

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 14

OLIVER C. JOSEPH, INC.

Employer

and

Case 14-RC-12830

INTERNATIONAL ASSOCIATION OF MACHINISTS  
AND AEROSPACE WORKERS, AFL-CIO

Petitioner

**DECISION AND DIRECTION OF ELECTION**

The Employer, Oliver C. Joseph, Inc., is engaged in the retail sale of new and used automobiles and parts and repair services at its dealership located in Belleville, Illinois. The Petitioner, International Association of Machinists and Aerospace Workers, AFL-CIO, ("Machinists) filed a petition with the National Labor Relations Board under Section 9(a) of the National Labor Relations Act seeking to represent a unit of all full-time and regular part-time Technicians, Apprentices, Lube Technicians, Specialists, and Helpers employed by the Employer at its facility located in Belleville, Illinois excluding office clerical employees, professional employees, managerial employees, guards and supervisors, as defined in the Act.<sup>1</sup>

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<sup>1</sup> At hearing, the parties stipulated that the appropriate unit should include all full-time and regular part-time journeymen, service technicians, lube and oil employees, and exclude parts employees, sales employees, service advisors, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

A hearing officer of the Board held a hearing and the parties were afforded the opportunity to file briefs.<sup>2</sup> As evidenced at hearing and in the briefs, there is one issue in dispute: Whether the detail employees should be included in the appropriate bargaining unit. The Petitioner contends that the detail employees should be excluded from the unit sought as they are not highly-trained skilled craftsmen as are the journeymen, service technicians and lube and oil employees and, in any event, the detail employees are covered by the collective-bargaining agreement between the Employer and the Teamsters. The Petitioner contends that the appropriate unit includes 13 employees: six journeymen, three service technicians and four lube and oil employees. The Employer contends that the appropriate unit should include all 18 employees performing work in the service area located in the rear of the facility which includes the above-listed employees and five detail employees.

I have considered the evidence and the arguments presented by the parties on the issue. After due consideration, I have concluded that a unit of journeymen, service technicians and lube and oil employees is an appropriate unit and that the detail employees do not have such an overwhelming community of interest with those employees so as to compel their inclusion in the unit. I have also concluded the unit

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<sup>2</sup> Subsequent to the close of the initial hearing on July 18, 2011, the undersigned was advised that Teamsters, Automotive, Petroleum and Allied Trades, Local 50 ("Teamsters"), which did not participate in the initial hearing, was asserting that the detail employees whose status in the unit is in dispute, as more fully discussed below, are already encompassed within the utility employee classification in the bargaining unit set forth in a contract it has with the Employer. Accordingly, I ordered that the record be reopened to receive evidence on the issue. Although the Employer opposed reopening the hearing, on July 29, 2011, the Board denied its appeal of the Order Denying Motion to Reconsider Reopening Hearing. Accordingly, on August 1 and 2, additional testimony was taken. The Employer and Petitioner filed briefs. However, the Teamsters have not done so.

sought by the Petitioner is a craft unit from which detail employees must be excluded. Accordingly, I have directed an election in a unit that consists of 13 employees: six journeymen, three service technicians and four lube and oil employees.<sup>3</sup>

## I. OVERVIEW OF OPERATIONS

The Employer operates a Chrysler-Dodge-Jeep brands automotive dealership selling new and used automobiles. The Employer also has service and parts departments but does not provide body work. In these operations, the Employer employs approximately 60 sales, service, parts and office employees. The Employer's Acting President is responsible for its overall operations. Reporting directly to the Acting President is the general manager and the office manager. The sales, service and parts managers report to the general manager.<sup>4</sup>

The Employer's facility is housed in a single 40,000 square foot building. The service department is comprised of an 8,000 square foot area located in the rear of the Employer's facility separated from the other departments by floor to ceiling fire walls. Within the service department is a 600 square foot detail area. The service department is located directly behind the parts department and the lunch room area which also contains a bathroom and a changing room with lockers and showers. The service advisor area, where customers drop off their automobiles for repair and confer with a

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<sup>3</sup> Inasmuch as I have determined that the detail employees should be excluded from the appropriate unit, the issue as to whether those employees are covered by the collective-bargaining agreement between the Employer and Teamsters is irrelevant to these proceedings. Accordingly, no finding is being made as to whether the Teamsters, in fact, represent the detail employees. Notwithstanding the above, for purposes of review only, later in this report I recite some of the facts presented during the hearing on this issue.

<sup>4</sup> The parties stipulated that these managers are supervisors within the meaning of the Act.

service advisor, is adjacent to the lunch room area. A vehicle delivery area is adjacent to the parts room. The sales floor is located directly in front of the parts and lunch room areas.

All employees may use the lunch room, bathrooms and the changing room, however, the latter two areas are predominantly used by the employees working in the service department. Lunch and break times vary depending on an employee's schedule. One time clock is used by all the Employer's employees. All of the Employer's departments are open from 7 a.m. to 8 p.m., Monday through Friday and 8 a.m. to 4:30 p.m. on Saturday.

Prior to a lockout in 1998, the Petitioner represented the Employer's journeymen, service technicians, and lube and oil employees. The bargaining unit did not include detail employees.

Currently, the Teamsters are party to a collective-bargaining agreement with the Employer effective from August 1, 2009 through August 1, 2012, covering the Employer's Class A working parts department managers, Class A-1 part department counterman, Class A-2 journeymen parts department, stockman and warehousemen, and Class B utility employees. This bargaining relationship began in August 2000 and has been covered by successive collective-bargaining agreements.

Since 2003, Article 10, Section 2 of the Employer's contracts with the Teamsters has stated that "A utility employee shall be used to fulfill any duties of the establishment covered by this contract, except that he shall not be a Parts Department Manager or full-time counterman." Article 10, Section 8 of those contracts state that no employee will be required to wash any automobiles when the temperature is below freezing,

unless such washing jobs are done in a heated washing rack. Article 10, Sections 9 and 10 refer to hire and promotion possibilities of utility employees to positions within the parts department. Although the contracts do not specifically mention detail employees, the Teamsters contend detail employees are included within the utility classification.<sup>5</sup>

The record reveals the Teamsters' contracts have contained union security clauses. Notwithstanding that provision, it appears none of the detail employees have ever been members of the Teamsters or ever asked to become members. Further, there has been no specific discussion of detail employees in contract negotiations; the wage provisions of the Teamsters' contracts apparently have never been applied to the detail employees; and no grievances have ever been filed on behalf of detail employees. In this regard, the Teamsters contend they were unaware that the Employer employed detail employees and during the hearing contended it was their belief that such work had been contracted out, although it was admitted representatives visit the facility several times per year.

The Employer contends the Teamsters' denial of knowledge that detail work was being done at the Employer is disingenuous. In this regard, it presented evidence that between 2000 and 2005, the Employer averaged 1500 car washes and 420 detail jobs a

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<sup>5</sup> During the hearing, apparently to show area industry practice, the Employer presented a witness who testified that he called numerous dealerships in the area and asked "Are your detailers covered under a Teamsters contract?" He testified that none replied in the affirmative. The witness admitted he did not ask whether utility employees were covered by such contracts. Moreover, it appears only two of the dealerships contacted have contracts with the Teamsters. In light of the circumstances and nature of the survey, I find this hearsay evidence of very little value towards determining whether there is an area industry practice as to the placement of detail employees in bargaining units.

year of which 80% were contracted out and that since moving into the new facility in 2006, the amount of car wash and detail work has doubled of which 30% has been contracted out.<sup>6</sup> The Employer asserts that Teamsters' agents had to have seen the detail employees working whenever they visited the Employer's facility. Finally, the Employer presented evidence that in August 2000, the Teamsters proposed to the St. Clair Madison County Automobile Dealers to include "detailmen" in the utility classification. It contends that fact belies any notion that the general utility classification already includes detail employees.

## **II. THE SERVICE DEPARTMENT**

The service department operates under the overall supervision of the service manager who directly supervises the six journeymen, the three service technicians, the four lube and oil employees, and the five detail employees. Within the service department there are three sections of bays. There are 10 to 12 bays for automotive repairs utilized by the journeymen and service technicians to perform their duties. The lube and oil employees work in another two bays. There are two bays in which the detailers wash and detail cars. The detailers' bays are separated from the lube and oil area by an 8-foot wall which does not extend to the ceiling. One of the two detailer bays contains a car wash machine.

### **A. Supervision**

The service manager ensures the entire department is adequately staffed, employees arrive at work on time and have adequate work to keep them busy, work is distributed and completed in a timely manner, and invoices are prepared. The service

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<sup>6</sup> The record is not clear as to whether the Teamsters were ever advised of the change in percentage of subcontracting.

manager also ensures customers are waited on and, if necessary, have transportation provided, and they are notified when their vehicles are ready for delivery. The service manager is also responsible for hiring and disciplining all the service department employees. The service manager's office is not located in the service area and no other supervisors are located in the area. When journeymen, service technicians, and lube and oil employees call in sick, they report to the service advisor who is responsible for scheduling retail service work whereas detail employees notify the service manager if they are going to be absent. The record reflects that there are periodic meetings of all the employees within the service department. However, it does not reveal frequency of such meetings or their purpose.

**B. Job duties**

Journeymen perform complete automotive repair including test driving for diagnosis and physically removing and replacing parts. Service technicians have similar duties. However, because they are not as skilled or experienced as the journeymen, they perform less complex and less difficult repairs. The service advisors, while working in a separate area from the service department, assign work orders to a specific journeyman or service technician after talking with the customer about a problem and scheduling an appointment. The service advisor's assignment of work is based on his/her knowledge of each journeyman's and service advisor's particular skill set, work schedule, and availability. When customers deliver a vehicle for repair, they meet with a service advisor who conducts a brief inspection of the exterior of the car for properly working lights, discusses and diagnoses the problem, completes a work order,

and delivers the work order to the assigned journeyman or service technician. Upon completion of the repair, the service advisor contacts the customer.

The lube and oil employees perform minor maintenance automotive work such as changing oil, oil filters, and air filters, performing tire mounting, balancing and rotations, installing custom wheels, tires, and other accessories, running battery tests, flushing radiators, and performing minor exhaust work. Their duties are repetitive each day and 90% of their duties consist of performing oil, lube and filter changes.

The detail employees physically clean and ready for delivery vehicles that come into the dealership for sale from the factory, auto auctions or as trade-ins, and when customers bring their vehicles in for service. This includes removing shipping materials from the vehicles and cleaning and polishing them for display. When a vehicle is later sold, the detailer again cleans, readies and gases the vehicle for delivery. The detail employees also perform minor paint repairs and touch-ups.

All service department employees assist in keeping the service area clean.

### **C. Tools and equipment**

Journeyman and service technicians are required to provide their own tools. Journeyman's personal tools can be valued as much as \$20,000 to \$50,000 while service technicians' personal tools can be valued between \$6,000 up to \$20,000. These personal tools are kept near the bay where they typically work although bays are not assigned to specific employees. The Employer provides specialty tools, major diagnostic equipment, and measuring tools which are kept in the bay areas near where the journeymen and service technicians work. These tools and equipment include gas tank jacks, charging system testers, Chrysler provided computerized equipment, brake

lathes, wheel balancing machines, and tire changing machines. The lube and oil and detail employees do not utilize these tools and equipment as it is not required for the duties they typically perform and they generally do not enter the tool area where these are kept.

Currently, all of the lube and oil employees supply their own basic tools, however, the Employer does not require them to do so. Their tools can be valued as much as \$300. All personal tools are insured by the Employer. Other tools provided by the Employer such as oil distribution equipment, tool carts and oil filters are in the service area and are for the general use of all the service department employees.

The detail employees do not supply any of their own tools or equipment. Detail employees frequently use specialized cleaning tools provided by the Employer including vacuums, shampooers, an ionizer to remove odors, a pressure vessel to spray chemicals on interior materials and an orbital buffer for minor paint repairs and touch-ups.

#### **D. Training and experience**

Journeyman must have graduated from a trade school and have substantial mechanical experience before working for a dealership similar to the Employer. In addition, they have to have particular training leading to either Chrysler and ASE (Association Service Excellence) certifications or both. The ASE master certifications consist of 8 categories: engine, transmission, electrical, body, diagnostics, brakes, steering, and an unnamed eighth category. Chrysler certification for journeymen is complex and substantial covering 11 different categories. Chrysler requires that specific training requirements be met each quarter and that different journeymen be trained in

multiple categories so that the Employer can be reimbursed for performing warranty work. Journeymen and service technicians cannot perform warranty work in a category if they have not been specifically trained. Annually, journeymen complete 40 to 60 hours of training for Chrysler certification and 24 hours of ASE training, totalling 80 to 90 hours of annual training for each journeyman.

Service technicians typically have attended, if not graduated from, a trade school and have substantial experience though not as much as required for journeymen. Service technicians' experience generally comes from employment with independent repair shops. Service technicians also attend Chrysler and ASE training, annually receiving 20 to 40 hours of Chrysler training and up to an additional 24 hours of ASE training totally 40 to 60 hours of annual training.

Neither lube and oil nor detail employees attend any of the Chrysler or ASE training programs provided to the journeymen and service advisors. Lube and oil employees are not required to have any prior experience or certifications to be hired. They receive on-the-job training during their initial month of employment. In addition, lube and oil employees receive 12 to 20 hours training per year.

Detail employees are hired without any prior related experience and those currently employed have had a variety of non-automotive related work experiences. Detail employees learn their job duties while on the job during approximately the first month of employment. They are required to attend a rudimentary training program related to customer satisfaction, operation of the cleaning equipment and use of particular chemicals. Detail employees also receive 10 to 15 hours of training per year typically given by manufacturers of the equipment, polishes and chemicals used by the

detailers in performing their duties. They also can take online classes provided by Chrysler.

All employees also attend general subject Employer training on such topics as sexual harassment and anti-discrimination.

#### **E. Interaction and interchange of service department employees**

The journeymen and service technicians both perform automotive repair work with varying degrees of complexity and difficulty. The lube and oil employees perform minor automotive maintenance work while detail employees perform no work related to the mechanical operations of a vehicle. Neither journeymen nor service technicians perform any lube and oil or detail work. Lube and oil employees and detail employees do not perform each other's type of work.

While the service department is one large open area, the bays for each type of work performed are in their own distinct section of the service department. The detailer bays are separated from the other two areas by a 8 foot wall to avoid water from car washing interfering with other automotive repair and maintenance duties. All service department employees work within view of each other and may cross paths while accessing the parts room, lunch room, bathrooms, changing rooms, tool room and exit doors. Parts employees also use the same lunch room, bathrooms and changing room. Detail employees may go into another section of the service department to drive a vehicle to the detail area for cleaning after repairs and service are complete. Parts employees are also able to see the service area because of a large window in the parts department which looks out into the service area. Parts employees and all service department employees interact with each other on a daily basis as service employees

request and pick parts and supplies from the parts department. Parts department employees may also enter the Employer's facility through two pedestrian entrances in the service department.

The record reflects that since August 1981 only one employee has been hired as a lube and oil employee. This was because no position was open as a service technician at the time. The employee was later moved into a service technician position and then to a journeyman position when those positions became available. The record also reflects that since 1981 only one employee has been moved from a detailer position to a lube and oil position.

**F. Wages, hours and benefits**

The Employer provides the same insurance benefits and 401(k) plan to all the service department employees.<sup>7</sup> All the service department employees are paid an hourly rate. Wage rates are determined by the Acting President with input from the general manager and the service manager. Journeyman earn between \$23.50 and \$28 per hour. In addition, they can earn a flat rate based on the type of repair they are doing. Service technicians' hourly wage rates are between \$13.50 and \$20 per hour. They too earn a flat rate. Lube and oil employees earn between \$10 and \$15 per hour and detailers earn between \$8.50 and \$10.50 per hour. None of the latter employees earn a flat rate or commission.

Service department employees all work 40 hours per week but their individual schedules may vary to provide coverage for all hours the Employer is open. One of the

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<sup>7</sup> The record is silent as to whether all employees, other than the parts department employees, receive the same benefits.

detail employees starts early while the remainder start later in the day when more automobiles are sold and need readying for delivery.

The service department employees, including the detailers, wear uniforms consisting of dark blue pants or shorts, in the summertime, and a grayish blue shirt. Parts department employees have similar uniforms but may also wear khaki pants and a different style of t-shirt or polo shirt. The Employer pays for the entire cost of employee uniforms.

### III. THE SCOPE OF THE UNIT

The Petitioner seeks a unit of journeymen, service technicians, and lube and oil employees and contends that unit is an appropriate unit within the meaning of the Act. The Employer contends that the unit must include all the employees working in the service department area including the detailers.

The Board has long held that there is nothing in the statute which requires that the unit for bargaining be the only appropriate unit, the *ultimate* unit, or the *most* appropriate unit. Rather, it has consistently held the Act requires only that the unit sought be "appropriate." *Bartlett Collins Co.*, 334 NLRB 484 (2001). A union is not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballentine & Sons*, 141 NLRB 1103 (1963); *Bamberger's Paramus*, 151 NLRB 748, 751 (1965); *Purity Food Stores*, 160 NLRB 651 (1966). Accordingly, a question before me is whether the unit sought by the Petitioner is an appropriate unit. There is also a question as to whether the unit sought by the Petitioner is a craft unit from which detail employers should be excluded.

With respect to the first question, although the detail employees share some common working conditions with the other service department employees, the journeymen, service technicians, and lube and oil employees are the only employees in the service department who perform mechanical and repair work. Thus, their technical skills, though varying in degree among the three classifications, are distinct from the skills of the detailers. The journeymen and service technicians all have extensive training; they are ASE certified in multiple areas; and possess the master certifications in many areas offered by Chrysler. They perform skilled automotive repair work utilizing specialized tools. The lube and oil employees perform maintenance on vehicles as well as minor automotive repairs. The journeymen, service technicians, and lube and oil employees are the only employees who perform mechanical automotive repairs. These are distinct from the skills utilized by the detailers who perform no duties related to the proper mechanical operation of automobiles. The journeymen, service technicians, and lube and oil employees do not interchange or perform the duties of the detailers and the detailers do not perform the duties of any other service department employees.

Given the significantly lower skills and wages of the detail employees and the absence of interchange between the detail employees with the journeymen, service technicians, and the lube and oil employees, I find the detail employees do not share such an overwhelming community of interest with the other employees in the unit sought by the Petitioner so as to render that unit inappropriate. To the contrary, I find that in light of the similarity in duties between the journeymen, service technicians, and the lube and oil employees in the performance of degrees of mechanical work on automotives, the use of similar tools, a unit consisting of journeymen, service

technicians, and the lube and oil employees, excluding the detail employees constitutes “an appropriate unit” within the meaning of the Act.

With respect to the issue as to whether the unit sought by the Petitioner is a craft unit from which the detail employees should be excluded because of their lesser skills and ability, a craft unit is defined as:

. . . one consisting of a distinct and homogeneous group of skilled journeyman craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1997).

In *Burns & Roe*, supra at 1308, the Board described the test for a craft unit:

In determining whether a petitioned-for group of employees constitutes a separate craft unit, the Board looks at whether the petitioned-for employees participate in formal training or apprenticeship program; whether the work is functionally integrated with the work of the excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits and cross-training.

Applying the above, I note that in *Dodge City of Wauwatosa*, 282 NLRB 459 (1986), the Board stated that “mechanics possessing skills and training unique among other employees constitute a group of craft employees within an automotive...department, and therefore may, if requested, be represented in a separate unit, excluding other service department employees.” *Id.* at 460.

Subsequently, in *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990), the Board found that the quick service technicians, who handled lubrication, oil and filter changes, belts, hoses and other simple mechanical repair work should be included in a unit of

service technicians as helpers or trainees although they were not as skilled as the service technicians because they were nevertheless engaged in mechanical work. In so doing, the Board stated it has long held that a craft unit “consists of a distinct and homogeneous group of skilled journeymen craftsmen, working as such, together with their apprentices and/or helpers. Id. quoting *American Potash & Chemical Corp.*, 107 NLRB 1418, 1423). In *Dodge City of Wauwatosa*, supra, the Board also included lube and oil work employees in the craft unit.

If there is no history of collective bargaining on a more comprehensive basis, a craft department group having a separate identity of functions, skills, and supervision, exercising craft skills is generally considered to be an appropriate unit. *E.I. Du Pont & Co.*, 162 NLRB 413 (1966). In determining craft status, the Board has also held that the weight given to a prior history of collective bargaining is “substantial” but not “conclusive.” *Turner Industries Group, LLC*, 349 NLRB 428, 430-431 (2007) citing *A.C. Pavement Stripping Co.*, 296 NLRB 206, 2010 (1989).<sup>8</sup>

In this case, the duties, skills and responsibilities of the journeymen, service technicians, and lube and oil employees sought by the Petitioner in this matter are quite similar to those *Dodge City of Wauwatosa*, supra and *Fletcher Jones Chevrolet*, supra. Moreover, there is a history of collective bargaining between the Petitioner and the

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<sup>8</sup> The Board will not give controlling weight to a history of collective bargaining “to the extent that it departs from statutory provisions or clearly established Board policy concerning the composition and scope of bargaining units.” *A.C. Pavement Stripping Co.*, supra quoting *William J. Keller, Inc.*, 198 NLRB 1144, 1145 (1972). The omission of detail employees from the unit prior to 1998 would not constitute a departure from statutory provisions or established Board policy.

Employer which ended in 1998.<sup>9</sup> This historical unit included the exact classifications the Petitioner seeks to represent here.

Accordingly, I find that the journeymen, service technicians and lube and oil employees constitute a craft unit from which the detail employees must be excluded because of their significantly lesser skills, abilities and differing working conditions and terms of employment.

#### **IV. CONCLUSIONS AND FINDING**

Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce with the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction here.
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time journeymen, service technicians and lube and oil employees employed by the Employer in its Service Department located at the Employer's Belleville, Illinois facility excluding all office clerical employees, professional employees, parts employees, detail employees, sales employees,

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<sup>9</sup> The record does not reflect the circumstances under which the Petitioner ceased representation of the unit employees sought here.

service advisors, managerial employees, guards and supervisors as defined in the Act.

## **V. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees in this unit will vote on whether or not they wish to be represented for purposes of collective bargaining by International Association of Machinists and Aerospace Workers, AFL-CIO. The date, time, and place of the election will be specified in the Notice of Election that the Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately prior to the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are: (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged

for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

**B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters in the unit. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 1222 Spruce Street, Room 8.302, St. Louis, MO 63103, on or before **August 19, 2011**. No extension of time to file the list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file the list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (314)

539-7794. Because the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office. To file the eligibility list electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.

### **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

## **VI. RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington D.C. 20570-0001. This request must be received by the Board in Washington by **August 26, 2011**.

The request may be filed electronically through the Agency's website, [www.nlr.gov](http://www.nlr.gov),<sup>10</sup> but may not be filed by facsimile.

Issued August 12, 2011, at St. Louis, Missouri.

/s/ [Claude T. Harrell Jr.]  
Claude T. Harrell Jr., Regional Director  
National Labor Relations Board  
Region 14  
1222 Spruce Street, Room 8.302  
St. Louis, MO 63103-2829

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<sup>10</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov), select File Case Documents, enter the NLRB Case Number, and follow the detailed instructions.