

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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June 28, 2002

W-2849

CASES SUMMARIZED

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[Croft Metals, Inc.](#), McComb, MS

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Operations-Management Memorandum:

[\(OM 02-73\) Board's Interest Rate to be 6 Percent for Fourth Quarter, Fiscal Year 2002](#)

Correction: The Board Members who participated in the Americorp Decision (22-CA-24532; 337 NLRB No. 99), summarized in the June 21, 2002 issue of the Weekly Summary, were Members Liebman, Cowen, and Bartlett.

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Croft Metals, Inc. (15-RC-8393; 337 NLRB No. 106) McComb, MS June 21, 2002. The Board announced its new requirement that Regional Directors provide parties in a representation case with a notice of a hearing not less than 5 working days before the hearing date, absent unusual circumstances or clear waiver by the parties, saying: "By providing parties with at least 5 working days' notice, we make certain that parties to representation cases avoid the Hobson's choice of either proceeding unprepared or on short notice or refusing to proceed at all." The required period of time excludes intermediate Saturdays, Sundays, and holidays because it is less than 7 days. Section 102.111(a) of the Board's Rules and Regulations. The NLRB Casehandling Manual suggests that Regional Directors provide parties with 5 days' notice of a hearing, in the absence of

"unusual circumstances," but the Board has never explicitly set a minimum notice requirement in representation cases.

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In this case, the Iron Workers filed a petition on April 5, 2002, seeking to represent production and maintenance employees at the Employer's Magnolia facility in McComb, Mississippi. On Wednesday, April 10, the Employer received notice from the Regional Office that a hearing would begin on Monday, April 15. Although the Employer objected to the inadequacy of the notice at the beginning of the hearing, it presented evidence supporting its argument that certain employees should be excluded from the unit found appropriate. Prior to the hearing's conclusion, the Employer requested that the hearing remain open so that it might present additional evidence. It also made an offer of proof outlining that evidence. The hearing officer denied the request and closed the hearing. The Acting Regional Director affirmed the hearing officer's ruling, finding that the Employer was provided adequate notice of the hearing.

The Board disagreed, concluding that the notice was insufficient, in the absence of unusual circumstances or waiver by the parties, because the Employer was given only 3 days notice of the hearing, excluding the intervening Saturday and Sunday. The Board granted the Employer's request for review of the Acting Director's decision and direction of election solely with respect to the adequacy of the notice of hearing provided to the Employer and remanded the matter to the Acting Regional Director to reopen the hearing to receive additional evidence on the other issues raised by the Employer. The Employer also argued that the Acting Regional Director erred by (1) finding that its leadmen and load supervisor were not statutory supervisors, (2) including material inventory clerks in the petitioned-for production and maintenance unit as "plant clericals," (3) voting three other clerical employees under challenge, (4) including the interplant driver in the unit found appropriate, and (5) failing to find that Carpenters Local 2280 had not been given proper notice of the hearing. The Board did not pass on these issues at this time in view of its remand.

(Chairman Hurtgen and Members Cowen and Bartlett participated.)

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LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

White and Associates Cargo Enterprises, Inc. (Teamsters Local 745) Dallas and Fort Worth, TX June 18, 2002. 16-CA-21386; JD(ATL)-33-02, Judge Margaret G. Brakebusch.

City Stationery, Inc. (Union de Tronquistas de Puerto Rico Local 901) Caguas, PR June 17, 2002. 24-CA-9070, 24-RC-8213; JD(ATL)-29-02, Judge William N. Cates.

ARCO (Teamsters Local 989) W. Sacramento, CA June 7, 2002. 20-CA-30407-1, 20-RC-17694; JD(SF)-43-02, Judge John J. McCarrick.

B & M Linen Corp. d/b/a Miron & Sons Laundry (Service & Allied Industries Joint Board, UNITE) Bronx, NY June 20, 2002. 2-CA-33596, 33783; JD(NY)-34-02, Judge Steven Davis.