



# National Labor Relations Board

## Weekly Summary of NLRB Cases

Division of Information

Washington, D.C. 20570

Tel. (202) 273-1991

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CASES SUMMARIZED

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Press Release (([R-2610](#)): Ellen Rosenthal is Appointed Deputy Regional Attorney in NLRB's Detroit, MI Regional Office

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*Marine Spill Response Corp.* (21-CA-36663; 348 NLRB No. 92) Long Beach, CA Dec. 18, 2006. In affirming the administrative law judge's finding, the Board held that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with Inlandboatmen's Union of the Pacific ILWU as the exclusive collective-bargaining representative of its employees in the appropriate unit. [\[HTML\]](#) [\[PDF\]](#)

There were no exceptions to the judge's finding that at the time of the hearing, the Respondent had effectively merged its Carson facility with its Long Beach facility. No exceptions were filed to the judge's application of the presumption in favor of the appropriateness of a single-facility unit in concluding that the Carson-Long Beach facility is an appropriate bargaining unit. In the absence of exceptions, Members Schaumber and Walsh found it unnecessary to address Chairman Battista's discussion of the judge's analysis.

Chairman Battista joined his colleagues in affirming the judge's finding that a two-facility unit (one at Carson and one at Long Beach) is an appropriate unit, but he relied on a different reading of the judge's analysis. The judge found that each facility was presumptively an appropriate unit, but the presumption was overcome by a showing that a two-facility unit is appropriate. In response, Chairman Battista noted that a single-facility presumption exists only when a union seeks a single-facility unit, and the Union does not do so here. Thus, the issue is whether a two-facility unit is an appropriate unit. In concluding that it is, Chairman Battista relied on the significant operational integration, employee interaction, and employee interchange between the Carson facility and the Long Beach facility as well as the lack of such significant integration, interaction, and interchange between the two facilities and other Respondent facilities in California or nationwide.

(Chairman Battista and Members Schaumber and Walsh participated.)

Charge filed by Inlandboatmen's Union of the Pacific ILWU; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Los Angeles, Nov. 79, 2005. Adm. Law Judge John J. McCarrick issued his decision Feb. 5, 2006.

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

*Airo Die Casting, Inc. a subsidiary of Leggett & Platt, Inc.* (Individuals and Laborers Local 1357) Loyalhanna, PA Dec. 20, 2006. 6-CA-34853, et al.; JD-86-06, Judge Paul Bogas.

*Louis Trauth Dairy, LLC* (an Individual) Louisville, KY Dec. 20, 2006. 9-CA-42852, 42962; JD(ATL)-41-06, Judge Margaret G. Brakebusch.

*Napa Ambulance Service, Inc., d/b/a Piner's Napa Ambulance Service* (an Individual) Napa, CA Dec. 20, 2006. 20-CA-32875; JD(SF)-65-06, Judge James M. Kennedy.

*Battista's Bakery, Inc.* (Teamsters Local 344) Franklin, WI Dec. 22, 2006. 30- CA-17104, 17268, 30-RC-6604; JD-87-06, Judge Mark D. Rubin.

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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 DIRECTION OF SECOND ELECTION**

*Cofire Paving Corp.*, Flushing, NY, 29-RC-11074, Dec. 20, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

*Restani Construction Corp.*, Astoria, NY, 29-RC-11031, Dec. 20, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

**DECISION AND CERTIFICATION OF RESULTS OF ELECTION**

*Cornell Corrections*, Central Falls, RI, 1-UD-291, Dec. 21, 2006 (Members Schaumber and  
Kirsanow; Chairman Battista concurring)

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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**

*A.S.C. Contracting Corp.*, Astoria, NY, 29-RC-11064, Dec. 19, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

*Charter Communications, Inc.*, Riverside, CA, 21-RC-20917, Dec. 22, 2006  
(Chairman Battista and Members Liebman and Schaumber)

*Arbor Drugs, Inc. d/b/a CVS/Pharmacy*, Jackson, MI, 7-RC-23039, Dec. 22, 2006  
(Chairman Battista and Members Liebman and Schaumber)

*Durham School Services, Inc.*, Manchester and Kansas City, MO, 17-RC-12435, Dec. 22, 2006  
(Chairman Battista and Members Liebman and Schaumber)

*Kemiron-Trans, Inc.*, Chicago, IN, 13-RD-2541, Dec. 22, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Yonkers Contracting Corp.*, Yonkers, NY, 29-RC-11093, Dec. 20, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

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

*Superior Fuels*, Crown Point, IN, 13-RC-21530, Dec. 22, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

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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)*

*McIntosh College*, Dover, NH, 1-RC-22061, Dec. 19, 2006 (Chairman Battista and  
Members Liebman and Schaumber)

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***Miscellaneous Board Orders***

**CERTIFICATION OF REPRESENTATIVE AS BONA FIDE UNDER  
SECTION 7(B) OF THE FAIR LABOR ACT OF 1938**

*County of St. Clair (CENCOM)*, Belleville, IL, 14-WH-2, Dec. 20, 2006

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