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Advanced Architectural Metals, Inc. and its alter egos Advanced Metals, Inc., Steel Specialties Unlimited, Inc. and AAM, Respondents' alter ego and Lori Irish, and Carpenters Local 1780 affiliated with Southwest Regional Council Of Carpenters, United Brotherhood of Carpenters & Joiners of America and Local 433, International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers, AFL-CIO, Party-in-Interest. Cases 28-CA-20730, 28-CA-20779, 28-CA-20885, and 28-CA-20918

August 27, 2010

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER
AND BECKER

The General Counsel seeks a default judgment or, in the alternative, partial summary judgment in this case on the ground that the Respondents have failed to file a timely or legally sufficient answer to the amended compliance specification. For the reasons that follow, we grant the motion for default judgment.

On December 27, 2007, the Board issued a Decision and Order¹ that, among other things, ordered the Respondents, Advanced Architectural Metals, Inc. and its alter egos, Advanced Metals, Inc. and Steel Specialties Unlimited, Inc., to make whole the discriminatees for any loss of earnings and other benefits resulting from the Respondents' violations of Section 8(a)(1), (3), and (5) of the Act. It further ordered the Respondents to comply with the terms and conditions of their collective-bargaining agreement with Carpenters Local 1780 affiliated with Southwest Regional Council of Carpenters, United Brotherhood of Carpenters & Joiners of America (the Union) and to make all required contributions to the Union's various welfare funds as required by the agreement. The United States Court of Appeals for the Ninth Circuit enforced the Board's order by unpublished opinion dated August 26, 2008.²

On October 17, a controversy having arisen regarding (a) the amounts of backpay and welfare fund payments due under the Order, and (b) additional alter ego and individual liability, the Regional Director for Region 28 issued an amended compliance specification and notice of hearing. The amended compliance specification al-

leged the amounts due under the Board's Order; named as additional respondents Lori Irish, an individual, and AAM, an alleged alter ego of the Respondents³; and notified the Respondents that they should file answers by November 7, in compliance with the Board's Rules and Regulations. The Region served the amended compliance specification on Irish, the other Respondents, and the past attorneys for the Respondents. The Region served Irish at the North Las Vegas, NV Detention Center, where she is incarcerated. According to the General Counsel's Motion for Default Judgment and brief in support, Irish is serving a 60-month sentence for, among other things, tampering with witnesses and threatening to kill Federal officials, including the Region's field attorney who litigated all four of the prior proceedings involving the Respondents.⁴

None of the Respondents filed an answer to the amended compliance specification. By letter dated November 11, the Region re-served Irish with the amended compliance specification, a letter giving her until November 17 to file an answer, and a copy of the Board's Rules and Regulations. In the letter, copies of which were sent to all of the Respondents and their past attorneys, the Region advised that, unless the Respondents filed an answer by November 17, the General Counsel would file a motion for default judgment.

By letter dated November 10, and received by the Region on November 17, Irish, appearing pro se, asserted that: (1) she was never in business as an individual; (2) it was an abuse of process to include her in this proceeding; (3) all of the Respondents are out of business; (4) she was never in business during any annual period so as to meet the Board's jurisdictional standard; and (5) the Respondents had not met the Board's jurisdictional standard during 2008. The letter also accuses the Board of steal-

³ The amended compliance specification alleged, in particular, that "Irish created AAM in order to circumvent the relationship between Advanced Architectural Metals, Inc. and the Union and to avoid her obligations under the Act including, but not limited, to the Section 10(j) Order of the United States District Court for the District of Nevada." The specification further alleged that Irish controlled the day-to-day management, labor relations policies, business operations and financial resources of the Respondents and AAM, and that Irish commingled the assets of the Respondents and AAM with her personal assets and other assets within her control. Based on the those allegations, the amended compliance specification further alleged that AAM acted as an alter ego of the Respondents and is liable for the Respondents' unfair labor practices, and that Irish individually acted as an alter ego of the Respondents and is personally liable for the Respondents' unfair labor practices.

⁴ See Criminal Indictment for *United States of America vs. Lori Irish*, Case 2:08-cr-00117 (April 29, 2008), and Jury Verdict for *United States of America vs. Lori Irish*, Case 2:08-cr-00117 (November 6, 2008).

¹ *Advanced Architectural Metals, Inc.*, 351 NLRB 1208 (2007).

² All subsequent dates are in 2008, unless otherwise noted.

ing money from the “U.S. Mail” and of engaging in other criminal acts.

On December 8, the General Counsel filed with the Board a Motion for Default Judgment and brief in support, with exhibits, alleging that the Respondents had failed to file an adequate answer to the amended compliance specification as required under Section 102.56(b) of the Board’s Rules and Regulations. Absent a legally sufficient answer, the General Counsel urged the Board to grant default judgment.

On December 10, the Board issued a Notice to Show Cause why the General Counsel’s motion should not be granted. Irish, appearing pro se on behalf of all of the Respondents, filed two documents in response, which were received by the Board on December 24 and 29. In the December 24 response, Irish contended that her November 10 letter, which the Board had previously accepted as her answer to the amended compliance specification, was actually only a cover letter, and that the answer she mailed with it had been misplaced either by the detention center or the Region. Irish also asserted that, considering that she was incarcerated, she did everything she could to prepare an answer. Irish included with her December 24 response the answer that she purportedly had included with her November 10 letter. In that answer, Irish denied “each and every allegation in the complaint.” She further asserted that three of the discriminatees, Juan Gasca Sr., Juan Gasca Jr., and Cesar Gasca, own and operate a powder coating business, and that discriminatee Joseph King is a partner in that business. In addition, Irish stated that she does not have an attorney because the Region refused to pay her legal bills. In her second response to the Notice to Show Cause, filed on December 29, Irish requested that the Board grant her a 120-day continuance in order to obtain legal counsel, asserting that she did not have access to her records and the necessary resources to enable her to properly prepare an answer. On January 7, 2009, the General Counsel filed a brief in reply to Irish’s responses to the Notice to Show Cause.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.56(a) of the Board’s Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(b) requires that an answer shall specifically admit, deny, or explain each and every allegation of the specification. Finally, Section 102.56(c) provides that if a respondent fails to timely file any answer to the specification or sufficiently deny any allegation as required by Section 102.56(b), the Board may,

either with or without taking evidence in support of the allegation of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

Initially, we recognize that the Respondents are proceeding without legal representation. In determining whether to grant a motion for default judgment on the basis of a respondent’s failure to file a sufficient or timely answer, “the Board has shown some leniency toward respondents who proceed without benefit of counsel.” *Nick & Bob Partners*, 345 NLRB 1092, 1093 (2005) (quoting *Convergence Communications*, 342 NLRB 918, 919 (2004)). Because of Irish’s history with the Agency, however, we decline to accord the Respondents that leniency. As set forth above, Irish threatened to kill Board agents, she has a history of failing to comply with the orders of the Board and courts, and she has engaged in fraudulent conduct to avoid the judgments against her.⁵ Furthermore, Irish has committed numerous and egregious violations of the Act, including physically assaulting her employees and threatening to kill their children.⁶ Given this history of misconduct and, in particular, flagrant disregard and intentional evasion of Board rules and orders, we cannot attribute Irish’s noncompliance here to her lack of counsel.

Our dissenting colleague argues that we disregard Board policy by denying Irish the leniency usually accorded a respondent in default proceedings. The dissent, however, overstates the Board’s policy. Indeed, Board law is clear that pro se status alone does not establish good cause for a respondent’s failure to file a timely answer. See, e.g., *Sage Professional Painting Co.*, 338 NLRB 1068 (2003). We find, contrary to our colleague, that leniency is not warranted in the circumstances of this case. In rejecting equitable leniency for Irish, it is wholly appropriate that we take into account both her prior egregious flouting of Board rules and orders and the fact that she is no stranger to the Board’s procedural rules.⁷

We agree with the General Counsel that the Respondents have failed to file a legally sufficient and timely answer to the amended compliance specification. Spe-

⁵ On August 21, 2007, the United States District Court for the District of Nevada issued a 10(j) temporary injunction in this proceeding. On April 23, 2008, the court held the Respondents, including AAM and Irish, in civil contempt for their willful noncompliance with that order.

⁶ See *Advanced Architectural*, 351 NLRB at 1216.

⁷ In any event, the Board has held that a pro se respondent’s ignorance of the Board’s procedures does not constitute good cause for the failure to file a timely answer. See, e.g., *Newark Symphony Hall*, 323 NLRB 1297 (1997) (good cause not established by the fact that the pro se respondent had not retained labor counsel when the complaint issued and did not know how to answer the complaint).

cifically, Irish's November 10 letter, itself untimely in relation to the Board's rules but filed within the extended period afforded the Respondents by the Region, does not address itself to the amended compliance specification at all, much less "admit, deny, or explain each and every allegation of the specification," as required under Section 102.56(b). We find, therefore, that the November 10 letter is not responsive to the allegations of the compliance specification in any way that raises an issue warranting a hearing.

We further find that Irish's December 24 submission is untimely to the extent that it answers any of the allegations in the amended compliance specification. Although Irish asserted in that submission that her November 10 letter was not actually her answer but merely a cover letter, there is nothing about the letter or its contents that supports that assertion. Given Irish's fraudulent conduct in the past, we are unwilling to assume based on her assertions alone that the November 10 letter included an answer. As her assertions are the only evidence that an answer was, in fact, included with the November 10 letter, we conclude that there was no such answer. In addition, we reject Irish's contentions that the Region should have paid her legal bills and that her incarceration provided any justification for her failure to obtain counsel or for the Respondents' failure to file a timely answer.

Even assuming we were to consider Irish's pro se status, we would nonetheless find that the Respondents have failed to file a legally sufficient and timely answer to the amended compliance specification. The Board is hesitant to preclude a determination on the merits if it finds that a pro se respondent has filed a timely answer that can reasonably be construed as denying the substance of the complaint allegations. *Clearwater Sprinkler System*, 340 NLRB 435 (2003). "Similarly, where a pro se respondent fails to file a timely answer, but provides a 'good cause' explanation for such failure, default judgment will not be entered against it on procedural grounds." *Patrician Assisted Living Facility*, 339 NLRB 1153 (2003). Applying those principles here, we find that Irish's November 10 letter cannot reasonably be construed as denying the substance of the allegations of the amended compliance specification, because it does not address any of the allegations in the specification.⁸

Our dissenting colleague construes Irish's November 10 "cover letter" as a general denial of her individual liability, and, on that basis, would remand that allegation for a hearing. Even were we to find that any of the

statements in Irish's November 10 letter generally denied her individual liability or AAM's alter-ego status, we observe that the essential factual predicates supporting those allegations were litigated and resolved in the underlying Board proceeding and the related injunction and contempt proceedings.⁹ See generally *Convergence Communications*, 342 NLRB 918, 919 (2004), and cases cited. Thus, a compliance hearing on those issues would serve no purpose because they have already been decided.¹⁰

Our dissenting colleague also finds that the Respondents established good cause for their failure to file a timely answer and, accordingly, our colleague finds that Irish has raised certain issues in her untimely December 24 answer that he would remand for a hearing. In so finding, he relies on the same arguments advanced in his dissenting opinion in *Patrician*, supra, and which the Board fully considered and rejected there. Thus, we deem it unnecessary to respond point by point to our colleague's analysis within that framework here.¹¹

⁹ For example, in the unfair labor practice proceeding, the Board found that Irish controlled all of the corporate respondents (except those that Irish had not yet created), and that those corporate respondents were alter egos of one another. *Advanced Architectural Metals, Inc.*, supra, 351 NLRB at 1208 fn. 1, 1209-1218. See *Overstreet v. Advanced Architectural Metals, Inc.*, Cir. No. 2: 07-CV-00781-PMP-LRL (April 23, 2008) (order of U.S. District Judge Pro adjudging Advanced Architectural Metals, Inc. and Irish in civil contempt). Our dissenting colleague's argument that we should not rely on the District Court's contempt order, because it, too, was granted by default, is unpersuasive. Were we to adopt our colleague's position, we would be encouraging litigants to ignore our authority until, on the brink of judgment day, they request to be heard. In our view, that would delay justice, as a hearing would here.

¹⁰ The Board has held that, even where the allegations in a compliance specification are uncontested, the allegations must set forth a sufficient factual basis to support a finding of personal liability. See generally *Holt Plastering, Inc.*, 317 NLRB 451, 452-453 (1995) (citing *Omnitest Inspection Services*, 313 NLRB 648 (1994)). Here, the amended compliance specification sets forth a specific and sufficient factual basis to impose individual liability on Irish.

¹¹ We address two points that our dissenting colleague makes. First, he states that "the mere fact that a hearing would delay the remedy does not constitute prejudice." We will refrain from a debate with our colleague over the definition of "prejudice," but we highlight that the Board has already found, on the merits, that Irish engaged in numerous and egregious unfair labor practices. The employees, whose Sec. 7 rights were wantonly violated by Irish, have been waiting over 4 years for a remedy. Most of that passage of time is the result of Irish's obfuscation and misconduct. Second, our colleague relies on the fact that the General Counsel did not inform Irish of the deficiencies in her November 10 letter before the General Counsel moved for summary judgment. But "[n]either the Board's Rules and Regulations nor our decisions require the Region to grant a respondent an opportunity to amend a defective answer before the General Counsel files for summary judgment." *Aquatech, Inc.*, 306 NLRB 975 fn. 6 (1991).

⁸ See, e.g., *Eckert Fire Protection Co.*, 329 NLRB 920, fn. 1 (1999), and cases cited (even considering the respondent's pro se status, the respondent's answer was insufficient because it did not address the substance of any complaint allegations).

In the absence of good cause for the Respondents' failure to file an adequate and timely answer, we deem the allegations in the amended compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the amounts of backpay due the unit employees are as stated in the amended compliance specification, and we will order the Respondents to pay those amounts, plus interest accrued to the date of payment. In addition, we conclude that the welfare fund payments owed are as stated in the amended compliance specification, and we will order the Respondents to pay those amounts to the funds on behalf of the unit employees, plus interest accrued to the date of payment. Finally, we will hold both Irish and AAM jointly and severally liable for those amounts.

ORDER

The National Labor Relations Board orders that the Respondents Advanced Architectural Metals, Inc., and its alter egos, Advanced Metals, Inc., Steel Specialties Unlimited, Inc., a single employer, and AAM, alter ego, Las Vegas, Nevada, their officers, agents, successors, and assigns, and Lori Irish, an individual, shall make whole the individuals named in the attached Appendix A by paying them the amounts following their names, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and State laws. The Respondents also shall make whole those individuals for payments due the contractual Health and Welfare and Pension funds by paying to the funds the amounts set forth in the attached Appendices B and C, plus the interest specified in the collective-bargaining agreement for delinquent contributions.

Dated, Washington, D.C. August 27, 2010

Wilma B. Liebman, Chairman

Craig Becker, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER SCHAUMBER, dissenting.

Contrary to my colleagues, I would deny the General Counsel's Motion for Default Judgment. Rather, I would grant the General Counsel's alternative Motion for Partial Summary Judgment, for the reasons discussed.

At the outset, I disagree with the majority's decision not to consider Irish's status as a pro se litigant. It is contrary to Board precedent. As acknowledged by the majority, the Board typically shows some leniency toward respondents who proceed without benefit of counsel. See, e.g., *LBE, Inc.*, 354 NLRB No. 115, slip op. at 1 (2009). The majority chooses not to do so here because of Irish's misconduct before the agency. Irish has indeed engaged in reprehensible conduct. That is irrelevant, however, to the determination of the sufficiency and timeliness of her answer as a pro se litigant. The Board's precedent would be rendered meaningless if the Board could choose not to apply it because it does not approve of a party or a party's behavior.¹ Therefore, unlike the majority, I would accord Irish the leniency any pro se litigant before the Board receives.

My colleagues conclude that Ms. Irish's November 10 letter is not a legally sufficient answer to the amended compliance specification. In my view, Irish's statements-- that she cannot be sued individually, that she "never has done business in excess of \$50,000 in on[e] year so [the Board has] no jurisdiction over" her, and that it was an "abuse of process to include" her--can reasonably be construed as a general denial in layman's language of her individual liability. To this end, Board precedent holds that a general denial of alter-ego status is sufficient to warrant a hearing. *Pallazola Electric*, 312 NLRB 569, 571 fn. 6 (1993) (citing *Best Roofing Co.*, 304 NLRB 727, 728 (1991)).

Contrary to my colleagues' assertion, the issues of Irish's liability and AAM's alter ego status have not been previously litigated. Neither Irish nor AAM were parties to this case until the General Counsel added them as Respondents when he issued the amended compliance specification. That is, the Respondents have never had an opportunity to defend against the allegation that AAM is an alter ego of the Respondents. To the extent there was some evidence introduced in the underlying proceeding that could go to Irish's individual liability, it clearly was not fully litigated and the Respondents were never placed on notice that her individual liability was an issue. Finally, the United States District Court's order-- finding, in the absence of any response by the Respondents, that the Respondents, including AAM and Irish, were in civil contempt of that Court's prior injunction--is no substitute for providing the Respondents the opportu-

¹ My colleagues state that it is appropriate for the Board to consider a pro se litigant's history with the agency in assessing whether to accord leniency to that litigant. However, they point to no case law where the Board has denied leniency on that basis and it is a slippery slope for the Board to start to engage in such an analysis..

nity to litigate Irish's individual liability and AAM's alter ego status in this proceeding.²

I also disagree with my colleagues' determination that Irish's December 24 response to the Board's Notice to Show Cause, in which she included an answer to the amended compliance specification, is untimely. My colleagues reason that, even considering Irish's pro se status, the Respondents have failed to establish good cause for their failure to file a timely answer. The majority's strict construction of the "good cause" requirement in Section 102.20 of the Board's Rules and Regulations is inconsistent with the construction given that same term by the federal courts, lacks a sound policy basis,³ and poses an undue risk of injustice. For reasons fully explained in my dissent in *Patrician Assisted Living Facility*, 339 NLRB 1153 (2003), the Board should apply to default judgment proceedings the same "good cause" standard used by the Federal courts in deciding whether to set aside an entry of default. "In applying that standard, three factors typically will be material: the reason or reasons the answer was untimely, the merits of the respondent's defense, and whether any party would suffer prejudice were the default set aside."⁴

Here, Irish, who responded on behalf of all of the Respondents, is unrepresented by counsel and not surprisingly may have failed to fully appreciate the significant consequences in Board proceedings of missing an answering deadline. Moreover, Irish was limited in her ability to file a timely answer due to her incarceration. I also find it significant that she made an attempt to comply with the Board's rules through her November 10 letter, addressed above. Finally, I find it troubling that the General Counsel failed to inform Irish, a pro se litigant,

that in his view her letter was not a sufficient answer and failed to give her a further extension to respond. Instead, he summarily filed for default judgment on December 8.⁵ Ms. Irish had no reason to know that her November 10 letter was not a legally sufficient answer to the amended compliance specification until the General Counsel's motion for default judgment and had every reason to believe that she filed a proper response. Indeed, in her December 24 filing, Ms. Irish states that she did everything she could to prepare an answer considering that she is incarcerated. Once she was informed that the General Counsel claimed that she had not filed an adequate answer, she timely filed responses to the Board's Notice to Show Cause. In her December 24 response, Ms. Irish, now having been alerted to some of the defects in her initial response to the amended compliance specification, made another attempt to file a more specific answer.

Turning next to the merits of the Respondents' defense, in her December 24 answer, Irish contends that three of the discriminatees, Juan Gasca Sr., Juan Gasca Jr., and Cesar Gasca, own and operate a powder coating business. She further states that Joseph King was a partner in this business. I find that Irish's statements place in issue the interim earnings of these four individuals. Because interim earnings are generally not matters within the knowledge of a respondent, a general denial is sufficient to defeat a motion for summary judgment. See, e.g., *Dews Construction Corp.*, 246 NLRB 945, 946-947 (1979), *enfd.* 578 F.2d 1374 (3d Cir. 1978). Also, in her December 24 answer, Ms. Irish generally denies "each and every allegation in the complaint." As I set forth above, because a general denial of alter-ego status is sufficient to warrant a hearing, Irish's response raises an issue as to her individual liability and the alter ego status of AAM that should be resolved at a hearing. In sum, if timely filed, Irish's December 24 answer would clearly be sufficient to warrant a hearing on the issues of the interim earnings of the four individuals referenced above, the individual liability of Irish, and the alter-ego status of AAM.

Finally, the mere fact that a hearing would delay the remedy does not constitute prejudice. Conversely, Irish certainly will be prejudiced if denied the opportunity for a hearing to defend against those allegations for which she has raised material issues of fact.⁶

² *Convergence Communications*, 342 NLRB at 919, cited by my colleagues, is distinguishable. There, the respondent's answer to the compliance specification focused on its conduct that had already been found unlawful in the underlying proceeding. In finding the respondent's answer legally insufficient, the Board noted that issues resolved in the underlying unfair labor practice proceeding could not be relitigated in the subsequent backpay proceeding. *Id.* In this case, the issues of Irish's individual liability and AAM's alter-ego status were not litigated in the underlying unfair labor practice proceeding.

My colleagues' claim—that they would be encouraging litigants to ignore Board orders in the future if they did not consider the findings of the District Court's contempt order—is speculative at best. In any event, they have misconstrued the thrust of my argument. A contempt order, regardless of whether it was granted by default, is not a substitute for a hearing on the merits of Irish's individual liability and AAM's alter-ego status.

³ See, e.g., *NLRB v. Washington Star Co.*, 732 F.2d 974 (D.C. Cir. 1984), and *NLRB v. Central Mercidita, Inc.*, 273 F.2d 370 (1st Cir. 1959) (circuit courts refused to defer to the Board's harsh application of its deadlines for filing exceptions to decisions of administrative law judges).

⁴ *Patrician*, 339 NLRB at 1158-1159, citing *KPS & Associates, Inc. v. Designs by FMC, Inc.*, 318 F.3d 1, 12 (1st Cir. 2003).

⁵ Cf. *Pearle Express*, 342 NLRB 669 (2004) (after receiving an insufficient response to a complaint, the region sent the pro se respondent a second letter noting that such response was insufficient and extended the time before it would file for default judgment).

⁶ The majority observes that employees will suffer prejudice as a result of any delay caused by a hearing. My colleagues misapprehend my application of a "prejudice" analysis in this case. I am, of course, not unmindful of the need to provide remedial relief to employees for the

Based on the foregoing analysis, it is my view that the Respondents have established good cause for their failure to file a timely answer to the amended compliance specification. Accordingly, I would deny the General Counsel's Motion for Default Judgment. Rather, I would grant the General Counsel's Motion for Partial Summary Judgment against the Respondent Advanced Architectural Metals, Inc. and its alter egos Respondents Advanced Metals, Inc., and Steel Specialties Unlimited, Inc., with respect to the gross backpay computations of the amended compliance specification and the net backpay computations of all of the alleged discriminatees, except for four individuals, Juan Gasca, Sr., Juan Gasca, Jr., and Cesar Gasca, and Joseph King, for whom the issue of their interim earnings should be remanded to be decided at a hearing. In addition, I would remand to a hearing the issues of the individual liability of Irish and the alter-ego status of AAM.⁷

Dated, Washington, D.C. August 27, 2010

Peter C. Schaumber, Member

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NET BACKPAY FOR AAM DISCRIMINATEES

Discriminatees	Net Backpay
Alvarez, Lurencio	11,170.21
Barrington, John	87,745.36
Bieschke, John	29,370.57
Burdett, Mathew	71,712.97
Corona, Isac	28,562.50
Davis, Glenn	63,138.06
Gasca, Cesar	42,885.59
Gasca, Sr., Juan	84,303.93
Gasca, Jr., Juan	49,525.17

Hernandez, Jose	35,820.32
Hughes, Karlton	42,318.99
King, Joseph	54,609.64
Mendoza, Victor	13,272.58
Torres, Felipe	41,661.77
Vega, Tirso	16,948.45
White, Matthew	58,988.40
TOTAL:	\$732,034.50

Respondents' unfair labor practices. But consistent with the Federal Court's approach that I adopted in my *Patrician* dissent, I apply a "prejudice to any party" legal analysis in determining if a hearing is necessary for a party to defend against the allegations raised.

⁷ See, e.g., *Kolin Plumbing Corp.*, 337 NLRB 234, 235-236 (2001) (granting partial summary judgment against the respondents where the issues of interim earnings and alter ego status, among other things, are remanded to be decided at a hearing).

APPENDIX B
BENEFIT FUND PAYMENTS FOR AAM
DISCRIMINATEES

Discriminatees	Net Backpay
Alvarez, Lurencio	15,326.75
Barrington, John	20,810.39
Bieschke, John	0.00
Burdett, Mathew	21,279.58
Corona, Isac	19,845.18
Davis, Glenn	0.00
Gasca, Cesar	20,536.12
Gasca, Sr., Juan	18,840.19
Gasca, Jr., Juan	20,574.80
Hernandez, Jose	20,548.95
Hughes, Karlton	25,746.17
King, Joseph	0.00
Mendoza, Victor	18,709.97
Torres, Felipe	19,818.33
Vega, Tirso	19,871.02
White, Matthew	19,550.00
TOTAL:	261,457.44

APPENDIX C
BENEFIT FUND PAYMENTS FOR SSU,
AMI, AND AAM EMPLOYEES

CLAIMANT	NET TOTAL
Achrem, Rodney	9,424.14
Aispuro, Jesus M.	1,501.75
Aker, Jr., Michael	2,002.33
Alvarez, Laurencio	13,030.13
Alvernaz, James	323.73
Arnold, Robert	1,633.64
Arnold, Scott	827.31
Arteaga, Mike	21,474.09
Austin, Deleon	443.63
Ayvazyan, Arthur	932.22
Bacum, Pratt	1,936.39
Basuladua, Anthony	1,606.66
Bean, Michael	2,230.14
Begala, Dave	26,518.88
Bluefield, Phillip	740.38
Brown, Tom	479.60
Bruns, August	9,319.23
Burns, Raun	3,225.31
Burges, Curtis	2,826.64
Cabrera, Saul	4,001.66
Cade, Wes	641.47
Caldwell, Maurice	4,843.96
Camara, Jonathan	968.19
Carmona, Gabriel	3,938.12
Carmona, Uriel	854.29
Chase, Richard	15,506.07
Clouthier, Henry	3,015.49
Davidson, Tracie	1,246.96
Delong, Ronald	1,222.98
Deweese, Adam	6,672.44
Deweese, Victor	3,759.46
Dobos, Jared	1,864.45
Duncan, David	26,602.81
Edwards, Amy	1,342.88
Edwards, Michael	23,725.21
Edwards, Timothy	19,432.79

Fajardo, Antonion	671.44
Farlow, Jeremy	16,207.48
Feldman, Eric	7,667.61
Flamar, Christopher	2,790.30
Floyd, Daniel D.	4,799.00
Frankenfield, Ryan	4,694.09
Glover, Ahmed	833.31
Gonzales, Marcus	827.31
Gonzalez, Everardo	2,769.69
Gonzalez, Isidro	1,696.59
Grenvil, Bruce	2,110.24
Gross, John J.	6,078.93
Guerrero, Malia	377.69
Hagedorn, Allen	5,461.45
Hanslmair, Mark	4,304.41
Hartley, Ronald P.	9,250.29
Hauser, Christopher	5,707.24
Herbert, Michael	1,097.09
Herman, Harvey	13,171.02
Herrera, Santos	22,412.31
Hill, Chris	3,740.88
Hines, Mike	131.89
Howes, George G.	911.24
Hubbard, William	2,110.24
Huggins, Sr., Matthew O.	2,290.09
Ibarra, Roberto	2,886.59
Jimenez, Gilbert R.	3,597.00
Juarez Lopez, Joaquin J.	6,312.74
Keefer, Todd	4,816.98
Kitt, Larry M.	22,775.01
Kuykendall, James	5,524.39
Lagace, Steven R.	10,707.07
Lenhart, Bill R.	407.66
Lewers, Steven	1,786.06
Loney, James	13,500.74
Lowe, Ralph	5,161.70
Luster, John E.	31,803.48
Maganda, Alfonso	11,618.31
Maldonado, Melissa	191.84
Mangum, Chris	5,164.69
Manning, Rose	1,822.48
Marin, Rolando	26,851.61
Marlar, Kevin	83.93

Martinez-Rojas, Cesar	3,420.15	Stuckey, Bryen	2,805.66
Mauro, Patricio	1,849.46	Suazo, Julian	581.52
Maxwell, Omar	1,600.67	Thompson, Shilo S.	1,335.69
Mercado, Sauza R.	2,044.30	Valdez, Ricardo	9,205.32
Michon, Phil	10,662.11	Varga, Peter	17,787.17
Miranda, Ruben	1,205.00	Vasquez, Juan	2,766.69
Montelongo, Oscar	3,779.85	Villegas, Robert	8,131.02
Murphy, Patrick	9,424.14	Vu, Matt	15,934.71
Neal, Ronald	2,068.28	Walker, Edwin, E.	9,580.01
Newberg, Donald	5,008.82	Wesley, Cade	479.60
Norwood, Larry	5,086.76	Whitfield, Shaun	15,377.18
Olvera, Elpidio	5,380.51	Whittenburg, Levi	2,149.21
Ortega, Marisol	1,822.48	Wilbanks, Gary	131.89
Osterman, Robert	8,995.50	William, Phillip	1,894.42
Palma-Villalobos, Gonzalo	1,458.58	Yalovich, Joseph M.	9,813.82
Paniagua, Antonin	3,536.45	Zapata, Jose	7,862.44
Parisi, Ellen M.	10,290.42	Zaporski, Chris	1,001.17
Parisi, Donald	2,140.22	TOTAL:	\$807,985.23
Parmenter, Jr., Mark	10,659.11		
Patterson, Dimitria	1,279.93		
Pierce, Casey	6,660.45		
Pierce, Chris A.	383.68		
Pollock, Steve	2,733.72		
Prieto, Patricia A.	559.21		
Quiroz, Oscar	6,813.32		
Ramirez, Alfonso	5,863.11		
Ramirez, Leonel S.	2,200.17		
Ramos, Juan	5,140.71		
Rodriguez, Jose	6,153.87		
Rojas, Cesar M.	5,587.34		
Ross, Joe	10,095.58		
Roth, David	179.85		
Ruiz, Abigail	95.92		
Runyen, David	4,454.29		
Sainz, Julio	3,330.68		
Salmon, Gayle	1,750.54		
Sandoval, Jose	3,686.93		
Sanford, Joseph	4,076.60		
Shephard, Robin	35,946.02		
Silveroli, Joe	2,086.26		
Smith, Grant	2,197.17		
Smith, Ronald	89.93		
Sonka, John	2,110.24		