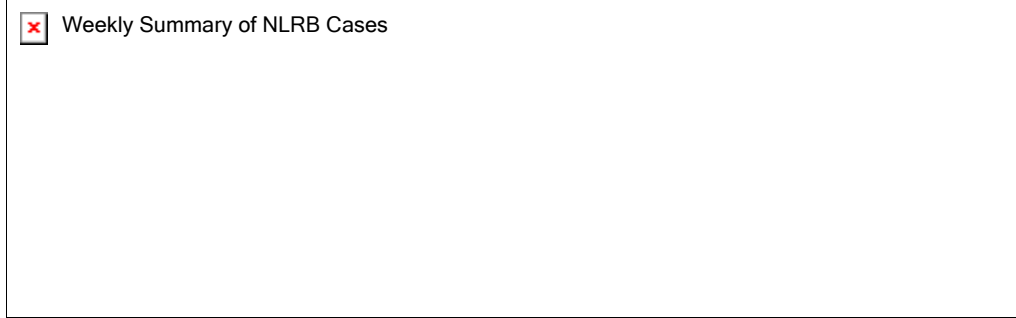


ABOUT THE WEEKLY SUMMARY

The Weekly Summary of NLRB cases, as the name implies, is a publication that summarizes each week all published NLRB decisions in unfair labor practice and representation election cases, except for summary judgment cases. It also lists all decisions of NLRB administrative law judges and direction of elections by NLRB regional directors. Links are established from the weekly summary index to the summaries and from the summaries to the full text of the decisions.



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January 7, 2000

W-2720

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Plumbers Local 375 (H. C. Price Construction) (19-CB-8032; 330 NLRB No. 55) Fairbanks, AK Dec. 30, 1999. Citing *Steamfitters Local 342 (Contra Costa Electric)*, 329 NLRB No. 65, the Board found, contrary to the administrative law judge, that the Respondent Union did not breach its duty of fair representation or violate Section 8(b)(1)(A) and (2) of the Act by failing, between November 1996 and January 1997, to refer David Vonder Haar to jobs from the Union's exclusive hiring hall. [\[HTML\]](#) [\[PDF\]](#)

The judge found a violation even though he also found that the Union's failure to refer Vonder Haar was not motivated by malice toward him and was not even negligent but rather resulted from Union dispatcher Laiti's mistaken but good-faith belief that Vonder Haar did not want to work during the period in question. Neither the General Counsel nor the Charging Party excepted to these findings.

In *Contra Costa Electric*, which issued subsequent to the judge's decision, the Board overruled *Iron Workers Local 118 (California Erectors)*, 309 NLRB 808 (1992), and other decisions holding that a union's mere negligence in its failure to dispatch an applicant in the proper order from an exclusive hiring hall violates the duty of fair representation, noting that simple mistakes do not carry the coercive message that hiring hall users had better support the union if they expect to be treated fairly in job referrals.

On other issues, the Board affirmed the judge's finding that the Union at a later date violated Section 8(b)(1)(A) by refusing to permit Vonder Haar to examine hiring hall records. The Union did not except to the judge's finding that in response to Vonder Haar's request, business Manager Wingfield unlawfully threatened to withhold future referrals from Vonder Haar.

(Members Fox, Liebman, and Hurtgen participated.)

Charge filed by David C. Vonder Haar, an individual; complaint alleged violation of Section 8(b)(1)(A) and (2). Hearing at Fairbanks, Jan. 27-28, 1998. Adm. Law Judge Clifford H. Anderson issued his decision July 30, 1998.

* * *

New Britain Transportation Co. (34-RC-1690; 330 NLRB No. 57) Berlin, CT Dec. 30, 1999. The Board concluded, in agreement with the Regional Director, that the unit petitioned for by Amalgamated Transit Local 1706 limited to school bus, car, and van drivers, and monitors/aides at the Employer's Berlin, Connecticut facility, constitutes an appropriate unit for bargaining. The Employer contended that the unit must also include employees at the Employer's two other facilities located in Southington and Meriden, Connecticut. [\[HTML\]](#) [\[PDF\]](#)

The Board ruled: "In sum, we find that the evidence presented does not establish that the Berlin facility has been so effectively merged into the Southington and/or Meriden facilities, or that the three facilities are so functionally integrated that they have lost their separate identities to the point where the presumptive appropriateness of the petitioned-for Berlin unit has been rebutted, such that the only appropriate unit is one including employees from all locations."

The Employer is engaged in providing public bus transportation for Berlin, and school transportation and related services for Berlin, Southington, and Meriden. Its headquarters are located at its Berlin facility. The Employer employs approximately 172-179 school bus, van, and car drivers and 13 aides at its three facilities. The petitioned-for unit at Berlin is composed of 32-34 drivers, 1 runner, and 2 monitors/aides. There are 70 drivers and about 10 monitors/aides at Southington, and 70-75 drivers and 1 monitor/emergency medical technician at Meriden. The facilities are located in contiguous towns. The Berlin location is about 6 miles from the Meriden facility and about 12 miles from the Southington facility. The Meriden and Southington facilities are about 6 miles apart.

(Chairman Truesdale and Members Hurtgen and Brame participated.)

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Southern Container, Inc. (3-CA-1430; 330 NLRB No. 58) Camillus, NY Dec. 30, 1999. The Board agreed with the administrative law judge that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to reduce to writing the terms of the side agreement on breaks orally reached with the Union and unilaterally eliminating break periods established by the collectively bargained side agreement. [\[HTML\]](#) [\[PDF\]](#)

(Members Liebman, Hurtgen, and Brame participated.)

Charge filed by Pace, Paper, Allied-Industrial, Chemical and Energy Workers Local 1430; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Syracuse, June 14-15, 1999. Adm. Law Judge Jerry M. Hermele issued his decision Sept. 2, 1999.

* * *

Graphic Communications Local 508M (S. Rosenthal & Co.) (9-CD-484; 330 NLRB No. 59) Cincinnati, OH Dec. 30, 1999. Relying on the factors of employer preference and economy and efficiency of operations, the Board decided that employees of S. Rosenthal & Company, represented by Graphic Communications Local 508M, rather than those represented by Teamsters Local 100, are entitled to perform the work of operating the core stripper machines, inserting the butt rolls into the core stripper machines and stripping the waste paper from the cores, at its Cincinnati, Ohio facility. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Truesdale and Members Liebman and Brame participated.)

* * *

Renco Electronics, Inc. (29-RC-8705; 330 NLRB No. 52) Deer Park, NY Dec. 23, 1999. In this Supplemental Decision, Order and Direction of Third Election, the Board overturned the hearing officer's determination that a remark by a Board interpreter to an employee waiting in line to vote ("Do you know where to put your yes vote?") was not destructive of the Board standard of impartiality. The Board concluded that employees who heard the remark could have inferred that the Board favored a "yes" vote and that the election outcome could have been affected given the close vote in the second election (108 for and 100 against Food and Commercial Workers Local 888, with 6 challenged ballots). [\[HTML\]](#) [\[PDF\]](#)

(Members Fox, Liebman, and Hurtgen participated.)

* * *

Moran Printing, Inc. (15-CA-13705; 330 NLRB No. 54) Baton Rouge, LA Dec. 30, 1999. In this Supplemental Decision and Order, the Board ordered the Respondent to pay discriminatee Ripley Dixon \$9,313.40 (plus interest) in back pay. The Board disagreed with the administrative law judge's finding that Dixon's acceptance of an interim job (driving a delivery car for \$7 per hour at Hackforth) violated his obligation to seek substantially equivalent employment (he had been making \$9.47 per hour driving a delivery truck for the Respondent before his unlawful layoff) and therefore constituted insufficient mitigation of damages. [\[HTML\]](#) [\[PDF\]](#)

(Members Fox, Liebman, and Brame participated.)

Hearing at New Orleans on Jan. 28, 1999. Adm. Law Judge Howard I. Grossman issued his supplemental decision June 22, 1999.

* * *

Harran Transportation, Co. (29-CA-17884; 330 NLRB No. 53) Brooklyn, NY Dec. 30, 1999. In this Supplemental Decision and Order, the Board agreed with the Respondent that the administrative law judge had miscalculated bus driver John Cantidate's gross backpay for five calendar quarters. It ordered the Respondent to pay discriminatee Cantidate, who had been

unlawfully discharged, net backpay of \$57,117.42 based on gross backpay of \$102,991.22. The judge had calculated the gross backpay at \$107,417.11. [\[HTML\]](#) [\[PDF\]](#)

(Members Fox, Liebman, and Brame participated.)

Hearing at Brooklyn on April 21 and 22, 1999. Adm. Law Judge Margaret Kern issued her supplemental decision on July 16, 1999.

* * *

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Gabriel Security Corporation, Inc. (United Government Security Officers Local 38) Portland, OR December 17, 1999. 36-CA-8354 and 36-CA-8388; JD(SF)-104-99, Judge Burton Litvack.

Victoria Packing Corp. (Food and Commercial Workers Local 174) Brooklyn, NY December 23, 1999. 29-CA-22386; JD (NY)-84-99, Judge Raymond P. Green.

Airborne Freight Corporation (Individuals and Teamsters Local 407) Cleveland, OH December 23, 1999. 8-CA-28047, et al.; JD-148-99, Judge C. Richard Miserendino.

Bridgestone/Firestone, Inc. (Woodridge, IL Distribution Center) (Steelworkers) Chicago, IL December 23, 1999. 13-CA-37351; JD-165-99, Judge James L. Rose.