

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

EURO MOTORCARS DEVON, INC.
Employer

and

Case 04-RC-181300

INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, AFL-CIO, DISTRICT
LODGE 15, LOCAL LODGE 447
Petitioner

ORDER

The Employer's request for review of the Regional Director's Decision on Objections to Election and Certification of Representative is denied as it raises no substantial issues warranting review.¹

PHILIP A. MISCIMARRA, CHAIRMAN

¹ In connection with Employer's Objection 2—which alleges that, on the day of the election and shortly before the election occurred, Petitioner's Director of Organizing Vincent Addeo participated in a loud verbal altercation with Employer Vice President Christopher Mackey (during which both participants used profanity and Addeo called Mackey a "pink shirted faggot"), allegedly creating an atmosphere of fear and intimidation—the Regional Director refused to consider a 2010 federal district court opinion finding that Addeo was among a group of three people who allegedly threatened certain individuals with physical violence during a 2006 union dispute, immediately following which the individuals were physically attacked by others and suffered physical injuries. See *McCann v. Miller*, 702 F. Supp. 2d 502 (E.D. Pa. 2010). The Regional Director's ruling was at most harmless error, and accordingly we find it unnecessary to pass on the issue. In the context of considering Employer's Objection 2, Chairman Miscimarra believes it was erroneous to refuse to consider the 2010 court opinion, which had been made known to employees in lawful campaign literature distributed by the Employer, and Chairman Miscimarra believes the 2010 court opinion was relevant, though not controlling, regarding the question of whether employees could have reasonably regarded Addeo's verbal altercation with Mackey on the day of the election as creating an atmosphere of fear and intimidation. In Chairman Miscimarra's view, the Regional Director's observation that the 2010 court opinion was "unsigned" did not warrant its exclusion because the 2010 court opinion is a public document. Chairman Miscimarra believes the other considerations identified by the Regional Director (e.g., the fact that the court's findings were made in the context of considering a motion for summary judgment) more appropriately relate to weight rather than admissibility. Even considering the 2010 court opinion, however, Chairman Miscimarra agrees with the denial of the Employer's request for review because it does not raise substantial issues warranting review.

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., May 17, 2017