

# National Labor Relations Board



## Weekly Summary of NLRB Cases

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CASES SUMMARIZED  
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[Holling Press, Inc.](#) Buffalo, NY 1

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*Holling Press, Inc., and Boncraft-Holling Printing Group f/k/a Boncraft, Inc.* (3-CA-20229; 343 NLRB No. 45) Buffalo, NY Oct. 15, 2004. Chairman Battista and Member Schaumber affirmed the administrative law judge's findings and dismissed the complaint allegation that the Respondent violated Section 8(a)(1) of the Act by discharging Catherine M. Fabozzi. Member Liebman dissented.

The Respondent suspended Fabozzi on June 26, 1996 and terminated her on July 2 for purportedly "attempt[ing] to coerce coworkers into corroborating an unsubstantiated charge of sexual harassment against one of [her] supervisors." The majority asserted that Fabozzi was not engaged in activity protected by Section 7 when she solicited a coworker to be a witness in support of her sexual harassment claim filed with a State agency. They found that Fabozzi's conduct, though concerted, was uniquely designed to advance her own cause, and thus, that it was not engaged in for the purposes of mutual aid or protection. Accordingly, the majority held that her termination was lawful.

Member Liebman would find, contrary to her colleagues, that the Respondent violated the Act by discharging Fabozzi. Citing *Meyers Industries*, 281 NLRB 882, 887 (1986), enf. sub. nom. *Prill v. NLRB*, 835 F.2d 1481

(D.C. Cir. 1987), cert. denied 487 U.S. 1205 (1988), Member Liebman wrote that this was a textbook example of "circumstances, where individual employees seek to initiate or to induce or to prepare for group action." She said: "Whatever the reason, the majority decision today places an arbitrary roadblock in front of employees who join together to resist unlawful discrimination. At bottom, it encourages victims of sexual harassment to remain silent. I dissent."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Catherine M. Fabozzi, an Individual; complaint alleged violation of Section 8(a)(1). Hearing at Buffalo, June 13 and 14, 2000. Adm. Law Judge David L. Evans issued his decision Sept. 13, 2000.

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#### **LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES**

*DeLille Oxygen Co.* (Teamsters Local 284) Columbus, OH October 8, 2004. 9-CA-40793; JD(ATL)-54-04, Judge Michael A. Marcionese.

*All Makes Heating & Air Conditioning* (Sheet Metal Workers Local 38) Eastchester, NY October 13, 2004. 2-CA-36028; JD(NY)-47-04, Judge Raymond P. Green.

*Whole Foods Market Group, Inc.* (Food & Commercial Workers Local 1444) Madison, WI October 13, 2004. 30-CA-16641-1; JD-102-04, Judge William G. Kocol.

*United Scrap Metal, Inc.* (Teamsters Local 731) Cicero, IL October 12, 2004. 13-CA-41743, 41842; JD-101-04, Judge Karl H. Buschmann.

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**LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS  
IN REPRESENTATION CASES**

*(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)*

*MSC Walbridge Coatings, Inc.*, Walbridge, OH, 8-UC-385, October 13, 2004  
(Chairman Battista and Members Liebman and Walsh)

*Walgreens Health Initiatives*, Elmhurst, IL, 13-RM-1737, October 13, 2004  
(Members Liebman and Walsh; Chairman Battista dissenting)

*Wingra Redi-Mix, Inc.*, Madison, WI, 30-UC-408, October 14, 2004  
(Chairman Battista and Members Walsh and Meisburg)

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

*Wawa, Inc.*, Berlin, NJ, 4-RC-20847, October 13, 2004 (Members Liebman and Walsh;  
Chairman Battista dissenting)

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