

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

E.I. DuPONT de NEMOURS & CO., INC.

and

Case 03-CA-090637

UNITED STEELWORKERS, LOCAL 6992

**ACTING GENERAL COUNSEL'S EXCEPTIONS
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

On August 26, 2013, Administrative Law Judge Steven Davis, hereinafter referred to as the ALJ, issued his Decision and recommended Order in this matter. The Acting General Counsel takes exception to the ALJ's Decision and recommended Order as follows:

The ALJ erroneously determined that Charging Party was not entitled to a make whole remedy. ALJD 13-15.

The ALJ erroneously omitted from the Order the following cease and desist action:

Terminating or otherwise disciplining employees for conduct in which they engage during investigatory interviews during which employees have been denied union representation.
ALJD 16.

The ALJ erroneously omitted from the Order the following affirmative action:

Within 14 days of this Order, offer Joel Smith full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges he previously enjoyed.

Make Joel Smith whole, with interest, for any loss of earnings and benefits suffered by him as a result of his unlawful discharge.

Within 14 days of this Order, remove from its files any references to the unlawful discharge of Joel Smith, and, within three days thereafter, notify him in writing that this has been done and that the unlawful discharge will not be used against him in any way.

Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records and reports, and all such other records, including an electronic copy of such records if stored in electronic form, necessary to determine the amount of backpay due under the terms of this Order.
ALJD 16

The ALJ erroneously omitted the following provisions from the Notice to Employees:

WE WILL NOT terminate or otherwise discipline you for conduct in which you engage during an interview which you reasonably believe will result in discipline and during which we have denied your request for union representation.

WE WILL offer Joel Smith full and immediate reinstatement to his former job, or if that job is no longer available, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges he previously enjoyed.

WE WILL make Joel Smith whole, with interest, for any losses he incurred as a result of our unlawful discharge of him.

WE WILL within 14 days from the date of this Order, remove from our files any reference to Joel Smith's unlawful June 21, 2012 discharge and expunge them from our records, and, within three days thereafter, we will notify him in writing that we have done so and that the discharge will not be used against him in any way.

DATED at Buffalo, New York, this 19th day of September, 2013.

Respectfully submitted,

/s/ Jesse Feuerstein

JESSE FEUERSTEIN

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