

1 electronic means to all employees including all employee schedules and yet failed
2 to post to employee email addresses. These omissions are fatal flaws to the
3 posting requirements and militate for a rerun election.

4 The Employer did not post the required notice at all 20 locations in that the
5 Employer lacks authority to post anything in most locations and the Employer did
6 not send the required notice by mail, by email or other electronic communication
7 even though the Employer routinely communicates mundane items like schedules
8 by electronic means. The modern age is an electronic age where electronic
9 communication is now the routine method for communication when decisions are
10 made in Northern Virginia and must be communicated to more than 300
11 employees widely dispersed in 20 buildings across a wide area in the New York
12 Metropolitan area to include remote sites outside of the Greater NYC area.

13 **Second Subject for Review**

14 The Intervener in the instant case filed in Region 2 a specious ULP docketed
15 as 02-CA-236190 claiming a violation of 29 USC 158(a)(2) in that the Employer
16 was lending “unlawful assistance” by collecting dues from the members of the
17 bargaining unit on behalf the Party at Interest in the instant case.

18 The Intervener then took the ULP filing as a campaign issue on how he was
19 already working on behalf of the members in the bargaining unit. The Intervener’s
20 tactics and the evidence and filings in 02-CA-236190 was clearly
21 available to the RD of Region 29. This objectionable conduct under **Stericycle 359**

1 **NLRB 53 (2011)**, should be by itself to be enough to set aside the election.
2 However, during the critical period the Employer erred and withdrew an extra
3 dues payment. When this was discovered during the critical period, the party in
4 Interest consistent with their duty of Fair Representation sought and received a
5 refund for employees of Paragon who had been double billed for 75 dollars in
6 extra dues. However, the best evidence would come from the Party at Interest
7 when the Petitioner was informed of dues problems by one elector we made a
8 discreet inquiry of the Employer and urged individuals to direct further inquiries
9 to the Employer's payroll department.

10 This proper refund of a dues overpayment sought and received by the
11 current bargaining agent from the Employer was claimed by the Intervener who
12 waved around the specious ULP filed in Region 2 as evidence of the efficacy of his
13 "representation". The refund could have been delayed until after the critical
14 period or it could have been remitted with an explanation that the Employer had
15 erred. The phony ULP filed , the unfortunate double dues withdrawal and the
16 refund all during the critical period constitute objectionable conduct that also
17 militates for a rerun election. The Employer provided unlawful assistance by
18 refunding dues overpayment during the critical period especially in light of the
19 specious ULP filed in Region 2 which was used by the Intervener to advance his
20 false narrative.

21 **Third Subject for Review**

22 The Hearing Officer misapplied **Kalin Construction** choosing to accept as

1 dispositive the testimony of Employee of Rudolph Petter that he received a
2 reimbursement of dues overpayment on February 21 and Employee Tanya
3 Thomas received a text from the SEIU February 21 that she would at a later time
4 be reimbursed. The overpayment of Mr. Petter occurred prior to the mailing of
5 ballots. If Ms. Thomas was not paid in that pay cycle that included the February
6 21 2019 date and was paid in the very next pay cycle she was paid after the
7 ballots were mailed and before they were counted. It is likely that these
8 overpayments were made over the next two pay cycles which would have
9 included the entire critical period at the same time for more than 300 bargaining
10 unit members, the Intervenor was claiming that his efficacious representation and
11 fraudulent ULP filed as 02-CA-236190 had provoked the rebate

12 Conclusion

13 The Board should upon review order the RD of Region 29 to conduct a
14 rerun election by mail after a proper posting by electronic means the
15 routine method used by the Employer to communicate with the employees of the
16 bargaining unit in the instant case. The election should now proceed after the
17 withdrawal of 02-CA-236190 in Region 2 on May 29,2019.

18 Respectfully submitted,

19 *Ronald A. Mikell*

20 Ronald A. Mikell, President
21 NLJSP

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