



# National Labor Relations Board

## Weekly Summary of NLRB Cases

Division of Information

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Tel. (202) 273-1991

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VISIT [WWW.NLRB.GOV](http://WWW.NLRB.GOV) FULL TEXT  
CASES SUMMARIZED

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Press Release ([R-2602](#)): Informal Copy of Revised National Relations Board's Compliance Manual  
Posted on the Agency's Website

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*Evergreen America Corp.* (22-CA-25295, 26087, 22-RC-12215; 348 NLRB No. 12) Morristown and Jersey City, NJ Sept. 21, 2006. The Board adopted the administrative law judge's findings and recommendations and held that the Respondent violated Section 8(a)(1) of the Act prior to the election of July 17, 2002, by: (1) coercively threatening employees with plant closure, with loss of jobs and benefits, and with unspecified reprisals because of their union activities; (2) creating the impression that the union activities of employees were under surveillance; (3) instructing employees not to attend union meetings, not to read union literature, and to throw such literature away; (4) coercively interrogating employees about their union activities and about how they intended to vote in the election; and (5) soliciting grievances from employees, impliedly promising to remedy grievances and other employee concerns, and explicitly promising to do so.

The Board further agreed with the judge that the Respondent violated Section 8(a)(3) and (1) prior to the election by: (1) granting unprecedented and excessive across-the-board wage increases to unit employees; (2) manipulating its promotion process in order to promote more unit employees than in past years; and (3) granting employees new or improved benefits, some of which were granted after the election.

The Union, Longshoremen ILA Local 1964, lost the election by a vote of 61 to 52. However, the judge concluded that the Respondent's unfair labor practices interfered with the election and that the election results should be set aside. He further found that the Respondent's violations so tainted the work environment that the possibility of assuring a fair rerun election was slight, and that employee sentiment here expressed by authorization cards would be better protected by a bargaining order pursuant to *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969). The Board agreed with the judge that a *Gissel* bargaining order is warranted, and, accordingly, set aside the election and dismissed the petition in Case 22-RC-12215.

Among its many contentions that a bargaining order is inappropriate, the Respondent claimed that the union lacked a card majority. However, the Board concluded that the Union possessed signed cards from a majority of the employees (62 in a unit of 115 employees), as of the agreed-upon date for establishing majority status.

(Chairman Battista and Members Liebman and Walsh participated.)

Charges filed by Longshoremen ILA Local 1964; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Newark and New York, NY, over the course of 43 days between March 2 and Sept. 24, 2004. Adm. Law Judge Steven Fish issued his decision July 25, 2005.

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*W & M Properties of Connecticut, Inc.* (34-CA-9564, 9668; 348 NLRB No. 11) Stamford, CT Sept. 20, 2006. The Board upheld the administrative law judge and found that the Respondent violated Section 8(a)(1) of the Act by informing an employee that if he accepted a job it would be non-union, thereby conditioning his employment on refraining from union activities and interrogating employees concerning their union membership; violated Section 8(a)(3) and (1) by

refusing to hire employees of the predecessor employer because they were members of Operating Engineers Local 30 and to avoid an obligation to bargain with Local 30; and violated Section 8(a)(5) and (1) by refusing, as the successor employer, to recognize and bargain with Local 30 as the collective-bargaining representative of its employees and by unilaterally changing terms and conditions of employment without notice to and bargaining with Local 30.

(Members Liebman, Schaumber, and Kirsanow participated.)

Charges filed by Operating Engineers Local 30; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at New Haven, Nov. 26-29, 2001. Adm. Law Judge Eleanor MacDonald issued her decision July 8, 2002.

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

*American Standard Companies, Inc., American Standard Inc. d/b/a American Standard* (Glass, Molders, Pottery, Plastics & Allied Workers Local 7A) Tiffin, OH Sept. 18, 2006. 8-CA-33352, et al.; JD-68-06, Judge Jane Vandeventer.

*Operating Engineers Local 547* (an Individual) Midland, MI Sept. 19, 2006. 7-CB-15144; JD(ATL)-35-06, Judge John H. West.

*Cintas Corp.* (UNITE HERE) Branford, CT and Charlotte, NC Sept. 20, 2006. 4-CA-34160 (formerly 11-CA-19841), et al.; JD-65-06, Judge Ira Sandron.

*Colacino Industries, Inc.* (Electrical Workers [IBEW] Local 840) Newark, NY Sept. 21, 2006. 3-CA-25785; JD-69-06, Judge Wallace H. Nations.

*United Steel Service, Inc. d/b/a UNISERV* (Auto workers Local 2-B) Brookfield, OH Sept. 22, 2006. 8-CA-32711, et al.; JD-71-06, Judge Karl H. Buschmann.

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

*(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)*

*Lawton Printing, Inc.*, Spokane, WA, 19-UC-740, Sept. 20, 2006 (Members Schaumber, Kirsanow, and Walsh) [remanded to Regional Director]

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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)*

*Sunoco, Inc. (R&M), Philadelphia, PA, 4-UC-413, Sept. 20, 2006 (Members Schaumber,  
Kirsanow, and Walsh)*

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