



Weekly Summary of Cases

National Labor Relations Board

Week of November 8-12, 2010, W-3286

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Summarized Board Decisions

Metro One Loss Prevention Services Group (Guard Division NY), Inc. (2-CA-39315; 356 NLRB No. 20) New York, NY, November 8, 2010. [[HTML](#)] [[PDF](#)]

The Board found that the employer, which supplies security guards to retail stores, violated the Act by repeatedly making anti-union statements and threats, and by disciplining and discharging one pro-union employee. The employer's unlawful conduct included threats of layoff, a threat of more onerous working conditions, interrogation of employees about their union activities, solicitation of employees to engage in surveillance, and threats of reprisal.

Charge was filed by Allied International Union. Administrative Law Judge Steven Davis issued his decision April 21, 2010. Chairman Liebman and Members Becker and Hayes participated.

Roundy's Inc. (30-CA-17185, 356 NLRB No. 27) Milwaukee, WI, November 12, 2010. [[HTML](#)] [[PDF](#)]

The Board found that that the employer unlawfully prohibited handbilling by nonemployee union agents in front of 23 store locations where it had no property interest that authorized it to exclude the handbillers. The Board retained for future consideration allegations involving two store locations. The General Counsel has alleged that the employer violated federal labor law at those stores by denying the handbillers access to its property while permitting other individuals, groups, and organizations to use the premises for various activities. The Board issued a separate invitation for all interested parties to file briefs regarding the question of what legal standard the Board should apply in determining whether an employer has discriminated against nonemployee union agents seeking property access.

Charge filed by the Milwaukee Building and Construction Trades Council, AFL-CIO. Administrative Law Judge Robert A. Giannasi issued his initial decision on February 8, 2006 and his supplemental decision on March 28, 2007. Chairman Liebman and Members Becker, Pearce, and Hayes participated.

Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

Barstow Community Hospital-Operated by Community Health Systems, Inc. (31-CA-26057; 356 NLRB No.15) Barstow, CA, November 8, 2010. [[HTML](#)] [[PDF](#)]

The Board affirmed the administrative law judge's decision and supplemental decision following the Board's remand for further consideration in light of *Oakwood Healthcare*. The Board found that the respondent did not establish that a registered nurse (RN) was a statutory supervisor when acting as Relief Clinical Coordinator (RCC) under *Oakwood Healthcare*. Accordingly, the Board affirmed the judge's findings that the respondent unlawfully suspended and discharged the RN because of her protected, concerted activity while an RCC. The Board also agreed that the respondent unlawfully interrogated the RN during its pre-discharge investigation, and, therefore, did not pass on the judge's finding that the investigation itself was unlawful.

Charges were filed by United Nurses Association of California, Union of Health Care Professional, NUHHCE, AFSCME, AFL-CIO. Administrative Law Judge Lana H. Parke issued her decision August 29, 2003 and her supplemental decision February 23, 2007. Chairman Liebman and Members Pearce and Hayes participated.

E.A. Sween Co. (13-CA-45563; 356 NLRB No. 14) Woodridge, IL, November 9, 2010. [[HTML](#)] [[PDF](#)]

This is a refusal-to-bargain case in which the union requested that the respondent meet to bargain collectively with it as the exclusive collective-bargaining representative of the unit. By letter dated October 6, 2009, and at all times since the union's certification, the respondent has declined the union's request to meet and bargain. The Board found that this failure and refusal constituted an unlawful failure to recognize and bargain with the union in violation of the Act.

Charge filed by Teamsters Local 754, affiliated with the International Brotherhood of Teamsters. Chairman Liebman and Members Pearce and Hayes participated.

New Country Audi, Inc. (34-CA-12563; 356 NLRB No. 22) Greenwich, CT, November 9, 2010. [[HTML](#)] [[PDF](#)]

This is a refusal-to-bargain case in which the union requested that the respondent recognize and bargain with it as the exclusive collective-bargaining representative of the unit. By letter dated December 24, 2009, the respondent advised the union that it was refusing to recognize and

bargain with the union. It has continued to do so since the union's certification. The Board found that this failure and refusal constituted an unlawful failure and refusal to recognize and bargain with the union in violation of the Act.

Charge filed by International Association of Machinists & Aerospace Workers, AFL-CIO, District Lodge 26. Chairman Liebman and Members Becker and Hayes participated.

Cambridge Quality Care, LLC (12-CA-25854; 356 NLRB No. 24) St. Petersburg, FL and Brooklyn, NY, November 9, 2010. [[HTML](#)] [[PDF](#)] ***Snell Island SNF LLC d/b/a Shore Acres Rehabilitation and Nursing Center, LLC and HGOP, LLC d/b/a Cambridge Quality Care, LLC***

This is a refusal-to-bargain case in which the union, by letters, requested that the respondents recognize and bargain with it as the exclusive collective-bargaining representative of the unit. Since about March 24, 2008, and at all times thereafter, the respondents have failed and refused to recognize and bargain with the union as the exclusive collective-bargaining representative of the unit. The Board found that this failure and refusal constituted an unlawful refusal to recognize and bargain in violation of the Act.

Charge filed by United Food and Commercial Workers Union, Local 1625. Chairman Liebman and Members Becker and Hayes participated.

Carambola Beach Resort (24-CA-10951; 356 NLRB No. 23) Davis Bay, St. Croix, U.S. Virgin Islands, November 10, 2010. [[HTML](#)] [[PDF](#)] ***J.S. Carmbola, LLP, d/b/a Carambola Beach Resort***

This is a refusal-to-bargain case in which, about June 16, 2008, by electronic mail, the union requested that the respondent bargain collectively with it as the exclusive collective-bargaining representative of the unit. Since about June 25, 2008, and continuing after the union's certification, the respondent has failed and refused to recognize and bargain with the union as the exclusive collective-bargaining representative of the unit. The Board found that this failure and refusal constituted an unlawful failure and refusal to bargain in violation of the Act.

Charge filed by Our Virgin Islands Labor Union (OVILU). Chairman Liebman and Members Becker and Hayes participated.

Compucom Systems, Inc. (22-CA-28969; 356 NLRB No. 25) East Hanover and Florham Park, NJ and Suffern, NY, November 12, 2010. [[HTML](#)] [[PDF](#)]

This is a refusal-to-bargain case in which, by letters to the respondent, the union requested that the respondent bargain collectively with it as the exclusive collective-bargaining representative

of the unit and provide information for that purpose. By letter dated September 21, 2010, the respondent rejected the union's request, maintaining that it would be contesting the certification, and further asserting that it believed the union did not represent an uncoerced majority of unit employees at the Novartis site (the employees). The respondent failed and refused to recognize and bargain with the union as the exclusive collective-bargaining representative of the unit. The Board found that the failure to recognize and bargain with the union as the exclusive collective-bargaining representative of the unit violated the Act.

Charge filed by Communication Workers of America, Local 1032. Chairman Liebman and Members Pearce and Hayes participated.

Unpublished Board Decisions in Representation Cases

Tri-State Beef Co., Inc. and Tri-State Processing, Inc., A Single Employer for the Purposes of the NLRA (09-RC-18314) Cincinnati, OH, November 10, 2010. No exceptions having been filed to the Regional Director's report, accordingly, the Board adopted the Regional Director's findings and recommendations and found that a certification of results of election should be issued. Petitioner – United Food and Commercial Workers International Union, Local 75.

House of Raeford Farms, Inc. (11-RC-6740) Raeford, NC, November 10, 2010. Board Order denying employer's request for review of the Regional Director's decision and direction of election. Petitioner – United Food & Commercial Workers International Union, Local 204. Chairman Liebman and Members Becker and Hayes participated.

Permanente Medical Group and Kaiser Foundation Hospitals (The) (32-RC-5764, et al.) Oakland, CA, November 10, 2010. Board Order denying intervenor's request for review of the Regional Director's decision and direction of election. Petitioner – National Union of Healthcare Workers. Chairman Liebman and Members Pearce and Hayes participated.

75 Putnam Pike Operations, LLC, d/b/a Greenville Skilled Nursing and Rehabilitation Center (1-RC-22474) Greenville, RI, November 10, 2010. Board Order denying employer's request for review of the Regional Director's decision and direction of election. Petitioner – New England Healthcare Employees Union, District 1199, a/w Service Employees International Union (SEIU). Member Hayes dissented: He would grant review. Chairman Wilma B. Liebman and Members Becker and Hayes participated.

Decisions of Administrative Law Judges

CF Taffe Plumbing Co., Inc. (13-CA-45890; JD-64-10) Chicago, IL. Charge filed by an Individual. Administrative Law Judge Arthur J. Amchan issued his decision November 8, 2010. [\[HTML\]](#) [\[PDF\]](#)

American Medical Response of Connecticut, Inc. (34-CA-12465, et al.; JD(NY)-45-10) Avon, Southington, and Waterbury, CT. Charges filed by National Emergency Medical Services Association. Administrative Law Judge Mindy E. Landow issued her decision November 9, 2010. [[HTML](#)] [[PDF](#)]

Quality Health Services of P.R., Inc. d/b/a Hospital San Cristobal (24-CA-11438, et al.: JD(ATL)-24-10) Ponce, PR. Charges filed b Unidad Laboeal de Enfermeras Y Empleados de La Salud. Administrative Law Judge William N. Cates issued his decision November 9, 2010. [[HTML](#)] [[PDF](#)]

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