

**Aris Quality Contact Lens, d/b/a Aire-Con Labs and  
Margaret M. Visconti. Case 6-CA-7896**

November 4, 1975

**DECISION AND ORDER**

**BY CHAIRMAN MURPHY AND MEMBERS  
FANNING AND PENELLO**

On June 25, 1975, Administrative Law Judge John M. Dyer issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and has decided to affirm the rulings, findings,<sup>1</sup> and conclusions of the Administrative Law Judge and to adopt his recommended Order.

**ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent Aris Quality Contact Lens, d/b/a Aire-Con Labs, Pittsburgh, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in said recommended Order.

<sup>1</sup> The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings. In this connection we note that, although the Administrative Law Judge in determining credibility at one point inadvertently confused Wachter with Wyatt as the employee who had just returned to work from a suspension, the other reasons he relied on for discrediting their testimony support his credibility findings as to them.

**DECISION**

**STATEMENT OF THE CASE**

JOHN M. DYER, Administrative Law Judge: On November 18, 1974,<sup>1</sup> Margaret M. Visconti who had been employed by Aris Quality Contact Lens, d/b/a Aire-Con Labs, herein called the Company or Respondent, filed a charge against Respondent alleging that she had been discharged in violation of Section 8(a)(1) of the Act.

The Regional Director issued a complaint on January 31, 1975, alleging that Respondent had discharged and refused

to reinstate Ms. Visconti, because of her concerted activities. Respondent's timely answer admitted the service and jurisdictional allegations and the position of Respondent's president, Alexander Hayden, as a supervisor and agent within the meaning of the Act, and denied the balance of the complaint. During the hearing, which was held in this matter on March 20, Respondent amended its answer to admit that it had discharged Ms. Visconti and refused to reinstate her on and after July 26.

All parties were afforded full opportunity to appear, to examine and cross-examine witnesses, and to argue orally at the hearing. The General Counsel and the Respondent have filed briefs which have been carefully considered.

Both Respondent and General Counsel stressed in their briefs that the principal issue in this case was the credibility of the witnesses. The version of the incidents which occurred on July 25 and 26 varies considerably between Respondent and General Counsel witnesses. It appears that the version of the events as given by the General Counsel's witnesses is more accurate and credible since the story is more cohesive and they appeared to be candid and factual. Two of Respondent's witnesses contradicted each other as to the location of a principal event and they did not impress me as being candid. One of Respondent's witnesses shed no light on the events. Respondent's principal witness Hayden exaggerated Ms. Visconti's "goofing off" on July 26 since her production showed she could not have been the indolent employee he sought to paint her on that day. Hayden sought to put himself in the best light possible and I believe his testimony is what he believes should have happened instead of an effort to recall what did occur. Therefore I have concluded that Respondent violated Section 8(a)(1) of the Act in its discharge of Ms. Visconti and will recommend appropriate remedial action.

On the entire record in this case, including my evaluation of the reliability of the witnesses, based on the evidence received, my observation of their demeanor and the nature and manner in which the responses were made, I make the following:

**FINDINGS OF FACT**

**I. THE BUSINESS OF THE RESPONDENT**

Respondent is a Pennsylvania corporation engaged in the manufacture of contact eye lenses with its office and laboratory in Pittsburgh, Pennsylvania, from where, during the past year, it has sold and shipped finished products valued in excess of \$50,000, to points directly outside the Commonwealth of Pennsylvania.

Respondent admits and I find it is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

**II. THE UNFAIR LABOR PRACTICES**

**A. Background and Undisputed Facts**

Respondent's laboratory room is approximately 20-feet wide and about 40-feet long. Alexander Hayden's office adjoins one of the 20-foot ends and there is a passageway

<sup>1</sup> Unless otherwise stated all events herein occurred in 1974.

near his office off one of the 40-foot walls to the left, leading to other offices. Beyond this hall and on the left 40-foot wall in front of the entrance to Hayden's office is a table and two lathes. At the far 20-foot wall is a third lathe. Coming back down the other 40-foot wall to the right is a curve machine and then a large table at which there are two edgers and a lensometer. That table would not be visible from Hayden's office unless you came to the doorway. Visconti and Janis Marshall worked within a foot of one another at this table. In the center of the room (also end-to-end) is a table and a polisher machine.

Hayden was responsible for the business operations and ran that end of the business with Ronald Preuhs being in charge of the lab. Preuhs was on vacation during the latter part of July and was scheduled to return on Monday, July 29. Hayden normally got to the office between 10 a.m. and noontime and usually would not spend more than a half hour a day in the lab. The Company was open from 8 or 8:30 a.m. until 5:30 p.m. with the employees' hours varying. Janis Marshall worked from 8:30 a.m. to 5 p.m. and Visconti and Faulici from 9 a.m. to 5:30 p.m. The employees had staggered lunch hours of 45 minutes and were given 15 minutes to clean up at the end of the day.

In July 1974, there were approximately 8 or 9 persons working in the lab, whereas, prior to that time in June there were some 12 lab employees.

Ann Faulici started with Respondent in March 1974, and in July was reading base curves for the lenses. After Visconti's discharge Faulici was moved to Visconti's job of grinding lenses. At the beginning of work on Thursday, July 25, Faulici was told to put Thursday's and Friday's work together in order to get Friday's work out since Wyatt would be absent on Friday. Another employee named Leonard was transferred to her so that they could get all the work done on Thursday. After lunch on Thursday, Faulici talked with Wachter, Wyatt, Visconti, Leonard, and Ophermein about the heavy amount of work they had to do. According to Visconti, they discussed various ideas about bringing their problem to management's attention and suggestions including a walkout or sitdown strike were made before they agreed to go in a group and talk to Hayden and ask him for additional lab help and for more pay. Wachter said he would not go into the office. Visconti, Ophermein, Leonard, and Faulici went into Hayden's office that afternoon. Hayden stated that his meeting with the employees occurred in the morning. The fact that Hayden usually arrived between 10 a.m. and noontime, the staggered lunch hours, the time it would take to get a group to discuss and agree to a course of action make it appear that this meeting took place in the afternoon.

Faulici was the spokesman and said that they wanted to talk to Hayden about getting more help because of the volume of work they had. Hayden asked each of them what additional help could do for them and Faulici responded that she could use somebody to help compute the curves. Visconti said she needed somebody to help her rule lenses. Hayden said he did not know what went on in the lab and asked them to wait until Ronald Preuhs, who was in charge of the lab, came back from vacation on Monday, and that Preuhs could probably satisfy them.

Hayden more or less corroborated this conversation but did not mention asking what additional help they needed.

### B. *The Confrontations of July 25 and 26*

According to both Faulici and Visconti, at or about 5:15 p.m. on Thursday, July 25, when they were starting to clean up for the day, Faulici accompanied by Ophermein came over to Visconti's work station to talk to Visconti about what they were going to do for Janis Marshall who was leaving the next day. Janis Marshall worked until 5 p.m. and her work area was only a foot or so from Visconti, which would confirm that such a conversation took place after 5 p.m. After talking for a moment or two, Hayden walked up to them and asked what was the problem, that they had just been in his office saying they had too much work to do and now they had time to stand there and talk. Faulici said they were not talking about him, that they were talking about getting Janis Marshall a gift. She and Ophermein left and returned to their work stations. Visconti said he knew what the problem was, that they had discussed needing more help. Visconti testified that Hayden's voice was raised and that among other things he said he was tired of the girls standing in huddles discussing problems about what they should do in the lab. Visconti said if they wanted to get more work out they needed to get more help in the lab. Hayden said that they were not going to get any more help, that they had plenty of time to stand around, and that they did not need help before and they did not need it then. Visconti said if they were not going to get extra help, she wanted a 25-cent raise, that she was tired of 10-cent raises. Hayden said she would never see a quarter raise and she replied that she wanted extra help. According to Visconti this type of bickering went on while she was cleaning up her work station. The voices of both Hayden and Visconti grew louder and Hayden said that, since she knew she was not going to get a quarter raise, she would probably quit and leave them stranded. Visconti said she had not said that but that if another job opportunity came up she would let him know in due time. Hayden said he wanted her 2 weeks' notice and for her to give it to him and repeated this statement several times, in a loud voice. She replied that he should not put her on the spot, that she was not quitting and needed her job. He stated he wanted her to say she was giving 2 weeks' notice. She replied that she was not doing so. Hayden then said that he was giving her 2 weeks, and wanted her out of there in 2 weeks and that was final. She told him he could not fire her for a reason such as that because other people such as Wyatt had asked for raises, and if that was the way it was then others should have gotten fired for asking for a raise. She repeated that she still wanted her job.

Faulici corroborated the timing and beginning of this meeting and that this bickering and loud voices went on for some 10 or 15 minutes and that both of them were shouting by that time. At 5:30 p.m. she and Visconti walked out of the lab.

Michael Wachter testified that Visconti and two other girls were standing and talking in front of Hayden's office around 1 p.m. on Thursday, when Hayden asked them to disperse. He said that Visconti and Hayden got into an argument in which a vulgar expression was used by

Visconti to Hayden. Visconti then came back to where she worked and he knew there were going to be problems because he heard Visconti, talking under her voice, say that she was going to "make trouble for us," and if she did not get a 25-cent raise within 2 weeks she would be out. He states that Hayden asked if that was her final 2 weeks' notice and she said if that's what he wanted that was it. Wachter said he did not hear any shouting by Hayden but he heard shouting by Visconti most of which took place in the doorway of Hayden's office and he heard it even though he was at the edger machine with the machine turned on. He placed Janis Marshall in the group of three whom Hayden addressed but was unable to say where Janis Marshall was during the conversation or after the girls dispersed even though if he was correct Marshall would have been working immediately beside him. Wachter did not explain how Hayden heard the remarks he said Visconti made "sotto voce" while the machines were running.

Russel Wyatt testified that sometime between 1 and 2 in the afternoon, while he was at a lathe cutting lenses, he saw three girls standing near Visconti's work station out of the corner of his eye. He then noticed Hayden coming out of his office marching towards the edger. This caused him to stop the lathe so he could turn around and see what was going on. He heard Hayden say something to the girls about whether they had something to do and they went back to their jobs but Hayden stayed there with Visconti. Wyatt testified he heard her say she was working her tail off and wanted a 25-cent raise or she would give her 2 weeks' notice. At that point Wyatt said he turned around and started his lathe because he knew there was going to be an argument and he did not want to hear what was said. Despite the fact that his lathe was on and he was on the other side of the room, Wyatt said he heard Visconti shouting and heard her use some four-letter words such as damn and hell and saw Hayden go back to his office. To a leading question he answered that he did hear a vulgarism used by Visconti to Hayden. Wyatt admitted that he had been laid off from work on February 28, 1975, because during a vacation period he had worked for a competitor and when Hayden found this out he was laid off. He was called back to work on Friday, March 14, a few days before the hearing in this matter.

Hayden testified that, about 1 or 1:30 p.m., he saw three girls standing and talking in the laboratory and after passing that way a few minutes later and noticing them again, he went back to them and in a nice way asked if they did not have something to do. He stated that two girls walked away, but Visconti told him she was tired of working her tail off and demanded a 25-cent raise within 2 weeks or she was quitting. She then told him he did not know how to do his job and used a vulgarism towards him. He replied that he could terminate her employment and she told him he could not fire her. At that point he just walked away and went back to the office. Hayden said he did not shout or yell or scream but that Visconti was loud enough so that everybody could hear her and it was very embarrassing to him to have her making demands on him and she should have come into the office to talk to him. He

also said that the strong language she used was very shocking to him.

On Friday, July 26, around 4 p.m. Hayden called Faulci into his office and talked about what had occurred the previous day. Hayden told her he really did not know anything about what went on in the lab and that when Ronald Preuhs got back they would talk about it. He mentioned that while the business was very busy right then it would be slow again in September. He talked about wages and said that he could not give anyone a raise and mentioned the amount his daughter was making. He said that Visconti should not have come out and asked for a 25-cent raise, that he thought he was going to have to let her go. Faulci asked if he was going to fire Visconti and he said yes, that no one was going to ask him for a raise. She then left the room and went back to her table. Between 4:45 and 5 p.m. she saw Visconti coming out of Hayden's office.

Visconti testified that, when she started to work on Friday, all of the day's work was ready and waiting for her and this was very unusual. She worked steadily and finished the work sometime after 4 p.m. She had some lenses to work on for a patient who was waiting for them and after completing her operations she took the lenses to the office to see if they should be taken to the patient then. Chris Brunner (an office employee) and Alexander Hayden were in the office. To Visconti's question, Hayden replied that they would take care of it and to leave the lenses there. As she started back to the lab Hayden followed and stopped her near his office. He said that what he had said to her the previous day still held and that he wanted her out of there in 2 weeks. He added that she had really surprised him because he thought she had more sense when she had started working there. She answered that she was not quitting and that she would be there in 2 weeks. He told her that she would not be. She told him to talk to the people in the plant about the procedures and they would tell him how they felt, that for instance, Wachter was unhappy because Wyatt took the easier things and left the tougher lenses for him to cut. Hayden said he was going to get rid of a few other people in the next few weeks. Visconti responded that if that was the case she hoped everybody quit on him because they all felt the same way she did. She left and went to the lab.

A short time later, shortly before 5 p.m., Faulci called Visconti over to where Faulci was working and asked what had happened. As Visconti started to recount the conversation in the office Hayden came out of his office and asked in a loud voice what the problem was, and why they had time to stand around when they had been complaining about needing extra help and here they were talking. Visconti said she had finished her work and although it was early asked if he wanted her to clean up. He told her that if she got too smart with him he would fire her then. She replied that he would not. He said we will see and went back in the office and a few minutes later placed a check in front of her saying that she was finished, and he did not want to see her around the lab again. She said that she would be in on Monday and he said that if she did come in he would have her removed bodily. About that time Janis Marshall told Hayden to leave Visconti alone.

Hayden was following Visconti around as she was cleaning up, talking very loud and shaking his finger at her. Hayden told Marshall it was her last day and that she was paid and to get out.

Janis Marshall testified that she was about ready to leave and had her machine cleaned up when Hayden told Visconti to clean up. Visconti said that was fine with her but normally she would not clean up that early in case a patient came in late. As Visconti was cleaning up Hayden said he did not see why they needed help when they could get all their work done. Marshall said the statements kept going back and forth between Hayden and Visconti, getting louder all the time, until Hayden was screaming at the top of his lungs. Visconti was cleaning up her machine and walking back and forth to the sink. After the statement that if she came into work he would have her carried out, Marshall told Hayden he should not yell at them when they were just talking to him. She remembered Hayden saying that Visconti did not know when to shut up, that she was always meddling into other people's affairs. Hayden told Marshall she was through and to get her check and leave.

Faulci testified that she did not remember everything that was said because the loud talking and the arguing made her a bit nervous, but that what she did recall she was positive of. Respondent's characterization of her testimony in its brief is inaccurate and does not accord with Faulci's testimony. She stated that during this last conversation late on Friday afternoon there was a good bit of talking about Visconti being paid for her vacation time. She also recalled Hayden saying that this was Visconti's last day and Visconti stating that he could not fire her just because she asked for a raise.

Wachter did not testify concerning the events of July 26, and Wyatt was absent that day. Hayden testified that on Friday, every time he looked back in the lab, Visconti was every place but where she was supposed to be working, but that he did not say anything to her but got increasingly fed up as the day went on. He also said that he passed her a few times and she made faces at him but these were not described. Finally he determined he was not going to put up with such behavior for 2 weeks and was going to terminate her that day, because she was causing disruption in the lab and not doing her work, was talking to other employees and making faces at him and he had to do something immediately, so he fired her. It was only after a leading question that Hayden lumped in the alleged vulgarism. Hayden did not describe any disruption supposedly caused by Visconti.

In regard to his conversation with Faulci, Hayden told her that Visconti was being terminated because of insubordination, that she was insolent, and that he could not tolerate anything like that particularly in front of the other employees and it was not just because she had asked for a 25-cent raise.

During cross-examination Hayden admitted that Visconti was a good worker and that they had gotten along very well until this happened. He noted that when the machines were on no one could hear a normal conversational tone more than 10 or 12 feet away, but said there was no noise from the machines when he spoke to Visconti and the other

girls. Asked where the other employees were at that time he said that he could not answer that question because he was "pretty upset."

In regard to the conversation on July 25, he said he took her demand for a 25-cent raise within 2 weeks or she would quit, as her notice of termination. Then he said that he gave her 2 weeks in which to look for another job. He also repeated on cross-examination that every time he looked into the lab Visconti was away from her machine talking to people and just generally goofing off, and said that such behavior would be unusual for her. Asked how many times this occurred he said it was quite a few times and did not know the number but that it might be three or four. Asked if her job required her to be away from her work station he answered hardly ever, but that he really did not know.

Concerning the conversation with Faulci he did not recall that he had called her into the office on Friday afternoon, but occasionally they did talk. He stated that it was a silly situation about Visconti demanding a 25-cent raise, but when he was talking to Faulci he really hadn't made up his mind as to whether to fire Visconti that day. Again he stated that he decided to fire her because of her "goofing off" and making faces and so forth and being very insolent about the thing and that he called her into the office and told her it was her last day. He said that this encounter became very noisy, and he told her he would have her check ready at the end of the day. He did not recall Janis Marshall injecting herself into a conversation between himself and Visconti. He denied that he was shouting at Visconti or following her around the lab.

Respondent produced another witness, Joanne Goehner, who testified that she worked at the curve machine, which would be on the same side of the room and near Visconti's work station. In regard to the July 25 confrontation in the lab, she said she did not remember what was said but did hear something that shocked her at the time and said it was something she would not have said to a boss. She did not remember where Wachter was at that time. According to Wachter's testimony he would have been between her and Visconti and Hayden if the conversation took place as Wachter had testified.

Respondent produced some production records and had Ronald Preuhs testify that, on June 28, they had produced some 180 lenses and finished early. During cross-examination he admitted they had about 12 employees in the lab at that time instead of the 8 or 9 they had in latter July.

The records originally produced by Respondent ran from Monday, July 15, to Tuesday, July 30, but omitted Monday, July 29. When this omission was pointed out to Respondent, the record was later produced. It is interesting to note that on that date, Monday, July 29, only 114 lenses were produced. The remaining records show that in addition to adjustments and uncuts, the group where Visconti worked starting with July 15, produced 159, 182, 190, 156, 147, and for the week starting Monday, July 22, 160, 172, 210, 180, and 158 on Friday, July 26.

### C. Analysis and Conclusions

Considering for the moment only the production records, it appears clear that Visconti could not have been "goofing off" on Friday, July 26, and completed the amount of

lenses produced that day, and still have finished earlier than usual. She produced what was a normal day's amount, for this "busy season" as Hayden described it.

The testimony of Visconti and Faulici was mutually corroborative and consistent and they both appeared to try to recount the events as they remembered them.

Visconti may have colored her testimony a bit in describing Hayden as yelling and screaming when he came out of his office, but Hayden probably was talking loudly to make himself heard over the machine noise and it is certainly true that both Hayden and Visconti got louder during the arguments of July 25 and 26. Considering the testimony and the witnesses, I have decided to credit the version of the conversations as given by Faulici and Visconti and as corroborated by Janis Marshall, including the time sequence when these events took place. Wachter and Wyatt contradicted one another as to where the Thursday confrontation took place with Wachter saying it occurred in front of Hayden's office and Wyatt saying it took place back at Visconti's machine. Wyatt's testimony is not convincing. In his work he faces the wall opposite to where Visconti worked and said he noticed three girls talking and, when he saw Hayden "marching" towards them, he turned off his machine and turned around to see and hear what was happening. There is a polishing machine between him and Visconti's machine but there was no testimony as to whether anyone was operating that machine or whether it would have blocked his view or hearing. Having gone to this trouble, Wyatt then states when he heard four-letter words such as damn and hell, he hastily turned his machine back on and began working so he could not hear what was going on.

Wachter's testimony is suspect both because of where he places the confrontation and because he had been laid off for more than a week for disciplinary reasons and then returned to work almost immediately before the hearing in this matter. Wachter was also led in part of his testimony.

The only testimony from Respondent as to what occurred on Friday, July 26, is from Hayden. Clearly Hayden exaggerated his testimony when he testified on direct that every time he looked into the lab Visconti was off some place talking to people and goofing off. He said this was one of the things that determined him to discharge her. Visconti's production record for that day makes it evident that she could not have been "goofing off" and have finished her work early as she testified.

It is apparent that of the group of employees who talked to Hayden on Thursday, Visconti was the one who responded to the attacks he made on them for "not working" and "standing around" and that Hayden did not like her responding to him. Visconti and the others had engaged in concerted activities in speaking to Hayden about getting more employees in the lab and about more money. Hayden referred to this meeting on Thursday and on Friday when he spoke to the girls saying that they did not need more help in the lab if they had enough time to stand around and talk. The theme of the office meeting ran throughout Visconti and Hayden's conversation on Thursday when they talked about more help and/or more money after Hayden asked what the problem was. Hayden was stating that they would not get more help in the lab and

there would be no raise and on that basis sought her resignation. She refused to resign stating she needed a job and Hayden pushed it to the point of giving her a 2-week notice and in effect discharging her. Hayden confirmed the reason for Visconti's discharge being concerted activities when towards the end on Friday he said that Hayden did not know when to shut up and was always meddling in somebody else's business. This can only be a reference to concerted activities and Visconti's maintenance of the position the group took.

Visconti denied using any vulgarity toward Hayden and I am not convinced that she did. It is clear that both Hayden and Visconti did not keep complete control of their tempers in the arguments which took place on both Thursday and Friday, and in such circumstances, where the thread of concerted activity was being pursued, I cannot find that Respondent had reason to discharge Visconti because of any supposed vulgarity particularly where Hayden did not use such as a reason for discharge until he was led to it.

Hayden's claim of insolent behavior and being embarrassed is not sustained by the credited testimony of Visconti, Faulici, and Marshall. Visconti was not an employee to "shut up" and not reply to the attacks made by Hayden. Faulici, as she testified, was a little bit nervous about speaking back to her boss. It was Visconti's reiteration of the ideas expressed in the meeting that appeared to enrage Hayden to the point of discharging Visconti. I do not credit his statements about Visconti "making faces" and place that in the same category as his statements about her "goofing off."

It appears clear that Hayden was in an unfamiliar role in dealing with the employees and he really did not know what to do when met with their demands. Instead of waiting for Preuhs to return as he had suggested, Hayden became increasingly incensed as he thought about the demands for more help and when he saw someone standing in the laboratory and not "working hard" his anger was intensified and led to his discharge of Visconti for mentioning and maintaining these demands. Hayden's rambling reasons for Visconti's discharge leads to this conclusion.

I conclude and find that Respondent through the activity of Alexander Hayden violated Section 8(a)(1) in discharging Margaret Visconti.

### III. THE EFFECT OF THE UNFAIR LABOR PRACTICES: UPON COMMERCE

The activities of Respondent set forth in section II, and therein found to constitute unfair labor practices in violation of Section 8(a)(1) of the Act, occurring in connection with Respondent's business operations as set forth above in section I, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

## IV. THE REMEDY

Having found that Respondent engaged in the unfair labor practices set forth above, I recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act as follows:

Having found that Respondent discharged Margaret Visconti by its actions of July 25 and 26, 1974, and did not thereafter offer her reinstatement, I recommend that Respondent offer her immediate and full reinstatement to her former position or, if such position has been abolished or changed in Respondent's operations, then to any substantially similar position without prejudice to her seniority or other rights and privileges and that Respondent make her whole for any loss of pay she may have suffered by reason of Respondent's discriminatory termination of her, by payment to her of a sum equal to that which she would have normally received as wages from July 26, 1974, the date of her termination until Respondent offers her reinstatement, less any net earnings for the interim. Backpay is to be computed on a quarterly basis in the manner established by the Board in *F. W. Woolworth Company*, 90 NLRB 289 (1950), with interest at the rate of 6 percent per annum to be computed in the manner set forth in *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962). I further recommend that Respondent make available to the Board, upon request, payroll and other records in order to facilitate checking the amounts of backpay due her and any other rights she might be entitled to receive.

## CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Respondent violated Section 8(a)(1) of the Act by its discriminatory termination of Margaret Visconti because she engaged in concerted activities with other employees for the purpose of mutual aid and protection.

Upon the basis of the foregoing findings of fact and conclusions of law and the entire record in this case considered as a whole, I hereby make the following recommended:

ORDER<sup>2</sup>

Aris Quality Contact Lens, d/b/a Aire-Con Labs, Pittsburgh, Pennsylvania, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discriminatorily terminating employees because they engage in concerted activities with other employees for their mutual aid and protection.

(b) In the same or any similar manner interfering with, restraining, or coercing employees in the exercise of rights under Section 7 of the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Make Margaret Visconti whole for the loss of pay she suffered by reason of Respondent's discrimination against her in accordance with the recommendations set forth in the section of this Decision entitled "The Remedy."

(b) Post at its Pittsburgh, Pennsylvania, office and lab, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of said notice on forms provided by the Regional Director for Region 6, after being duly signed by an authorized representative of Respondent, shall be posted by Respondent immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 6, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

<sup>2</sup> In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

<sup>3</sup> In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

Following a hearing in which the Company and the General Counsel of the National Labor Relations Board participated and offered evidence, it has been found that we violated the Act. We have been ordered to post this Notice and to abide by what we say in this Notice.

WE WILL NOT fire employees for engaging in concerted activities with other employees for their mutual aid and protection.

WE WILL offer Margaret Visconti immediate and full reinstatement to her former job and reimburse her for the pay she lost as a result of our action.

WE WILL NOT in the same or any similar manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed under Section 7 of the Act.

ARIS QUALITY CONTACT  
LENS, D/B/A AIRE-CON  
LABS