5 (Member Prouty, dissenting).