



# National Labor Relations Board

## Weekly Summary of NLRB Cases

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CASES SUMMARIZED

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*Caribe Ford* (24-CA-8291, et al.; 348 NLRB No. 74) San Juan, PR Nov. 13, 2006. Chairman Battista and Member Kirsanow reversed the administrative law judge's finding and held that the Respondent did not violate Section 8(a)(3) and (1) of the Act by discharging employee Generoso Pérez in Jan. 1999 for engaging in protected union activity. They found that the General Counsel failed to establish a prima facie case of unlawful discharge under *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1<sup>st</sup> Cir. 1981), cert. denied 455 U.S. 989 (1982). Specifically, the General Counsel failed to prove that the Respondent had knowledge of union activity at the time of Pérez's discharge. In addition, Chairman Battista concluded that the evidence did not establish antiunion animus as of that time. [\[HTML\]](#) [\[PDF\]](#)

Dissenting Member Liebman, contrary to the majority, would infer that the Respondent knew that Pérez was a leading union supporter when it discharged him promptly after he engaged in open union activity. Like the judge, she would also infer that the Respondent was motivated by antiunion animus based on, among other factors, the adjudicated unfair labor practices committed by the Respondent after Pérez's discharge. Having found that the General Counsel carried his initial burden of proof, Member Liebman would find that, given the shifting and inconsistent grounds it offered, the Respondent failed to prove that it would have discharged Pérez even absent his union activity.

Turning to other alleged violations, the Board agreed with the judge that the Respondent violated Section 8(a)(3) and (1) by issuing an 8-day suspension and disciplinary write-ups to Jose De Diego on April 27 and Aug. 10 and 13, 1999, respectively, and thereafter discharging DeDiego on Sept. 3, because of his activities for Union Nacional de Trabajadores de Puerto Rico. The judge found, with Board approval, that the Respondent violated Section 8(a)(1) by threatening to close its facility if a union were brought in; prohibiting employees from distributing union literature during their nonworking time and threatening them with discharge if they do so; creating an impression of surveillance of its employees' union activities; and soliciting, promising to remedy, and remedying employee grievances in an effort to dissuade them from supporting the Union.

(Chairman Battista and Members Liebman and Kirsanow participated.)

Charges filed by Union Nacional de Trabajadores de Puerto Rico and Generoso Pérez, an Individual; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Hato Rey, June 21-23 and June 29-30, 2000. Adm. Law Judge George Alemán issued his decision Dec. 29, 2000.

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### **LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES**

*Laborers Local 169* (Frehner Construction Co., Inc.) Reno, NV Nov. 16, 2006. 32-CB-5976; JD(SF)-59-06, Judge Burton Litvack.

*Mac-It Corp.* (Service Workers Local 1033) Lancaster, PA Nov. 16, 2006. 4-CA-34475; JD-80-06, Judge Richard A. Scully.

*Service Employees Local 87* (an Individual) San Francisco, CA Nov. 16, 2006. 20-CB-12510; JD(SF)-58-06, Judge Mary Miller Cracraft.

*A.M. Ortega Construction, Inc.* (Laborers Southern California District Council) Lakeside, CA Nov. 16, 2006. 21-CA-37055, 37167, 21-RC-20823; JD(SF)-57-06, Judge William G. Kocol.

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**LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS  
IN REPRESENTATION CASES**

*(In the following cases, the Board considered exceptions to and  
adopted Reports of Regional Directors or Hearing Officers)*

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Alta Bates Summit Medical Center*, Berkeley, CA, 32-RC-5393, Nov. 14, 2006  
(Members Liebman, Schaumber, and Kirsanow)

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*(In the following cases, the Board adopted Reports of  
Regional Directors or Hearing Officers in the absence of exceptions)*

**DECISION AND CERTIFICATION OF RESULTS OF ELECTION**

*EPI Breads, Inc.*, Dallas, TX, 16-RC-10702, Nov. 14, 2006 (Chairman Battista and  
Members Liebman and Walsh)

**DECISION AND DIRECTION [that Regional Director  
open and count ballots]**

*R & R Mechanical, Inc.*, Cleveland, OH, 8-RC-16817, Nov. 14, 2006 (Chairman Battista and  
Members Liebman and Walsh)

*Ruan Transport Corp.*, Chicago, IL, 13-RC-21505, Nov. 15, 2006 (Chairman Battista and  
Members Liebman and Walsh)

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*(In the following cases, the Board denied requests for review  
of Decisions and Directions of Elections (D&DE) and  
Decisions and Orders (D&O) of Regional Directors)*

*JBM, Inc., d/b/a Bluegrass Satellite, Indianapolis, IN, 25-RC-10327, Nov. 13, 2006  
(Chairman Battista and Members Schaumber and Kirsanow)*

*Encore Senior Living, LLC d/b/a Encore Senior Village at Clearwater, Clearwater, FL,  
12-RC-9209, Nov. 16, 2006 (Chairman Battista and Members Liebman and Walsh)*

*Saint James Hospital and Saint Michael's Medical Center, Newark, NJ, 22-RC-12730,  
Nov. 16, 2006 (Chairman Battista and Members Liebman and Walsh)*

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*Miscellaneous Board Orders*

**DECISION AND ORDER [remanding case to Regional Director  
for further appropriate action]**

*Deutsche Post Global Mail, Elk Grove Village, IL, 13-RD-2468, Nov. 13, 2006  
(Members Schaumber, Kirsanow, and Walsh)*

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