

**Smith's Food & Drug Centers, Inc. d/b/a Fry's Food Stores and Karen Medley and Kimberly Stewart and Elaine Brown and Shirley Jones and Saloomah Hardy and Janette Fuentes and Tommy Fuentes.**

**United Food and Commercial Workers Union Local 99 and Kimberly Stewart and Elaine Brown and Karen Medley and Shirley Jones and Saloomah Hardy and Janette Fuentes and Tommy Fuentes.**  
Cases 28-CA-022836, 28-CA-022837, 28-CA-022838, 28-CA-022840, 28-CA-22858, 28-CA-022871, 28-CA-022872, 28-CB-007045, 28-CB-007047, 28-CB-007048, 28-CB-007049, 28-CB-007058, 28-CB-007062, and 28-CB-007063

March 20, 2015

#### DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA  
AND MCFERRAN

On July 10, 2012, the Board issued a Decision and Order in this proceeding, which is reported at 358 NLRB 704. Thereafter, the Charging Parties filed a petition for

review in the United States Court of Appeals for the District of Columbia Circuit.

At the time of the Decision and Order, the composition of the Board included two persons whose appointments to the Board had been challenged as constitutionally infirm. On June 26, 2014, the United States Supreme Court issued its decision in *NLRB v. Noel Canning*, 134 S.Ct. 2550 (2014), holding that the challenged appointments to the Board were not valid. Thereafter, the court of appeals vacated the Board's Decision and Order and remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

In view of the decision of the Supreme Court in *NLRB v. Noel Canning*, supra, we have considered de novo the judge's decision and the record in light of the exceptions and briefs. We have also considered the now-vacated Decision and Order, and we agree with the rationale set forth therein. Accordingly, we affirm the judge's rulings, findings, and conclusions and adopt the judge's recommended Order to the extent and for the reasons stated in the Decision and Order reported at 358 NLRB 704, which is incorporated herein by reference.