

National Labor Relations Board

Weekly Summary of NLRB Cases



Division of Information

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CASES SUMMARIZED
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First Student, Inc. (3-CA-26584; 353 NLRB No. 55) North Tonawanda, NY Nov. 28, 2008. The Board adopted the administrative law judge's findings that the Respondent violated Section 8(a)(5) and (1) of the Act by: (1) unilaterally enforcing its previously unenforced driving under the influence policy with regard to unit employees without notice to or bargaining with the Union; (2) discharging Matthew Raimondo, Carl Antholzner, and Shawn Kazmierczak pursuant to the Respondent's unilateral enforcement of its driving under the influence policy; and (3) failing and refusing to meet and bargain with the Union concerning the discharge of Raimondo and Antholzner pursuant to the Respondent's unilateral enforcement of its driving under the influence policy. The Board noted that it found no basis for reversing the judge's credibility findings. The Board further noted that there were no exceptions to the third prong of the violation, i.e. the Respondent's failure to bargain with the Union about the discharges of Raimondo and Antholzner. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Schaumber and Member Liebman participated.)

Charge filed by Teamsters Local 449; complaint alleged violations of Section 8(a)(1) and (5). Hearing at Buffalo on July 16, 2008. Adm. Law Judge George Carson II issued his decision Sept. 3, 2008.

Global Aviation Services, LLC (4-RC-21449; 353 NLRB No. 57) Essington, PA Nov. 28, 2008. The Board dismissed the petition concurring in the National Mediation Board's finding that the Employer (Global Aviation Services, LLC) was within its jurisdiction rather than the Board's jurisdiction. The Board noted that the National Mediation Board uses a two-pronged jurisdictional analysis: (1) whether the work is traditionally performed by employees of air or rail carriers; and (2) whether a common carrier exercises direct or indirect ownership or control. Both prongs of the test must be met. Here the parties stipulated that the Employer is directly owned or controlled by, or under common control with, an air carrier. The Board thus noted that the control prong of the test was met. The Board further noted the work performed by the Employer's employees and then noted that the National Mediation Board specifically found that this work was work traditionally performed by employees of air carriers. The Board agreed with this finding. The Board thus noted that the work prong of the test was met. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Schaumber and Member Liebman participated.)

Midwest Psychological Center, Inc. (25-CA-29381, 29405; 353 NLRB No. 51) Indianapolis, IN Nov. 26, 2008. This case was before the Board in the compliance stage of the proceeding after the Board found in the underlying unfair labor practice case, 346 NLRB 1 (2005), that the Respondent unlawfully discharged the Charging Parties. In the instant case, the Board adopted the administrative law judge's findings that the Respondent did not eliminate the discriminatees' [\[HTML\]](#) [\[PDF\]](#)

positions in Dec. 2004 and therefore the backpay period continued until the discriminatees rejected the Respondent's valid reinstatement offers in 2007. In so finding, the Board also rejected the Respondent's motion to submit additional evidence or to reopen the case.

(Chairman Schaumber and Member Liebman participated.)

Adm. Law Judge George Carson II issued his supplemental decision July 8, 2008.

Shane Steel Processing, Inc. and J&J Land, LLC, a single employer (7-CA-47710, 48016; 353 NLRB No. 58) Fraser, MI Nov. 28, 2008. The Board adopted the supplemental decision of the administrative law judge finding that Respondents Shane Steel Processing and J&J Land constitute a single employer, making J&J Land jointly and severally liable for Shane Steel Processing's unfair labor practices. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Schaumber and Member Liebman participated.)

Hearing at Detroit, June 11-13, 2007. Adm. Law Judge Keltner W. Locke issued his supplemental decision April 1, 2008.

SPE Utility Contractors, LLC (7-CA-49691, et al.; 353 NLRB No. 52) Port Huron, MI Nov. 26, 2008. The Board granted the General Counsel's motion for clarification of its underlying Order at 352 NLRB No. 97. The General Counsel asked the Board to modify its Order by providing for a make-whole remedy for the Respondent's direct dealing with employees with respect to an offer by the Respondent to certain employees of a cash bonus if they could reconcile the Respondent's accounts with the Florida Power and Light Co. by Feb. 13, 2007. The Board granted the motion because the request is consistent with the Board's conventional remedy in a case in which a respondent engaged in an unfair labor practice that caused, or may have caused, employees' monetary loss. The failure to provide a remedy in this case was inadvertent. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Schaumber and Member Liebman participated.)

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

United States Postal Service (Postal Workers Locals 380 and 434) Albuquerque, NM Nov. 25, 2008. 28-CA-21792, et al.; JD(SF)-49-08, Judge John J. McCarrick.

The Parksite Group (Teamsters Local 671) South Windsor, CT Nov. 26, 2008. 34-CA-11961; JD(NY)-42-08, Judge Raymond P. Green.

NO ANSWER TO COMPLAINT

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

Five Star Interiors, LLC (Construction Workers Local 10, a/w the Christian Labor Association) (7-CA-51218; 353 NLRB No. 56) Midland, MI Nov. 28, 2008. [\[HTML\]](#) [\[PDF\]](#)

NO ANSWER TO COMPLIANCE SPECIFICATION

(In the following cases, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the compliance specification.)

Austin Printing Co. (Graphic Communications Workers Local 546M, GCC/IBT) (8-CA-37449; 353 NLRB No. 54) Akron, OH Nov. 28, 2008. [\[HTML\]](#) [\[PDF\]](#)

Shane Steel Processing, Inc. and J&J Land, LLC (Auto Workers Local 771) (7-CA-47710, 48016; 353 NLRB No. 59) Fraser, MI Nov. 28, 2008. [\[HTML\]](#) [\[PDF\]](#)

TEST OF CERTIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment on the ground that the Respondent has not raised any representation issue that is litigable in the unfair labor practice proceeding.)

Saint Mary Home (Teamsters Local 671) (34-CA-12130; 353 NLRB No. 53) West Hartford, CT Nov. 28, 2008. [\[HTML\]](#) [\[PDF\]](#)

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

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

DECISION AND CERTIFICATION OF REPRESENTATIVE

Eby-Brown Co., LLC, Montgomery, IL, 13-RC-21728, Nov. 25, 2008 (Chairman Schaumber and Member Liebman)

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

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

Imagine Early Learning Center/Jamaica Kids, Jamaica, NY, 29-RC-11648, Nov. 25, 2008

DECISION AND CERTIFICATION OF REPRESENTATIVE

Allstate Power Vac, Inc., Rahway and Linden, NJ, 22-RC-12950, Nov. 25, 2008

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Cuming Corp., Avon, MA, 1-RC-22222, Nov. 25, 2008

Miscellaneous Board Decisions and Orders

**ORDER [denying Employer's request for review
of Regional Director's denial of motion to
dismiss representation petition]**

Regional Emergency Medical Services, Inc., Southfield, MI, 7-RC-23217, Nov. 26, 2008

**ORDER [granting Petitioner's motion to accept late
filing of response to Employer's request for review
of decision and direction of election]**

STP Nuclear Operating Co., Wadsworth, TX, 16-RC-10862, Nov. 26, 2008

**ORDER [granting Employer's consent motion for leave
to file out of time answering brief to Union's exceptions
to Hearing Officer's decision & recommendation]**

DLC Corp. d/b/a Live Nation New England, Cambridge, MA, 1-RC-22162, Nov. 26, 2008
