



Weekly Summary of Cases

National Labor Relations Board

Week of May 24-28, 2010, W-3262

The *Weekly Summary* is provided for informational purposes only and is not intended to substitute for the opinions of the NLRB. Inquiries should be directed to the Office of Public Affairs at Publicinfo@nlrb.gov or 202-273-1991.

Summarized Board Decisions

Yonkers Racing Corp. d/b/a Empire City at Yonkers Raceway (2-AO-00001, 355 NLRB No. 35) Yonkers, NY, May 24, 2010. [[HTML](#)] [[PDF](#)]

In response to a Petition for an Advisory Opinion from the New York State Employment Relations Board (NYSERB), the Board said it would not decline to assert jurisdiction over the operations of the Employer, a combined racetrack and casino operation. Historically, the Board has declined jurisdiction over horseracing operations. However, the addition of the casino to the racetrack in 2005, and the resulting changes to the Employer's business, had converted the Employer's operation to "primarily a casino." The Board found that this case was similar to two earlier cases in which the revenue and employment generated by the casino overshadowed those of the racetrack, and the Board found that the racetrack exception was not applicable in light of the changed circumstances.

Petition for Advisory Opinion filed by the New York State Employment Relations Board. Chairman Liebman and Members Schaumber and Becker participated.

Atlantic Veal & Lamb, Inc. (29-CA-24484, et al.; 355 NLRB No. 38) New York, NY, May 28, 2010. [[HTML](#)] [[PDF](#)]

The Board found that the judge erred when he disqualified the discriminatee from all backpay based on misrepresentations made to a third-party mortgage lender. The Board also found that the judge did not make explicit credibility findings regarding the testimony of the discriminatee. In light of the judge's error and lack of findings, the Board remanded the case to the judge, and directed the judge to make findings about whether or not the Employer met its burden to establish that the discriminatee willfully concealed income from the Board.

Charges filed by Knitgoods Workers' Union, Local 155, Union of Needletraders, Industrial & Textile Employees, AFL-CIO. Administrative Law Judge Raymond P. Green issued his decision January 31, 2007. Chairman Liebman and Members Schaumber and Pearce participated.

Kohler & Sons, Inc. (14-CA-29932; 355 NLRB No. 34) St. Louis, MO, May 24, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board granted the General Counsel's motion for summary judgment based on the withdrawal of the Respondent's answer to the complaint. Charge filed by Local 6-505M, Graphic Communications Conference of the International Brotherhood of Teamsters. Chairman Liebman and Members Schaumber and Becker participated.

Bobbitt Electrical Service, Inc. (25-CA-31185; 355 NLRB No. 37) Indianapolis, IN, May 28, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by International Brotherhood of Electrical Workers, Local 481. Members Schaumber, Becker, and Pearce participated.

Small Freys Children Center, Inc. (4-CA-37248, et al.; 355 NLRB No. 36) Manheim, PA, May 26, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the consolidated complaint. Charges filed by Individuals. Members Schaumber, Becker, and Pearce participated.

Unpublished Board Decisions in Representation Cases

Good Samaritan Hospital (31-RD-1555) Los Angeles, CA, May 24, 2010.

Order denying Employer's motion for acceptance of late filed answering brief. Petitioner – an Individual.

Kansas City Repertory Theatre, Inc. (17-RC-12647) Kansas City, MO, May 24, 2010. Order granting request for review of the Regional Director's Decision and Direction of Election. Member Schaumber, dissenting in part. Petitioner – Kansas City Federation of Musicians, Local 34-627, A.F.M. Members Schaumber, Becker, and Pearce participated.

Cintas Corporation (29-RC-11769) May 25, 2010, Port Jefferson, NY. No exceptions having been filed to the Administrative Law Judge's (ALJ's) report recommending disposition of objections to an election held August 6, 2009, the Board adopted the ALJ's findings and recommendations, and found that a certification of representative should be issued. Petitioner – Local 550, International Brotherhood of Teamsters.

20 River Court West Urban Renewal Company (22-RC-13018) Jersey City, NJ, May 25, 2010. Order denying Intervenor's request that the Board accept its late-filed extension request and late filed exception. Member Schaumber, dissenting. Petitioner – United Employees Service Workers Union (U.E.S.W.U.) Local 365.

Total Fire Protection (18-RC-17707) Brandon, SD, May 26, 2010. Order denying special permission to appeal. Petitioner – Road Sprinkler Fitters, Local 669.

US Security Associates, Inc. (2-RC-23467) Roswell, GA, May 26, 2010. Order denying request for review. Petitioner – Federal Contract Guards of America FCGOA. Members Schaumber, Becker, and Pearce participated.

FedEx Home Delivery (34-RC-2205) Windsor, CT, May 27, 2010. The Board reviewed the record in light of exceptions and briefs, adopted the Administrative Law Judge's findings and recommendations only to the extent consistent with this decision, and found that a certification of representative should be issued. Petitioner – International Brotherhood of Teamsters, Local 671. Chairman Liebman and Members Schaumber and Pearce participated.

Pacific Coast Recycling, Inc. (32-RC-5762) Gilroy, CA, May 27, 2010. Order denying motion to stay. Petitioner – International Brotherhood of Teamsters, Local 350.

Power Line Consultants, LLC d/b/a PLC, LLC (14-RC-12668) May 28, 2010, Doe Run, MO. The Board has reviewed the record in light of the exceptions and briefs and adopted, for reasons stated in his report, the hearing officer's findings and recommendation to sustain the challenge of an individual's ballot. The Board therefore finds that a certification of representative should be issued. Petitioner – Local 702, International Brotherhood of Electrical Workers, AFL-CIO. Chairman Liebman and Members Becker and Pearce participated.

Decisions of Administrative Law Judges

Comau, Inc. (7-CA-52106, 7-RD-3644; JD-32-10) Southfield, MI. Charges filed by Automated Systems Workers Local 1123, A Division of Michigan Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America. Administrative Law Judge Paul Bogas issues his decision May 20, 2010. [[HTML](#)] [[PDF](#)]

Ozburn-Hessey Logistics, LLC (26-CA-23497, et al.; JD(ATL)-12-10) Memphis, TN. Charges filed by United Steelworkers Union. Administrative Law Judge George Carson II issued his decision May 20, 2010. [[HTML](#)] [[PDF](#)]

Ampersand Publishing, LLC d/b/a Santa Barbara News-Press (31-CA-28589, et al.; JD(SF)-20-10) Santa Barbara, CA. Charges filed by Graphic Communications Conference, International Brotherhood of Teamsters. Administrative Law Judge Clifford H. Anderson issued his decision May 28, 2010. [[HTML](#)] [[PDF](#)]
