

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

**NEW YORK PARTY SHUTTLE, LLC D/B/A
ONBOARD TOURS, WASHINGTON DC PARTY
SHUTTLE, LLC D/B/A ONBOARD TOURS,
ONBOARD LAS VEGAS TOURS, LLC D/B/A
ONBOARD TOURS, NYC GUIDED TOURS, LLC,
AND PARTY SHUTTLE TOURS, LLC,
A SINGLE EMPLOYER**

and

Case 02-CA-073340

FRED PFLANTZER

ORDER DENYING MOTION¹

The Respondents' motion to dismiss the consolidated complaint is denied. The Respondents have failed to establish that there are no genuine issues of material fact warranting a hearing and that they are entitled to judgment as a matter of law.²

Dated, Washington, D.C., May 8, 2018

MARK GASTON PEARCE,	MEMBER
MARVIN E. KAPLAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

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

² In their motion, the Respondents argue that Charging Party Fred Pflantzer was an independent contractor and not a statutory employee. That contention was rejected by the Board in the underlying unfair labor practice proceeding. *New York Party Shuttle, LLC*, 359 NLRB 1046, 1049 (2013), enfd. No. 13-60364 (5th Cir. Nov. 19, 2013) (unpublished). Therefore, the Respondents are precluded from relitigating it at the compliance hearing. See, e.g., *New York Party Shuttle, LLC d/b/a Onboard Tours, Washington D.C. Party Shuttle, LLC*, 365 NLRB No. 147, slip. op. at 2, 3 (2017) (matters decided in an underlying unfair labor practice proceeding may not be relitigated in the compliance stage); *M.D. Miller Trucking & Topsoil, Inc.*, 363 NLRB No. 49, slip op. at 2 (2015) (same); *Convergence Communications, Inc.*, 342 NLRB 918, 919 (2004) (same).