UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE AMERICAN NATIONAL RED CROSS

and **Cases 7-CA-52033**
7-CA-52288
LOCAL 459, OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, AFL-CIO **7-CA-52544**

and **Cases 7-CA-52282**
7-CA-52308
TEAMSTERS AND CHAUFFEURS LOCAL UNION NO. 580, INTERNATIONAL BROTHERHOOD OF TEAMSTERS **7-CA-52487**

ORDER DENYING MOTION[1]

The Respondent's Motion to Dismiss is denied.[2] The Respondent has

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[1] Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act. See *Teamsters Local 523 v. NLRB*, 590 F.3d 849 (10th Cir. 2009); *Narricot Industries, L.P. v. NLRB*, 587 F.3d 654 (4th Cir. 2009); *Snell Island SNF LLC v. NLRB*, 568 F.3d 410 (2d Cir. 2009), petition for cert. filed 78 U.S.L.W. 3130 (U.S. Sept. 11, 2009) (No. 09-328); *New Process Steel v. NLRB*, 564 F.3d 840 (7th Cir. 2009), cert. granted 130 S.Ct. 488 (2009); *Northeastern Land Services v. NLRB*, 560 F.3d 36 (1st Cir. 2009), petition for cert. filed 78 U.S.L.W. 3098 (U.S. Aug. 18, 2009) (No. 09-213). But see *Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB*, 564 F.3d 469 (D.C. Cir. 2009), petition for cert. filed 78 U.S.L.W. 3185 (U.S. Sept. 29, 2009) (No. 09-377).

[2] The General Counsel argues that the motion should be dismissed as untimely because it was served on only Region 7 and the parties, and therefore was not filed with the Board 28 days prior to the scheduled March 16, 2010 hearing as required by Sec. 102.24(b) of the Board's Rules and Regulations. In light of the fact that no party has shown that it was prejudiced by the Respondent's procedural error in filing its motion with the Region, we accept the motion as timely filed.

failed to establish that there are no genuine issues of material fact and that it is entitled to judgment as a matter of law.[3]

Dated, Washington, D.C., March 12, 2010.

WILMA B. LIEBMAN, CHAIRMAN

PETER C. SCHAUMBER, MEMBER

[3] This order is without prejudice to the Respondent raising its argument before the administrative law judge, and on any exceptions that may be filed to the judge's decision, if appropriate.