



Weekly Summary of Cases

National Labor Relations Board

Week of November 29 – December 3, 2010,
W-3289

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Summarized Board Decisions

G & T Terminal Packaging Co., Inc. and Mr. Sprout, Inc. and Tray Wrap, Inc., and Chain Trucking Inc., a single employer, and G & T Terminal Packaging Co., Inc., and Its Alter Ego Slow Pack, Inc. (2-CA-26738, et al.; 356 NLRB 41) Bronx, NY, November 30, 2010. [[HTML](#)] [[PDF](#)]

The Board, in this compliance case, adopted the administrative law judge's findings regarding reinstatement, backpay periods, interim job searches, benefit fund liability, and medical expense reimbursements. Unlike the judge, the Board directed the respondent to place in escrow for one year the backpay due a discriminatee whom the Region was unable to locate during its investigation of interim earnings.

Charges filed by Paper Products and Miscellaneous Drivers, Warehousemen, Helpers and Messengers, Local 27, IBT, now known as Private Sanitation Union, Local 813, IBT. Administrative Law Judge Raymond P. Green issued his supplemental decision October 19, 2006. Chairman Liebman and Members Pearce and Hayes participated.

American Medical Response (8-RC-17008; 356 NLRB No. 42) Cleveland, OH, November 30, 2010. [[HTML](#)] [[PDF](#)] ***Physicians & Surgeons Ambulance Service, Inc. d/b/a American Medical Response***

The Board majority overruled election objections filed by the employer and certified the union as the collective bargaining representative of a unit of emergency medical technicians. The employer contended in its objections that ballot secrecy in the election was compromised by the use of the Board's "table-top" voting booth, and its placement on a table 5 feet away from the table where the election observers and the Board agent were sitting. The Board majority overruled the objections because there was no evidence that any voter's ballot marking was observed while voting, or before the ballot was deposited in the ballot box. In dissent, Member Hayes stated that he would sustain the objections and set aside the election because the use of the booth and its close proximity to the voters, allowed their faces and arm movements to be seen as they voted, thereby compromising the privacy and secrecy of the voting process.

Petitioner – Teamsters, Local 507 a/w International Brotherhood of Teamsters. Chairman Liebman and Members Pearce and Hayes participated.

ManorCare Health Services—Easton (4-CA-36064, 36190; 356 NLRB No. 39) Eason, PA, December 1, 2010. [[HTML](#)] [[PDF](#)]

The Board found that the employer violated the Act by: (1) questioning an employee about her union support and activities, (2) promising to remedy employees' complaints and grievances in order to discourage them from unionizing, (3) granting benefits to employees in order to discourage them from unionizing, (4) threatening an employee with termination for supporting the union, (5) confiscating union literature, and (6) disciplining an employee for supporting the union.

Charge filed by Service Employees International Union Healthcare PA. Administrative Law Judge David I. Goldman issued his decision January 23, 2009. Chairman Liebman and Members Pearce and Hayes participated.

Approved Electric Corp. (29-CA-29184; 356 NLRB No. 45) Bronx, NY, December 3, 2010. [[HTML](#)] [[PDF](#)]

The Board agreed with the administrative law judge's conclusion that the employer, an electrical contractor whose employees are not represented by a union, violated the Act by discharging two employees for their concerted efforts to obtain payment for work they had performed. Supplementing the judge's rationale for the violations, the Board found that the two employees were engaged in concerted activity protected by the Act, that the employer had knowledge of that activity, that the circumstances surrounding the discharges supported a finding of animus toward the employees' protected activity, and that the employer failed to prove that it would have discharged the employees in the absence of that activity.

Charge filed by Local 25, International Brotherhood of Electrical Workers. Administrative Law Judge Raymond P. Green issued his decision June 9, 2009. Chairman Liebman and Members Becker and Pearce participated.

Covanta Bristol, Inc. (34-CA-12339; 356 NLRB No. 46) Bristol, CT, December 3, 2010. [[HTML](#)] [[PDF](#)]

The Board adopted the administrative law judge's finding that the employer violated the Act by threatening unspecified reprisals against employees for engaging in protected union activity, and by terminating an employee for union activity.

Charge filed by an Individual. Administrative Law Judge Michael A. Marcionese issued his decision June 16, 2010. Chairman Liebman and Members Becker and Hayes participated.

Testa Construction Company, Inc. (34-CA-12525; 356 NLRB No. 31) Stamford, CT, November 29, 2010. [[HTML](#)] [[PDF](#)]

The Acting General Counsel sought summary judgment in this case pursuant to the terms of a settlement agreement. The respondent failed to comply with the financial terms of the settlement agreement by failing to remit the agreed upon amounts due to employees. The Board found that all the allegations in the reissued complaint were true and granted the Acting General Counsel's Motion for Summary Judgment.

Charge filed by International Union of Operating Engineers, Local 478. Chairman Liebman and Members Becker and Hayes participated.

Mountain City Nursing and Rehabilitation Center (4-CA-37660; 356 NLRB No. 44) Hazle Township, PA, December 3, 2010. [[HTML](#)] [[PDF](#)] **Northern Health Facilities, Inc. (a subsidiary of Extencicare Health Services, Inc.) d/b/a Mountain City Nursing and Rehabilitation Center.**

This is a refusal-to-bargain case in which the respondent contested the union's certification as bargaining representative in the underlying representation proceeding.

Charge filed by SEIU Healthcare Pennsylvania. Chairman Liebman and Members Becker and Pearce 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.

Bally's Park Place Inc., d/b/a Bally's Atlantic City (4-CA-36109, 4-RC-21286; 356 NLRB No. 40) Atlantic City, NJ, November 30, 2010. [[HTML](#)] [[PDF](#)]

The Board issued the certification of the union and a notice to show cause why the Board should not grant the General Counsel's Motion for Summary Judgment, returnable December 31, 2010.

Charges filed by International Union, United Automobile Aerospace and Agricultural Implement Workers of America, AFL-CIO. Administrative Law Judge David I. Goldman issued his decision October 18, 2007. Chairman Liebman and Members Becker and Pearce participated.

Unpublished Board Decisions in Representation Cases

Ruan Transport Company (13-RC-21909) Franklin Park, IL, November 30, 2010. The Board having reviewed the record in light of exceptions and briefs adopted the Hearing Officer's findings and recommendations and found that a certification of representative should be issued. Petitioner – Teamsters, Local 705, affiliated with the International Brotherhood of Teamsters. Members Becker, Pearce, and Hayes participated.

Eagle Creek Mining, LLC (9-RC-18325) Sharples, WV, November 30, 2010. Order amending the Regional Director's decision to permit Parts Runner Ferrell to vote under challenge and denying the employer's request for review. Petitioner – United Mine Workers of America, AFL-CIO. Chairman Liebman and Members Becker and Pearce participated.

American Bottling Company aka Seven-Up/RC Bottling (21-RC-2121) San Diego, CA, December 1, 2010. The Board considered objections to an election held August 12, 2010, and the Hearing Officer's report recommending disposition of them. No exceptions having been filed to the Hearing Officer's report, the Board adopted the Hearing Officer's findings and recommendations and found that a certification of representative should be issued. Petitioner – Salesdrivers, Helpers, and Dairy Employees, Local 683, International Brotherhood of Teamsters.

Thunder Valley Casino (20-RD-2488) Lincoln, CA, December 2, 2010. Order remanding petitioner's request for review of the Acting Regional Director's administrative dismissal of the petition. Petitioner – an Individual. Chairman Liebman and Members Becker and Pearce participated.

Decisions of Administrative Law Judges

Sandra Parker, Clyde Gibbs, and Fort Sutter Company, d/b/a Best Western Sutter House (20-CA-34827; JD(SF)-49-10) Sacramento, CA. Charge filed by UNITE HERE! Local 49. Administrative Law Judge James M. Kennedy issued his decision November 29, 2010. .
[\[HTML\]](#) [\[PDF\]](#)

Howard University Hospital (5-CA-35584; JD-65-10) Washington, DC. Charge filed by an Individual. Administrative Law Judge Geoffrey Carter issued his decision December 1, 2010.
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Sabo, Inc., d/b/a Hoodview Vending Co. (36-CA-10615; JD(SF)-50-10) Tualatin, OR. Charge filed by Association of Western Pulp and Paper Workers Union, affiliated with United Brotherhood of Carpenters and Joiners of America. Administrative Law Judge Lana Parke issued her decision November 30, 2010. [\[HTML\]](#) [\[PDF\]](#)

Miceli & Oldfield, Inc. (7-CA-52862; JD(ATL)-25-10) Taylor, MI. Charge filed by an Individual. Administrative Law Judge Keltner W. Locke issued his decision December 3, 2010.
[\[HTML\]](#) [\[PDF\]](#)

National Posta Mail Handlers Union, Local 306 (U.S. Postal Service) (13-CB-19292, et al.; JD(NY)-49-10) Palatine, IL. Charge filed by an Individual. Administrative Law Judge Jowl P. Biblowitz issued his decision December 3, 2010. [[HTML](#)] [[PDF](#)]

UPS Supply Chain Solutions, Inc. (12-CA-26437, et al.; JD(ATL)-26-10) Miami, FL. Charge filed by Teamsters Local 769, affiliated with International Brotherhood of Teamsters. Administrative Law Judge Michael A. Marcionese issued his decision December 3, 2010. [[HTML](#)] [[PDF](#)]

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