



National Labor Relations Board

Weekly Summary of NLRB Cases

Division of Information

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CASES SUMMARIZED

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Day Automotive Resources, Inc., d/b/a Day Automotive Group and Centennial Chevrolet, Inc., a Single Employer (6-CA-34843, 34895; 348 NLRB No. 90) Uniontown and Monroeville, PA Dec. 15, 2006. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by conditioning negotiations for a new collective-bargaining agreement on acceptance by Steel, Paper and Forestry Workers Local 13836-03 of its proposal concerning health care coverage, refusing to meet and bargain with the Union, and unilaterally changing the unit employees' terms and conditions of employment by implementing its final contract offer when there was no impasse in bargaining. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Battista and Members Liebman and Walsh participated.)

Charges filed by Steel, Paper and Forestry Workers Local 13836-03; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Pittsburgh, March 7-9, 2006. Adm. Law Judge Richard A. Scully issued his decision June 9, 2006.

National Grid USA Co., Inc. (1-CA-42703; 348 NLRB No. 88) Westboro, MA Dec. 11, 2006. In agreement with the administrative law judge, the Board held that the Respondent violated Section 8(a)(1) and (5) of the Act by failing and refusing to provide relevant requested information to Utility Workers Locals 310, 317, 322, 329, 330, and 654 since June 1, 2005, in the form of copies of the request for proposals for the contracting out of excess collection of delinquent customer accounts; and since July 1, 2005, failing to provide copies of all contracts between Respondent and the winning bidder(s) concerning the excess collection of delinquent customer accounts. [\[HTML\]](#) [\[PDF\]](#)

Members Schaumber and Kirsanow modified the judge's recommended Order to delete the language directing the Respondent to post the "Notice to Employees" on its internet website. Although no exceptions were filed to this remedial provision, they reasoned that the Board has discretion to address remedial matters in the absence of exceptions. *Indiana Hills Care Center*, 321 NLRB 144 fn. 3 (1996). Regarding the matter in this case, Members Schaumber and Kirsanow found it appropriate to exercise that discretion. They noted that in *Nordstrom, Inc.*, 347 NLRB No. 28 (2006), a panel majority denied a request for electronic notice-posting, citing *International Business Machine Corp.*, 339 NLRB 966 (2003).

In *Nordstrom*, the Board based its decision on an absence of evidence that the employer customarily communicated with its employees through electronic means. It stated that it was open to considering the merits of a proposed modification to the standard notice-posting language in a particular case if the General Counsel or a charging party (1) adduces evidence at an unfair labor practice hearing demonstrating that a respondent customarily communicates with its employees electronically, and (2) proposes such a modification to the judge in the unfair labor practice proceeding. Here, the majority found that the first of these prerequisites for considering electronic posting on the merits is missing and there is no record that the Respondent customarily communicated with its employees electronically.

In accord with her dissent in *Nordstrom*, Member Liebman found that the Board's current notice-posting language, which unequivocally references all places where notices to employees customarily are posted, is sufficiently broad to encompass new communication formats, including electronic posting, which is now the norm in many workplaces. She found no need to request an evidentiary hearing before the Board rules, as a matter of general policy, that the current posting language encompasses electronic posting where appropriate. In this case, Member Liebman observed that, by failing to except to the electronic posting provision, the Respondent effectively conceded that there is a factual predicate for requiring such a provision.

(Members Liebman, Schaumber, and Kirsanow participated.)

Charge filed by Utility Workers Locals 310, 317, 322, 329, 330, and 654; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Boston on Jan. 31, 2006. Adm. Law Judge Eric M. Fine issued his decision June 14, 2006.

Southwest Regional Council of Carpenters (21-CD-658; 348 NLRB No. 87) Los Angeles, CA Dec. 13, 2006. Relying on the relevant factors of collective-bargaining agreements, employer preference and past practice, and economy and efficiency of operations, the Board determined that employees of Standard Drywall, Inc. represented by Southwest Regional Council of Carpenters are entitled to perform the work in dispute: plastering work at the public works projects in the 12 Southern California counties. Plastering work is defined as follows: [\[HTML\]](#) [\[PDF\]](#)

- A. Corner beads when stuck on.
- B. All interior or exterior plastering using gypsum, Portland Cement plaster (excepting cement bases 6 inches (6") or lower), stucco, radian heat fill material, marble-crete, imitation brick or masonry, embedding of chips and stones, the finishing of same and mortars applied by the normal methods used by plasterers.
- C. The waterproofing of plaster including such material as Thoroseal and Ironite.
- D. The bonding and scratching of all ceilings and walls to receive terrazzo and tile; and bonding, scratching and borrowing to receive thin set tile.
- E. The sticking, nailing and screwing on of all plaster caps and ornaments.
- F. The application of bond coat plasters, bond dash coats and bonding agents to which plaster is to be applied regardless of tools used, method of application, color of material or type of base to which it is applied.
- G. The application of materials used for contract fireproofing, fireproofing, acoustical finish, or decorative finish.

H. All moldings run in place. The making of all templates and the horsing of molds for interior and exterior work. The sticking in place of all staff work and plaster enrichments.

I. The initial clearing of areas immediately adjacent to the plastering and concurrent with the plastering operation.

J. Plasterers shall have the autonomy governing the mixing and applying of all materials used for plaster patching.

K. The installation of Exterior Insulation Finish Systems (EIFS), starting with the foam.

L. The carving or texturing of 'positive' rock and other theme work created from gypsum, Portland cement, or acrylic plaster.

(Chairman Battista and Members Liebman and Schaumber participated.)

DECISION OF ADMINISTRATIVE LAW JUDGE

The Bohemian Club (UNITE HERE! Local 2) San Francisco, CA Dec. 12, 2006. 20-CA-32922; JD(SF)-64-06, Judge Jay R. Pollack.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Gino Morena Enterprises, Inc., Fort Jackson, SC, 11-RD-682, Dec. 14, 2006,
(Chairman Battista and Members Liebman and Walsh)

*(In the following cases, the Board adopted Reports of
Regional Directors or Hearing Officers in the absence of exceptions)*

DECISION AND CERTIFICATION OF REPRESENTATIVE

Messina Asphalt Corp., Astoria, NY, 29-RC-11137, Dec. 15, 2006 (Chairman Battista and
Members Liebman and Schaumber)

*(In the following cases, the Board denied requests for review
of Decisions and Directions of Elections (D&DE) and
Decisions and Orders (D&O) of Regional Directors)*

Mount Sinai Hospital, Chicago, IL, 13-UC-398, Dec. 13, 2006 (Chairman Battista and
Members Liebman and Schaumber)
