

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

FLIGHT SERVICES & SYSTEMS, INC.

and

32BJ SEIU New England 615

**Cases 01-CA-183911
01-CA-189755
01-CA-194600**

ORDER¹

The Respondent's Motion for Summary Judgment/to Dismiss the Second Consolidated Complaint is denied. The Respondent has failed to establish that there are no genuine issues of material fact and that it is entitled to judgment as a matter of law.² This denial is without prejudice to the Respondent's right to renew its arguments to the administrative law judge and before the Board on any exceptions that may be filed to the judge's decision, if appropriate.

Dated, Washington, D.C., November 13, 2017

PHILIP A. MISCIMARRA,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
MARVIN E. KAPLAN,	MEMBER

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Chairman Miscimarra agrees with the denial of the Respondent's motion as stated in the Board's Order. As he stated in *L'Hoist North America of Tennessee, Inc.*, 362 NLRB No. 110, slip op. at 3 (2015) (concurring), "in response to a motion for summary judgment, I believe that the General Counsel at least must explain in reasonably concrete terms why a hearing is required. Under the standard that governs summary judgment determinations, this will normally require the General Counsel to identify material facts that are genuinely in dispute." See also *Trinity Technology Group, Inc.*, 364 NLRB No. 133, slip op. at 1-2 (2016) (Member Miscimarra, concurring); *Leukemia & Lymphoma Society*, 363 NLRB No. 124, slip op. at 2 (2016) (Member Miscimarra, dissenting). In the instant case, the General Counsel, as well as the Union, have described, in reasonably concrete terms, why, based on material facts that are genuinely in dispute, a hearing is required.

The Respondent's motions to strike the documents submitted by the General Counsel and the Charging Party as exhibits to their respective opposition briefs are also denied.