

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**HYUNDAI OF WHITE PLAINS, LLC**  
Employer

and

**Case No. 02-RC-070017**

**UNITED SERVICE WORKERS UNION LOCAL 355, IUJAT**  
Petitioner

and

**LOCAL 917, INTERNATIONAL BROTHERHOOD OF TEAMSTERS**  
Intervenor

*Gary P. Rothman, Esq. (Richard M. Greenspan, PC),  
Ardsley, NY, for the Petitioner.*

*James E. McGrath and Robert M. Tucker, Esqs.  
(Putney, Twombly, Hall & Hirson, LLP),  
New York, NY, for the Employer.*

**RECOMMENDED DECISION ON CHALLENGED BALLOTS**

**I. Statement of the Case**

Based on a petition<sup>1</sup> filed on December 2, 2011 by United Service Workers Union Local 355 (Petitioner or Local 355), and pursuant to a Stipulated Election Agreement approved by the Regional Director for Region 2 on December 16, an election was held on January 13, 2012 in the following unit:

All full-time and regular part-time Hyundai technicians employed by the Employer at its facility located at 70 Westchester Avenue, White Plains, NY, but excluding all other employees, including office clerical employees, parts department employees, washers, porters, and managers, and guards, professional employees and supervisors as defined in the Act.

The tally of ballots showed that of approximately nine eligible voters, four votes were cast for the Petitioner, no votes were cast for Local 917, International Brotherhood of Teamsters (Intervenor),<sup>2</sup> and three votes were cast against the participating labor organizations. There

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<sup>1</sup> There was testimony that an amended petition was filed, but none was offered in evidence. However it appears, as represented by counsel, that the original petition was amended in the Stipulated Election Agreement, as will be discussed below, and that no amended petition was filed.

<sup>2</sup> Counsel for the Petitioner stated that it was his understanding that the Intervenor had submitted a disclaimer of interest in the matter.

were two challenged ballots which were sufficient in number to affect the results of the election.

On January 18, 2012, the Petitioner filed timely objections to the conduct of the election which are being held in abeyance pending the resolution of the challenged ballots.

On April 4, 2012, the Regional Director issued a Notice of Hearing on Challenges, in which she stated that the challenges to the ballots of Carlos Ramirez and Jose Manuel Guillen-Cortez (referred to herein as Cortez) raise substantial and material factual issues which may best be resolved on the basis of record testimony at a hearing.

A hearing in this matter was conducted before me in New York, NY, on April 12, 2012 at which the Employer and Petitioner appeared. There was no appearance by the Intervenor. Based upon the record and my observation of the demeanor of the witnesses and the briefs submitted by the Employer and the Petitioner, I make the following recommended Decision:

## II. Findings of Fact

### A. The Employer's facility

The facility at issue here, 70 Westchester Avenue, White Plains, NY, was originally a Chrysler Jeep Dodge (called Chrysler herein) new car showroom and a Chrysler service center. The service technicians (herein called technicians) who performed mechanical work on the Chrysler vehicles were represented by the Intervenor, and continued to be represented by the Intervenor at the time of the election.

In 2009, a Hyundai service department was added to this facility.<sup>3</sup> Technicians were either hired directly to service the Hyundai vehicles or were transferred from the Chrysler service facility. Chrysler continued to operate a service facility for Chrysler vehicles at the location.

The facility is comprised of two adjoining buildings, called the "old" and the "new" building. The "new" building has a Chrysler showroom on the first floor where the service advisors of both Hyundai and Chrysler are located in very close proximity to each other. The first floor of that building also has a Chrysler service area. The second, "old" building, contains a Chrysler service area on the first floor, and another Chrysler service one level below the ground floor. The Hyundai service area is on the second floor of that building.

Luciano Caferra is the director of the service and parts departments for Hyundai of White Plains and Chrysler of White Plains. He stated that everyone below him in the service and parts departments reports to him. The customer enters the Chrysler showroom and, depending on which vehicle is brought in for service, sees a Hyundai or Chrysler service advisor who writes a repair order.

The Hyundai service advisors are Mike Hunter and Juan. However, Caferra stated that he, Hyundai service manager Henry Soeker, and Nick Stansa, the Hyundai dispatcher, also have the authority to write Hyundai repair orders.

The Chrysler service manager is Victor Argreus. Sanquitez Martinez is the parts manager for both Chrysler and Hyundai.

<sup>3</sup> The Hyundai showroom was located a few blocks away and is not at issue here.

## B. Changes made in the Stipulated Election Agreement

5 The petition, filed on December 2, 2011, sought an election in a unit of “all technicians employed by White Plains Chrysler Jeep Dodge” located at 70 Westchester Avenue.

10 Jonathan Ames, the president of the Petitioner, stated that at about the time the Stipulated Election Agreement was entered into, he became aware that the Chrysler technicians were represented by the Intervenor. The Petitioner sought to represent only the Hyundai technicians employed by Hyundai of White Plains, and not the Chrysler technicians employed by White Plains Chrysler who were already represented by a union.

15 Accordingly, when the Stipulated Election Agreement was written, the Employer’s name was amended to read “Hyundai of White Plains LLC” and the unit was restated as “all full-time and regular part-time Hyundai technicians employed by the Employer at its facility located at 70 Westchester Avenue, White Plains, NY.”

20 Further, Ames testified that employees who performed warranty work on Hyundai vehicles must possess Hyundai certification, and the Petitioner sought to represent only the “certified” Hyundai technicians. However, the term “certified” was not included in the unit description set forth in the Stipulated Election Agreement.

25 Ames learned shortly before the election that two employees, Carlos Ramirez and Jose Manuel Guillen-Cortez, were not certified Hyundai technicians, but were in fact “used car technicians” employed by White Plains Chrysler and not by Hyundai. Ames stated that the term “Hyundai technicians” as used in the Stipulated Election Agreement” did not include “used car” mechanics.<sup>4</sup> Ames asked Petitioner election observer Edward Just to challenge the ballots of Ramirez and Cortez and he did so.

30 The *Excelsior* list contained the names of nine workers, all of whom voted in the election. They are Arnulfo Cardenas, Cosmo Crooks, Dustin Feola, Andrew Gluck, Jose Manuel Guillen-Cortez, Edward Just, Spiro Liminiatis, Sebastian Pattavina, and Carlos Ramirez.

## C. The technicians’ work

35 Cortez and Ramirez work on the first floor of the “old” building in the Chrysler service area, and are paid with checks from Chrysler of White Plains and wear Chrysler uniforms. Feola, who is an undisputed member of the unit, works with them and is paid with a Hyundai paycheck. Feola who, according to employee Just, worked on that floor because the type of work he did - new car preparation, pre-delivery inspections and work on accessories such as  
40 vehicle interiors, and audio and alarm systems - required that the vehicles he worked on be easily moved into the sales floor delivery area.

45 At about the time of the election, Cardenas, Crooks, Gluck, Just, Liminiatis and Pattavina worked together on the second floor of the “old” building in the Hyundai service area. After the election, Cardenas was transferred downstairs where he worked with Cortez and Ramirez.

50 <sup>4</sup> As explained below, according to the Employer’s service director Luciano Caferra, a “used car” is a vehicle that is owned by the dealership, and is being prepared for resale.

Crooks, Feola, Gluck, Just, Liminiatis and Pattavina are paid with checks from Hyundai of White Plains. Cardenas is paid by a check from Chrysler. All of them wore Hyundai uniforms except Cardenas, who just wore a t-shirt.

5 In order to perform warranty work on Hyundai vehicles, the employee must possess at least a Bronze certification from Hyundai. However, any employee, even those without Hyundai certifications, can perform non-warranty work on Hyundai vehicles.

10 Limniatis, who holds a Bronze certification from Hyundai, and employee Just, who holds a Gold certification, stated that seven workers on the *Excelsior* list held at least Bronze certifications. They stated that the other two, Cortez and Ramirez, did not possess a Hyundai certification.

15 However, according to Caferra, Cortez also has a Bronze certificate, but employees Just and Limniatis stated that they never saw him perform warranty work on any Hyundai vehicle. Limniatis did not dispute that Cortez has a certificate, but testified that he has only seen him perform non-warranty work on Hyundai vehicles, and has also seen him work on other makes of vehicles. It is undisputed that Ramirez does not have a Hyundai certificate, but according to Caferra, at the time of the election, he worked more often on Hyundai vehicles than other  
20 makes.

Caferra stated that all the technicians work on Chrysler, Hyundai and other vehicles. He estimated that Cardenas and Cortez work on Hyundai and Chrysler vehicles 60% to 70% of their work time, and they work on other vehicles 30% to 40% of their time.  
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Limniatis stated that 95% of his work is on Hyundai warranty repairs. When there is little Hyundai repair work, he asks the Chrysler dispatchers for work. This was confirmed by Caferra, who stated that if a technician who is working on a Hyundai vehicle runs out of work he can ask a Chrysler service manager for more work. Limniatis could not recall working on a Chrysler in the past six months, but he has seen Hyundai certified technicians work on Chrysler product cars in the past six months.  
30

The Hyundai technicians work from 8:00 a.m. to 5:00 p.m., Monday through Friday, and alternate performing work on Saturdays. In contrast, Cortez and Ramirez come in later, at about 8:45 or 9:00 a.m.  
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Henry Soeker, the Hyundai service manager, posts a work calendar for the following month with the alternate Saturdays listed on which Crooks, Cardenas, Gluck, Liminiatis are listed. However, Cardenas and Gluck, employees claimed by the Petitioner as part of the unit, worked every Saturday, and not alternate Saturdays, from November, 2011 to January, 2012.  
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Caferra testified that Cortez and Ramirez were not listed on the calendar as working alternate weeks because they work every Saturday, and inasmuch as this was a "rotating calendar" there was no need to list them thereon. Caferra stated that he prepares the schedules for Cortez and Ramirez.  
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Ricardo Correa who is in charge of finance and insurance and is not a service advisor, wrote a repair order for a Hyundai which was worked on by Ramirez. In addition, Philip Giorgio, the Hyundai used car sales manager, wrote a repair order for a Hyundai that was worked on by Cortez. According to Caferra, both vehicles were owned by Hyundai as used cars being prepared for resale. According to the repair order, technician Michael Pizzutiello, a Chrysler new car preparation technician who is a member of the Intervenor, also worked on the vehicle  
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assigned to Cortez. The two orders are for work on used cars and for a customer-owned car.

5 In contrast, employee Limniatis stated that repair orders were written by Hyundai service advisors Mike Hunter or Juan, and that the Hyundai technicians received their assignments from Hyundai dispatcher Stansa or Hyundai service manager Soeker. Limniatis stated that he does not receive repair orders from sales people. Similarly, employee Just testified that he does not receive work orders from Correa or Giorgio, who give orders only to Cortez and Ramirez who work on used cars. However, Caferra stated that all nine technicians work on "used cars."

10 Employee Just stated that when he observed Cortez and Ramirez working, they worked on used cars with no license plates. Employee Just stated that he received help twice from Ramirez with vehicles he was working on. Limniatis stated that each of the seven technicians has his own tools, and also use the Employer's tools and equipment. However, he has seen Cortez and Ramirez obtaining tools, parts and supplies from the area where he works.

15 There are three labor rates of pay that are paid by the customer: out of pocket for non-warranty work; warranty work; and work done on a used car. Regardless of the three different labor rates charged the customer, the technicians earn the same rate of pay regardless of the rate the customer is charged.

20 Caferra stated that when Cardenas, Ramirez and Cortez work on a Hyundai vehicle, since they are paid their salaries by Chrysler, the Employer's accounting department makes a payment by Chrysler to Hyundai, called an intercompany transfer, in reimbursement for the work performed by them.

25 According to Caferra, the salaries for the nine technicians range from \$12 to per hour to \$30 per hour. Chrysler checks received in evidence show that Cortez earned \$12 per hour, Ramirez earned \$20 per hour, and Cardenas earned \$13 per hour. Employee Just earned \$18.75. None of the nine workers are covered by the Intervenor's contract. All nine receive medical and dental benefits, a 401(k) plan and uniforms, vacation, and sick days provided by Hyundai of White Plains, and use the same locker facilities, lunchroom, toilet, and the same entrance and exit.

30 Caferra explained that the reason that Cortez, Ramirez and Cardenas are on the Chrysler payroll is because they had been employed for the Chrysler part of the business before Hyundai became a part of the operation in 2009. Accordingly, even though they were doing Hyundai work, their names were never transferred to the Hyundai payroll. He stated that they may have been on the Chrysler payroll from the start of their employment and were simply not moved to the Hyundai payroll, or, he surmised, it was just "easier" for the accounting department to retain them on the Chrysler payroll.

35 Caferra stated that if a technician has a question about a Hyundai vehicle, he asks the service writer or Hyundai service manager Soeker.

45 Caferra stated that if discipline of an employee is needed, the dispatcher calls the service manager for the employee's employer, in other words Soeker for Hyundai employee Liminiatis, who would then call Caferra. If Soeker was unavailable, the dispatcher would call Argreus, the Chrysler service manager.

50 An *Excelsior* list submitted by the Employer set forth the names of nine eligible voters, including the two challenged voters, Cortez and Ramirez. The Petitioner did not claim, until the election, that any of the listed employees were not eligible to vote.

The two challenged voters, Cortez and Ramirez, did not testify. Their testimony would have been helpful in describing the work that they perform.

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### III. Analysis and Discussion

#### A. The positions of the parties

10 The Petitioner and the Employer both argue that the stipulated unit is unambiguous. The Petitioner claims that the term “Hyundai technicians” must be read to include “certified Hyundai technicians,” citing extrinsic evidence in support of its position. The Employer argues that the unit unambiguously, broadly refers to all technicians who perform work on Hyundai vehicles.

15 The Petitioner argues that the ballots cast by Cortez and Ramirez should not be counted because they are not included in the agreed-upon unit. The Petitioner asserts that they are not “Hyundai technicians” because they are not “certified” Hyundai technicians who are able to perform warranty work on Hyundai vehicles, and they are not employed by the Employer, Hyundai of White Plains. The Petitioner alternatively argues that they do not share a community  
20 of interest with the Hyundai technicians.

The Employer argues that Cortez and Ramirez are included in the stipulated unit because they work on Hyundai vehicles, and inasmuch as the unit includes “all Hyundai technicians,” their votes should be counted. Alternatively, the Employer asserts that the  
25 challenged voters have a community of interest with others in the unit.

#### B. Legal principles

30 In *Caesar’s Tahoe*, 337 NLRB 1096, 1097 (2002), the Board established a three-part test set which it applies to the resolution of challenged ballots in cases involving stipulated units.

The Board’s function is to first “ascertain the parties’ intent.” If the objective intent of the parties is expressed in clear and unambiguous language in the unit stipulation, then the Board will enforce the agreement.  
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However, if the language of the stipulation is ambiguous with respect to an employee’s eligibility, the Board seeks to determine the parties’ intent through normal methods of contract interpretation, including the examination of extrinsic evidence. If the parties’ intent still cannot be determined, then the Board will decide the eligibility of the challenged voters using traditional  
40 community-of-interest criteria.

#### 1. The terms of the stipulated unit description

45 The first step involves examining the terms of the stipulated unit description to determine whether it resolves the question of the eligibility of Cortez and Ramirez to vote. The unit description includes, as eligible to vote, “all full-time and regular part-time Hyundai technicians employed by the Employer....”

As set forth above, the Petitioner argues that the unit description must be read to include all “certified Hyundai technicians.” However, that is not what it says. The unit description  
50 includes “all Hyundai technicians.”

5 It is undisputed that only employees who are certified Hyundai technicians are eligible to perform warranty work on those vehicles. See *Northwest Community Hospital*, 331 NLRB 307, 308 (2000) and *National Public Radio, Inc.*, 328 NLRB 75 (1999), where the employers maintained distinct, separate categories of employees where such a distinction had an impact on the Board's interpretation of the stipulated unit.

10 Here, too, there are separate categories of employees who are permitted to work on Hyundai vehicles. Only those employees who are certified by Hyundai may perform warranty work on those vehicles. Those who are not certified may not perform warranty work. The stipulation is silent as to whether only those employees who are certified Hyundai technicians are eligible to vote, or whether all employees who perform work on Hyundai vehicles were intended to be the employees eligible to vote. Thus, although it is clear that the parties intended to include, as eligible to vote, those employees who performed work on Hyundai vehicles, it is unclear whether the eligible voters were limited to those who were certified to perform warranty work on such vehicles.

15 Where the Board finds that the stipulated unit is subject to more than one interpretation, it holds that the stipulation is ambiguous. *Los Angeles Water & Power Employees' Assn.*, 340 NLRB 1232, 1233 (2003); *Gala Food Processing*, 310 NLRB 1193, 1193 (1993).

20 I find that this stipulation is subject to more than one interpretation, and that the parties' intent cannot be determined from the language of the stipulation. I accordingly find that the stipulation is ambiguous as to whether only Hyundai certified technicians are eligible to vote. *Caesar's Tahoe*, above, at 1098.

## 25 **2. Extrinsic evidence of the parties' intent**

30 Having concluded that the stipulation is facially ambiguous, the second prong of the *Caesar's Tahoe* test is to attempt to determine the parties' intent through normal methods of contract interpretation, including the examination of extrinsic evidence. As set forth below, there is conflicting extrinsic evidence of intent.

35 The petition filed herein sought an election in a unit identified as "all technicians" employed by "White Plains Chrysler Jeep Dodge." When the Petitioner learned that the Chrysler technicians were represented by a different union, the unit description and the employer's name in the stipulation were changed to "all Hyundai technicians" employed by Hyundai of White Plains.

40 The Petitioner accordingly asserts that this evidence of a change in the unit description necessarily means that the parties' intended to limit the inclusion of the eligible voters to "certified" Hyundai technicians. I cannot agree that the change in the unit description made between the petition and the stipulation supports such a finding. I agree that the change in the unit description is evidence that the Petitioner sought a unit of technicians employed by Hyundai and not by Chrysler, but I cannot find that the modification of the unit description is evidence that the parties intended to include only Hyundai certified technicians as eligible to vote. See *Los Angeles Water & Power*, above, at 1236; *Gala Food*, above, at 1193-1194.

45 On the other hand, the Employer asserts that extrinsic evidence supports a finding that the Petitioner agreed to the eligibility of the challenged voters. Thus, the *Excelsior* list it provided to the Union set forth the names of Cortez and Ramirez. However, the Board has held that an *Excelsior* list's inclusion of a name of a contested voter "is of little help in determining the intended scope of a pre-election stipulation. The submission of the list has never been held to preclude union ballot challenges since it is required for the union's benefit." *Caesar's Tahoe*, above at 1099-1100.

5 In addition, according to the Employer, one of the challenged voters, Cortez, is in fact a Hyundai certified technician. The Petitioner disputes this claim, citing the testimony of Limniatis and Just that they never saw Cortez perform warranty work on a Hyundai vehicle. The evidence is lacking in this regard. No documentary evidence has been produced that Cortez was certified, and Cortez did not testify. Accordingly, I cannot make a finding that Cortez was a certified Hyundai technician.

10 I accordingly find that there is insufficient extrinsic evidence of the parties' intent regarding the eligibility of Cortez and Ramirez to vote in the election.

### 10 **3. The community-of-interest standard**

15 Inasmuch as the intent of the parties regarding the inclusion of the challenged voters in the stipulated unit cannot be determined, the final step in the *Caesar's Tahoe* analysis must be applied. That step involves deciding the eligibility of the challenged voters using traditional community-of-interest criteria.

20 Typical factors to be considered in determining whether certain employees share a community of interest with others include the degree of functional integration, common supervision, the nature of employee skills and functions, interchangeability and contact among employees, the work situs, general working conditions, and commonality of wages, hours and working conditions. *Publix Super Markets*, 343 NLRB 1023, 1024 (2004).

25 The two dealerships, Hyundai of White Plains and Chrysler Jeep Dodge of White Plains operate out of two adjoining buildings. There is one director of the service and parts departments of both agencies, and the two companies engage in intercompany transfers of payments depending on which employee performs work on a Hyundai or Chrysler vehicle.

30 The Petitioner argues that Cortez and Ramirez are employees of Chrysler and not of Hyundai. As noted above, the stipulation provides that those eligible to vote are those employed by the "Employer" Hyundai of White Plains. Accordingly, the Petitioner argues that Cortez and Ramirez are not eligible to vote because they are not employees of the Employer, Hyundai of White Plains.

35 The Petitioner points to evidence that Cortez and Ramirez receive paychecks from Chrysler of White Plains. However, Cardenas, an undisputed member of the unit who is a certified Hyundai technician, also receives a paycheck from Chrysler of White Plains. Caferra reasonably explained why Chrysler of White Plains issued paychecks to the challenged voters. He stated, as set forth above, that there is an intercompany transfer of funds between Hyundai and Chrysler to reimburse the respective company for the work done on a vehicle. Another explanation offered was that since those employees were on the Chrysler payroll first, the accounting department simply left them on that payroll and did not transfer them to the Hyundai payroll, even though they were doing Hyundai repair work.

45 There are separate service managers for the Chrysler and Hyundai departments, with each set of managers supervising their respective employees. Discipline was issued by the respective service manager, apparently in consultation with Caferra, the director of the service departments of Hyundai and Chrysler.

50 All the service technicians perform work on Hyundai and Chrysler, Jeep, Dodge, and other makes of vehicles. Indeed, when Limniatis, a certified Hyundai technician, has little Hyundai work to perform, he asks the Chrysler service manager for work. The only difference in the work of Cortez and Ramirez and that of the other service technicians is that Ramirez, who is

not a certified Hyundai technician, cannot perform Hyundai warranty work. As noted above, the Employer claims that Cortez is certified, and the Petitioner argues that he is not certified.

5 All the technicians work in the same building. The asserted “Chrysler technicians,” Cortez and Ramirez, work on a separate floor than the Hyundai technicians. However, Feola, a certified Hyundai technician, works with Cortez and Ramirez on their floor. Employee Just’s attempt to justify Feola’s work on the floor with Cortez and Ramirez on the ground that the type of work he did required him to work in that area does not detract from the fact that he worked on the same floor as the two challenged voters. In addition, there was evidence that employee Just requested and received help with a vehicle he was working on from Ramirez on at least two occasions.

10 All the service technicians perform skilled work on vehicles. They utilize the Employer’s tools in their work as do the certified Hyundai technicians.

15 The hours of work of the technicians are similar with some variation in the starting times and the regularity of weekend work of the certified technicians and the challenged voters.

20 Based upon the two service orders received in evidence, it appears that people who were not Hyundai or Chrysler service advisors wrote repair orders for vehicles which Cortez and Ramirez worked on. In contrast, Hyundai service advisors wrote repair orders for the certified Hyundai technicians.

25 As to terms and conditions of employment, the rates of pay earned for all nine technicians were basically similar, with evidence being presented that Cortez, Cardenas, Just and Ramirez earned from \$12 per hour to \$20 per hour. All nine technicians received medical and dental benefits, a 401(k) plan, vacation and paid sick time from Hyundai of White Plains. They are not covered by the collective-bargaining agreement in effect between Chrysler of White Plains and Local 917. They use the same locker facilities, lunchroom, and toilet.

30 Essentially, the evidence supports a finding that, although the challenged voters, Cortez and Ramirez, work on a separate floor than six of the certified Hyundai technicians, they work with undisputed Hyundai certified technician Feola. Further, Ramirez has helped the certified technicians with repair work the Hyundai technicians performed. Cortez and Ramirez, and indeed all of the nine employees perform the same basic work using the same essential mechanical skills and tools as the Hyundai certified technicians - repair work on vehicles of every make.

35 Although repair orders worked on by the challenged voters and the certified Hyundai technicians are written by different sets of order-writers, that fact, and the fact that they are separately supervised does not serve to alter the fact that they perform the same basic work. All nine workers received similar wages and benefits.

40 It is also noted that the Board has found that all the service technicians of an automobile dealership constitute a separate, skilled craft employee unit. *Fletcher Jones Chevrolet*, 300 NLRB 875, 875-878 (1990); *Dodge City*, 282 NLRB 459, 460 fn. 6 (1986). Although those cases did not deal with the question presented here, whether uncertified technicians are appropriately included in a unit of certified technicians, they stand for the proposition that *all* service technicians in a vehicle dealership constitute a separate unit.

45 I accordingly find and conclude that Carlos Ramirez and Jose Manuel Guillen-Cortez share a community of interest with the unit employees and that that they are eligible to vote. The challenges to their ballots are overruled.

**4. Conclusions**

5 For the reasons stated above, I find that the stipulation is facially ambiguous; that there is insufficient extrinsic evidence from which I can discern the parties' intent, and that, applying community-of-interest principles, that Cortez and Ramirez should be included in the bargaining unit.

**IV. Recommendations<sup>5</sup>**

10 Based upon the foregoing, I recommend that the challenges to the ballots of Jose Manuel Guillen-Cortez, and Carlos Ramirez be overruled, and that they be opened and counted, and that the Regional Director shall prepare and cause to be served on the parties a revised tally of ballots, and issue the appropriate certification.

15 Dated: Washington, D.C. June 8, 2012

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Steven Davis  
Administrative Law Judge

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<sup>5</sup> Under the provisions of Section 102.69 of the Board's Rules and Regulations, Exceptions to this Decision may be filed with the Board in Washington, D.C. within 14 days of the issuance of this Decision. Exceptions must be received by the Board in Washington by June 22, 2012.