National Labor Relations Board

Weekly Summary of NLRB Cases

Division of Information Washington, D.C. 20570 Tel. (202) 273-1991

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Albertson's, Inc. (28-CA-16466; 344 NLRB No. 141) Mesa, AZ July 29, 2005. The Board affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by creating the impression that its employees' protected concerted activities were under surveillance, threatening on May 3, 2000 to split up scan coordinator Terri Klewin and backup scan coordinator Lora Noble, and transferring Noble from Store 989 to Store 958 on May 5, 2000. Chairman Battista would reverse the judge's finding that the Respondent unlawfully threatened Noble. He explained that the alleged "threat" consisted of the Respondent simply informing Noble that she and Klewin were about to be split up, that the statement was factually correct, and "adds nothing to call this a separate and independent violation." [HTML] [PDF]

Chairman Battista and Member Liebman affirmed the judge's finding that Bev Howey, Respondent's bookkeeper at Store 989, was Respondent's agent when she, in effect, instructed Klewin and Noble not to engage in protected concerted activities, and that Howey's statements were attributable to Respondent and that Respondent violated Section 8(a)(1) through those statements.

Member Schaumber found that Howey was not Respondent's agent when she sat in on two May 3 meetings which Store Manager Danny Semerjibashian held first with Klewin, and then with Noble. Consequently, he would reverse the judge's findings that Howey's comments at those meetings are attributable to Respondent and that Respondent violated Section 8(a)(1) through Howey's comments at those meetings.

Howey's duties involved keeping the store accounts and balancing the books. Her other duties included serving as a witness when Store Manager Danny Semerjibashian met with female employees in interviews which involved discipline or counseling. It was in this capacity that Howey sat in on the May 3, 2000 meetings which Semerjibashian held, first with Klevin, and then Noble, and it was in his context that Howey, consistent with Semerjibashian's warnings to Klewin and Noble, instructed each of them not to engage in protected concerted activities. Semerjibashian did not disavow Howey's instructions.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Lora Noble, an individual; complaint alleged violation of Section 8(a)(1). Hearing at Phoenix, Dec.7-8 and 12, 2000 and Jan. 16-18, 2001. Adm. Law Judge Jay R. Pollack issued his decision May 25, 2001.

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Cutter of Maui, Inc. (37-CA-6521-1; 344 NLRB No. 143) Kahului, Maui, HI July 29, 2005. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing on and after April 17, 2003, to meet and bargain with Longshoremen ILWU Local 142 as the exclusive collective-bargaining representative of employees in the appropriate unit and by failing and refusing to furnish the Union requested information relevant for purposes of collective-bargaining. [HTML] [PDF]

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Longshoremen ILWU Local 142; complaint alleged violation of Section 8(a)(1) and (5). Hearing waived. Adm. Law Judge Jay R. Pollack issued his decision March 24, 2005.

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DaimlerChrysler Corp. (7-CA-41857, et al.; 344 NLRB No. 154) Auburn Hills, MI July 29, 2005. Chairman Battista and Member Schaumber affirmed the administrative law judge's findings, as modified, that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to timely respond and provide the Auto Workers with requested information relevant to the Union's performance of its duties as exclusive collective-bargaining representative. They agreed with the judge that the Respondent did not violate Section 8(a)(1) when it sent International Union official Vinie Pagano a letter informing him that Valentin was abusing his union office and failing to perform scheduled work assignments and reversed the judge's findings that the Respondent violated Section 8(a)(1) in dealing with employee and union steward Keith Valentin. Member Liebman dissented in part. [HTML] [PDF]

On July 22, the Union requested information regarding the partial relocation of bargaining unit employees to a new building. It submitted the request in connection with grievances about the Respondent's alleged failure to include the Union in the decision-making process for the relocation, new building layout, and seating arrangements of unit employees.

Chairman Battista and Member Schaumber concluded that the judge correctly found that each of the various items sought by the Union in the disputed requests was relevant with two exceptions. They found that Items 2 and 3, "the appropriation request(s) used to fund" the relocation and "the lease agreement for the DaimlerChrylser occupation of the Commercial building," do not apparently concern unit employees' terms and conditions of employment and are therefore not presumptively relevant. Further, the General Counsel failed to prove the relevance of this information to the Union's representative role in the decision-making process for the relocation, new building layout, and seating arrangements of unit employees. Chairman Battista and Member Schaumber agreed with the judge that the Respondent unreasonably delayed providing information regarding Valentin's 1998 performance appraisal, but they found it unnecessary to pass on his findings that the Respondent unreasonably delayed providing other requested information as the findings are cumulative and would not affect the remedy.

Member Liebman joined in most of the majority's findings. She agreed with the judge (1) that the Respondent's notice of disciplinary investigation to Valentin for allegedly fomenting a slowdown, was unlawfully coercive under Section 8(a)(1); and (2) that Valentin did not lose the Act's protection by using profanities in a grievance-related conversation with a supervisor and that the written warning he was given based in part on that conversation violated Section 8(a)(3) and (1). Member Liebman joined the majority's findings with respect to the Union's information requests, except she agreed with the judge that the Respondent violated

Section 8(a)(5) by withholding the lease agreement for space in the building to which a number of unit employees were relocated, as the lease was potentially relevant to grievances arising from that relocation.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by the Auto Workers; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Detroit, April 3-5, 2000. Adm. Law Judge Bruce D. Rosenstein issued his decision June 30, 2000.

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E.L.C. Electric, Inc. (25-CA-28270-1, et al. and 25-RC-10131; 344 NLRB No. 144) Indianapolis, IN July 29, 2005. The administrative law judge found, and the Board agreed, that the Respondent committed numerous violations of Section 8(a)(1) and (3) of the Act. It adopted the judge's recommendation to sustain Electrical Workers Local 481's objections alleging that the Respondent interfered with the election held on Sept. 26, 2002 by ordering employees not to discuss the Union, providing pay raises to two employees during the critical period, and failing to post election notices at individual jobsites. Accordingly, it severed Case 25-RC-10131 from the unfair labor practice cases and remanded the case to the Regional Director to conduct a second election. [HTML] [PDF]

The judge overruled the Union's objection concerning the Respondent's offer to improve the employees' health insurance. Chairman Battista and Member Liebman found, unlike the judge, that the Respondent interfered with the election and violated Section 8(a)(1) by impliedly promising to improve health insurance benefits. They held that when asked if the Respondent was trying to get better health insurance, Respondent's vice-president for operations Kevin Passman's statement that the Respondent was actively trying to improve employee health insurance by the end of the year, was unlawful and objectionable.

Dissenting in part, Member Schaumber would find that Kevin Passman's answer was neither objectionable nor unlawful. He regarded Passman's response to the employee's question as an uncoercive; indeed, an innocent casual remark. He would, accordingly, dismiss this allegation.

No exceptions were filed to the judge's dismissal of certain allegations, his sustaining of the Union's objection regarding the order not to discuss the Union, and several of his 8(a)(1) and (3) findings. The Board added a Direction of Election to the judge's Order.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Electrical Workers IBEW Local 481; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Indianapolis, Aug. 20-22 and Nov 4-5, 2003. Adm. Law Judge Ira Sandron issued his decision April 7, 2004.

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Electrical Workers IBEW Local 357 (Western Diversified Electric, Inc.) (28-CD-259; 344 NLRB No. 147) Clark County, NV July 29, 2005. Relying on the factors of employer preference and past practice, area practice, relative skills, and economy and efficiency of operations, the Board decided that Western Diversified Electric, Inc.'s employees represented by Electrical Workers IBEW Local 357 are entitled to the trenching work at the jobsites that gave rise to this proceeding. [HTML] [PDF]

The work in dispute concerns the trenching work performed in connection with the installation of street lighting and traffic signals at various traffic intersections throughout Clark County Nevada. Operating Engineers Local 12 asserted that it is entitled to the work under the terms of its agreement with the Nevada Contractor's Association and that the hearing should be quashed because (1) the work in dispute was defined in overly broad geographic terms, and (2) all parties to this proceeding are obligated by a jurisdictional dispute resolution mechanism. The Employer, in agreement with IBEW, contended that there is no agreed-upon method of resolving the dispute and that the facts establish reasonable cause to believe that Section 8(b)(4)(D) of the Act has been violated. The Board found that the dispute is properly before the Board for determination and denied Operating Engineers' motion to quash.

(Chairman Battista and Members Liebman and Schaumber participated.)

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Frontier Telephone of Rochester, Inc. and Rochester Telephone Workers Association (3-CA-23502, et al., 3-CB-7932; 344 NLRB No. 153) Rochester, NY July 29, 2005. The Board reversed the administrative law judge and held that Respondent Frontier violated Section 8(a)(1), (2), and (3) of the Act and that the Respondent Union violated Section 8(b)(1)(A) by agreeing to accrete an unrepresented group of Frontier's Internet help-desk technicians (IHD techs) into a bargaining unit of customer service representatives (CSRs) covered by a collective-bargaining agreement between the Respondents. [HTML] [PDF]

The Board noted that although some community-of-interest factors favor an accretion, they are offset by several factors, including the two deemed by the Board to be most "critical" to an accretion—employer interchange and common daily supervision. It found these additional factors support the finding that a lawful accretion did not occur: the important differences between the techs' and CSRs' terms and conditions of employment, the fact that the CSRs and IHD techs are subject to different leave and benefit policies, that the compensation formulas for the techs and CSRs are fundamentally different, and bargaining history.

Member Liebman did not rely on differences in terms and conditions of employment that are the result of collective bargaining, noting that benefits of CSRs are subject to negotiations, which necessarily do not control benefits of nonunit employees. "Any resulting disparity should not provide a separate basis for excluding employees from a bargaining unit if those employees otherwise meet the Board's test for accretion," she explained.

In another reversal of the judge, Chairman Battista and Member Schaumber found that IHD supervisor Mazi Bakari's statement to a tech, that Bakari was aware of a message that another tech had posted on the techs' Yahoo! Web page used during the CWA organizational campaign, violated Section 8(a)(1) by creating the impression among the techs that their union activities were under surveillance. Member Liebman would adopt the judge's finding that Bakari's statement violated Section 8(a)(1) for the reasons he stated.

Although the Board agreed with the judge that Respondent Frontier violated Section 8(a)(3) and (1) by discharging Ronald Boulware for engaging in protected union activity, it did not agree in all respects with his *Wright Line* analysis.

Chairman Battista and Member Schaumber agreed with the judge that the right to reinstatement and full backpay was forfeited by Boulware as a result of misconduct that he engaged in while employed, but that the Respondent did not discover until the hearing. They did not order Respondent Frontier to reinstate Boulware and limited his backpay to the period prior to the discovery of his misconduct. Member Liebman would not cut off the remedy owed to Boulware, finding "the record evidence to be, at best, inconclusive as to the Employer's lack of knowledge and thus insufficient to support the cut-off of backpay and the denial of reinstatement."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Communications Workers and Daryl R. Albright, an individual; complaint alleged violation of Section 8(a)(1), (2), and (3) and Section 8(b)(1)(A). Hearing at Webster ad Parma, Oct. 21-25, 30-31, Dec. 16-20, 2002, Feb. 11-12 and 14 and March 11-13, 2003. Adm. Law Judge Earl E. Shamwell Jr. issued his decision May 25, 2004.

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Manitowoc Ice, Inc. (30-CA-16270-1; 344 NLRB No. 145) Manitowoc, WI July 29, 2005. Chairman Battista and Member Schaumber adopted the administrative law judge's dismissal of the complaint allegations that the Respondent's changes to its profit-sharing plan and its alleged delay in providing Machinists Lodge 516 with requested information violated Section 8(a)(5) and (1) of the Act. [HTML] [PDF]

While Member Liebman agreed with her colleagues that the Respondent did not violate the Act by unilaterally changing its profit-sharing plan, she would find that the Respondent violated Section 8(a)(5) by its delay in providing the Union with the requested information. Citing *Mary Thompson Hospital*, 296 NLRB 1245, 1250 (1989), she noted that an employer must supply relevant information in a timely fashion. She wrote: "Contrary to the judge, the issue here is not whether the Union was prejudiced by the delayed receipt of the requested information, but whether that relevant information was received in a timely manner. It was not."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Machinists Lodge 516; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Milwaukee, Sept. 30-Oct 2, 2003. Adm. Law Judge David L. Evans issued his decision Dec. 30, 2003.

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Pacific Beach Corp. (37-RC-4022; 344 NLRB No. 140) Honolulu, HI July 29, 2005. The Board considered determinative challenged ballots and objections to an election held on August 24, 2004, which resulted in 179 votes for and 174 against, the Petitioner (Longshoremen and Warehousemen Local 142), with 12 challenged ballots. [HTML] [PDF]

It adopted the judge's recommendation to overrule the Employer's objections. The judge found, with Board approval, that (1) the Petitioner's distribution, before the election, of an unaltered NLRB flyer and a union pamphlet entitled "A Guide for New Members" was not objectionable; and (2) Carmelita Fontillas and Reben Bumanglag were not statutory supervisors, and thus their alleged conduct did not warrant setting aside the election. The Board also adopted the judge's finding that the Employer's decision to grant promotions and raises to landscaping employees during the critical period interfered with the election and required, if appropriate, that the Board hold a new election.

Contrary to the judge, the Board found that (1) Gordon Campbell and Kahikina Kanekoa were not statutory supervisors and the judge erred by sustaining the Petitioner's challenges to their ballots; and (2) the Employer substantially complied with the *Excelsior* rule and the judge erred by sustaining the Petitioner's objection to the Employer's *Excelsior* list. Member Liebman found it unnecessary to resolve the Petitioner's objection alleging that the Employer's *Excelsior* list was substantially inaccurate since she agreed that the Employer interfered with the election by granting promotions and raises to landscaping employees during the critical period and that the election should be set aside if the revised tally of ballots shows that the Petitioner did not receive a majority of the valid votes cast.

The Board found it unnecessary to pass on the judge's finding that the Employer's notice-of-election posting did not comply with the Board's posting rules. In the absence of exceptions, it adopted, pro forma, the judge's disposition of the remaining 10 challenged ballots and the Petitioner's remaining overruled objections. The Board directed that the Regional Director open and count six ballots and issue a revised tally of ballots. If the revised tally shows that the Petitioner received a majority of the valid votes cast, the Regional Director shall certify the Petitioner as the exclusive bargaining representative of the appropriate unit. If the revised tally shows that the Petitioner did not receive a majority of the valid votes cast, the Regional Director shall set aside the election and order a new election.

(Chairman Battista and Members Liebman and Schaumber participated.)

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Park 'N Go of Minnesota LP (18-CA-17473, 18-RC-17320; 344 NLRB No. 152) Bloomington, MN July 29, 2005. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act by telling its employees that it had discharged an employee because of her union activities, by conditioning the employee's reinstatement on her abandoning support for a union, by warning employees that supporting a union made an employee ineligible for reinstatement, and by soliciting employee grievances and promising benefits to dissuade employees from supporting a union; and violated Section 8(a)(1) and (3) by discharging employee Robin Lokken on about October 15, 2004, and thereafter failing and refusing to reinstate her. [HTML] [PDF]

The Board agreed with the judge's recommendation to overrule the challenges to the ballots cast by dispatchers Annette Carlson, Melissa Dale, Gary Engelstad, Lilia Gomez, and Robin Lokken, and to sustain the challenge to the ballot cast by James Rock in an election held on Nov. 30, 2004. It severed Case 18-RC-17320 from the unfair labor practice case and remanded Case 18-RC-17320 to the Regional Director to open and count the challenged ballots cast by the five dispatchers.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Teamsters Local 120; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Minneapolis on March 9-10, 2005. Adm. Law Judge Keltner W. Locke issued his decision May 17, 2005.

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PartyLite Worldwide, Inc. (13-RC-21259; 344 NLRB No. 155) Carol Stream, IL July 29, 2005. Chairman Battista and Member Liebman affirmed the hearing officer's recommendation and sustained the Petitioner's Objection 1 alleging that the Employer interfered with the election by engaging in surveillance of the Petitioner's handbilling activities during the critical period. The majority set aside the election held on Nov. 19, 2004 (Teamsters Local 731 lost 144-142) and directed a second election. [HTML] [PDF]

Member Schaumber, dissenting, found that "the Union failed to show that the silent presence of certain of the Employer's managers and supervisors in the facility parking lot during Union handbilling reasonably tended to interfere with employee free choice in the Board's subsequent secret ballot election." He would overrule the objection and certify the results of the election.

The hearing officer found that, on three separate occasions shortly before the election, no less than eight high-ranking managers and supervisors stood at entrances to the employee parking lot watching the Petitioner give literature to employees as they entered and exited the parking lot during shift changes. The managers included the Vice President for Worldwide Operations, the Human Resources Director, and the Director of North American Distribution. The hearing officer credited employee testimony that the presence of managers and supervisors

at the entrances to the parking lot was "surprising" and an "unusual occurrence." The employer established no legitimate explanation for why any of its managers and supervisors were stationed in the parking lot during the Petitioner's handbilling activities. The hearing officer discredited the Employer's witnesses who denied that its managers and supervisors were present in the parking lot while the handbilling was occurring.

Turning to the dissent's claims that they erroneously put the burden on the Employer to explain its presence in the parking lot during the handbilling, the majority said "we have followed Board precedent requiring this Employer to explain its conduct once it has been shown the conduct was out of the ordinary." See, e.g., *Sands Hotel & Casino*, 306 NLRB 172 (1992), enfd. 993 F.2d 913 (D.C. Cir. 1993). They also emphasized the hearing officer's finding that managerial personnel were stationed "close" to the handbillers, saying: "Accordingly, contrary to our dissenting colleague's contention, the hearing officer properly determined that the Employer's managers and supervisors stood in close proximity to the handbillers, and she correctly held that this factor further supports a finding of objectionable surveillance."

(Chairman Battista and Members Liebman and Schaumber participated.)

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The Guard Publishing Co. d/b/a The Register Guard (36-CA-8721, 8759; 344 NLRB No. 150) Eugene, OR July 28, 2005. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act by granting its employees a wage increase, soliciting employee grievances and promising to remedy them, and soliciting employees to withdraw their authorizations for Teamsters Local 206. [HTML] [PDF]

Chairman Battista and Member Schaumber reversed the judge's finding that the Respondent unlawfully created the impression of surveillance and unlawfully discharged employee Kama Cox. They also reversed the judge's finding that a bargaining order under *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969) was warranted to remedy the Respondent's unfair labor practices. The majority concluded that a fair election can be held after the entry of traditional remedies and that the unlawful conduct engaged in by the Respondent does not warrant a bargaining order under *Gissel*. Because the majority decided not to issue a bargaining order, they dismissed the judge's finding that the Respondent violated Section 8(a)(5) and (1) by refusing to bargain with the Union and by refusing to provide the Union with requested relevant information.

Member Liebman, dissenting in part, would sustain the judge on the issues reversed by her colleagues. She would also adopt the judge's recommendation to issue a remedial bargaining order and his finding that the Respondent violated Section 8(a)(5) by refusing to bargaining with the Union and by failing to provide requested relevant information.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Teamsters Local 206; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Eugene Dec. 4-6, 2000. Adm. Law Judge Albert A. Metz issued his decision April 5, 2001.

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Sunrise Senior Living, Inc. (8-CA-34969, 35060; 344 NLRB No. 151) Parma, OH July 29, 2005. The Board affirmed the recommendations of the administrative law judge and found that the Respondent violated Section 8(a)(1) of the Act by coercively interrogating employees about protected activities on March 10 and 11, 2004, and by demoting and issuing a final warning to Coty Smith on March 16, 2004 and terminating the employment of Samantha Reyes on March 16, 2004, all because they had engaged in protected concerted activities. [HTML] [PDF]

To remedy the Respondent's unlawful demotion of Smith from a lead care aide position to a care aide position, the judge ordered the Respondent to reinstate Smith to her former position. The General Counsel and the Respondent asserted that reinstatement is inappropriate because Smith voluntarily resigned her employment with the Respondent approximately 2 months after her demotion. Accordingly, the Board modified the Order to remove the reinstatement requirement for Smith, tolled the Respondent's backpay liability to Smith as of the date of her resignation, and substituted a new notice to conform with the Order, as modified.

The Board rejected the Respondent's contention that the discriminatees should be denied make-whole relief altogether for presenting allegedly false testimony, saying: "Although the judge discredited portions of the discriminatees' testimony, there is no evidence that the discriminatees engaged in deliberate and malicious misconduct that abused and undermined the integrity of the Board's processes."

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by Food & Commercial Workers Local 880 and Rosie Howard, an Individual; complaint alleged violation of Section 8(a)(1). Hearing at Cleveland, Sept. 30 and Oct. 1 and 14, 2004. Adm. Law Judge Paul Bogas issued his decision March 3, 2005.

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Temp Masters, Inc. (9-CA-40822; 344 NLRB No. 142) Cincinnati, OH July 29, 2005. The Board affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(3) of the Act by discriminatorily transferring employees Joseph Stapleton, Paul DeVaux, Samuel Lunsford, and Matt Wandstrat and by discharging Stapleton, DeVaux, and Wandstrat for refusing to accept the transfers. [HTML] [PDF]

Chairman Battista and Member Schaumber reversed the judge's finding that the Respondent violated Section 8(a)(1) by coercively interrogating Wandstrat when, in late November or early December, Manager Mark Pack approached Wandstrat and asked him if a union representative had visited the Respondent's workplace. When Wandstrat replied that he did now know, Pack shook his head and left the area. Member Liebman would not dismiss this allegation.

Citing *Rossmore House*, 269 NLRB 1176, 1177 (1984), affd. sub nom. *Hotel & Restaurant Employees Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985), Chairman Battista and Member Schaumber wrote that an employer violates Section 8(a)(1) by interrogating an employee only if the interrogation reasonably tends to restrain coerce, or interfere with rights guaranteed by the Act. Here, they noted that Pack's single question did not "appear[ ] to be seeking information upon which to take action against individual employees." The majority also noted that although Pack shook his head in reaction to Wandstrat's "do not know" response, they found that Wandstrat could not reasonably have interpreted that gesture, unaccompanied by any remarks, as a threat of retaliation, sufficient to convert Pack's isolated inquiry into a coercive interrogation.

Contrary to her colleagues, Member Liebman would find that Pack's questioning of Wandstrat violated Section 8(a)(1). In addition to the factors cited by the judge, she wrote that Pack's position of authority, his arrival on the jobsite on the heels of the Union's visit (suggestive of surveillance), his direct question to an employee who had taken care not to reveal his union activities, and Wandstrat's untruthful denial that the union representative had been there together show that this was no mere "isolated inquiry" but rather an unlawful, coercive interrogation.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Sheet Metal Workers Local 24; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Cincinnati on Sept. 16-17, 2004. Adm. Law Judge Arthur J. Amchan issued his decision Nov. 19, 2004.

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DECISION OF ADMINISTRATIVE LAW JUDGE

Evergreen America Corp. (Longshoremen ILA Local 1964) Morristown, NJ July 25, 2005. 22-CA-25295, 26087, 22-RC-12215; JD(NY)-28-05, Judge Steven Fish.

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NO ANSWER TO COMPLAINT

(In the following cases, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

FJN Worldnet, Inc. (an Individual) (18-CA-17515; 344 NLRB No. 146) Grafton, ND July 29, 2005. [HTML] [PDF]

Pro-Tec Fireproofing, Inc. (Plasterers Local 797) (28-CA-19588; 344 NLRB No. 149) Ridgefield, WA July 29, 2005. [HTML] [PDF]

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TEST OF CERTIFICATION

(In the following cases, the Board granted the General Counsel's motion for summary judgment on the ground that the Respondent has not raised any representation issue that is litigable in the unfair labor practice proceeding.)

New York Center for Rehabilitation Care (Service Employees Local 1199) (29-CA-26678; 344 NLRB No. 148) Astoria, NY July 29, 2005. [HTML] [PDF]

North American Enclosures, Inc. (Food & Commercial Workers Local 348-S) (29-CA-26679; 344 NLRB No. 156) Central Islip, NY July 29, 2005. [HTML] [PDF]

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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

Alan Ritchey, Inc., Auburn, WA, 19-RC-14662, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)

Crestline Hotels and Resorts, Inc. d/b/a Detroit Hilton Garden Inn, Detroit, MI, 7-RC-22827, July 29, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION OF SECOND ELECTION

Tompkins Electric Co., Inc., Jackson, MS, 15-RC-8593, July 29, 2005 (Chairman Battista and Members Liebman and Schaumber)

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

DECISION AND CERTIFICATION OF REPRESENTATIVE

Securitas Security Services USA, Inc., St. Louis, MO, 14-RC-12562, July 25, 2005 (Chairman Battista and Members Liebman and Schaumber)
Staples Inc., Landover, MD, 5-RC-15866, July 25, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION [that Regional Director open and count ballots]

Dyncorp International, LLC, Fort Worth, TX, 16-RC-10654, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)

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

Accredited Health Services, Inc., Hackensack, NJ, 22-RC-12616, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)

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(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)

Perna Group Contracting, Smithtown, NY, 29-RC-10343, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)
Randall Industries, Inc., Portage, IN, 13-RC-21320, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)
Material Yard Workers Benefit Funds, Howard Beach, NY, 29-RC-10393, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)

Walgreen Co., Elmhurst, Deerfield and Bannock, IL, 13-UC-377, July 26, 2005 (Chairman Battista and Members Liebman and Schaumber)

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Miscellaneous Board Orders

ORDER [denying Employer's request for special permission to appeal from the Regional Director's refusal to revoke the Stipulated Election Agreement and his determination to conduct the election as scheduled]

BAA Indianapolis, LLC, Indianapolis, IN, 25-RC-10288, July 28, 2005 (Chairman Battista and Members Liebman and Schaumber)

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