

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

FEDEX HOME DELIVERY, an operating division of
FEDEX GROUND PACKAGE SYSTEMS, INC.,

Employer

And

34-RC-2205

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL UNION NO. 671

Petitioner

PETITIONER'S OPPOSITION TO MOTION FOR RECONSIDERATION

The Petitioner, International Brotherhood of Teamsters, Local 671 ("Local 671" or "Petitioner"), hereby opposes the Motion for Reconsideration filed by FedEx Home Delivery, a Separate Operating Division of FedEx Ground Package System, Inc. ("FedEx").

1. On April 11, 2007, then Regional Director for Region 34, Peter B. Hoffman, issued the DDE in this matter.
2. On May 22, 2007, the Board denied the Employer's Request for Review of the DDE. The Board's denial constituted an affirmance of the Regional Director's DDE in the instant matter. *See* Section 102.67(f) of the Board's Rules and Regulations.
3. On May 11, 2007, an election was held pursuant to the DDE as affirmed by the Board. Local 671 prevailed in that election.
4. FedEx, subsequently, filed its Objections to Election on June 8, 2007.

5. On March 17, 2010, FedEx filed a Motion to Dismiss Petition with the Board. However, a motion to dismiss a petition is timely only when filed prior to the close of the representation hearing. *See* Section 102.71(a) of the Board's Rules and Regulations.

6. After an almost three year process of hearings, appeals, remands and re-hearings, the Board, on May 27, 2010, issued its Decision and Certification of Representative.

7. On June 10, 2010, FedEx filed its Motion for Reconsideration, purportedly pursuant to Section 102.65(e)(1) of the Board's Rules and Regulations. Section 102.65(e)(1), however, does not apply to decisions issued by the Board on objections to elections. Moreover, it is evident that FedEx is not seeking reconsideration of the rulings contained in the Board's May 27th Decision and Certification of Representative but, rather, seeking reconsideration of the Regional Director's DDE, as affirmed by the Board on May 22, 2007. As such, even if Section 102.65(e)(1) is applicable, given the status of this case, FedEx's Motion for Reconsideration was not timely filed as such a motion had to have been filed "within 14 days ... of the decision or report." In this regard, there can be no dispute that FedEx's Motion to Dismiss is seeking reconsideration of the Regional Director's DDE that issued on April 11, 2007. Further and as noted, *supra*, a motion to dismiss the petition is governed by Section 102.71(a) of the Board's Rules and Regulations, which requires that such a motion be filed prior to the close of the representation hearing.

8. Lastly, the only decisions cited by FedEx in support of its argument that the Board should entertain its Motion to Dismiss, *i.e.* *Charlotte Amphitheater Corp.*, 331 NLRB 1274 (2000), *Wallace International de Puerto Rico*, 328 NLRB 29 (1999), *Regal Recycling, Inc.*, 329 NLRB 355 (1999), are inapposite in that those decisions, in relevant part, deal solely with the effect of

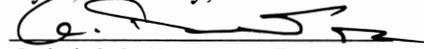
the passage of time on the enforceability of a *Gissel* bargaining order, an issue not applicable to the instant case.

WHEREFORE, the Petitioner respectfully requests that this Honorable Board deny FedEx's Motion for Reconsideration.¹

Respectfully submitted,

Teamsters Local 671,

By its Attorney,



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June 22, 2010

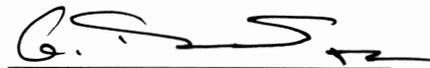
CERTIFICATE OF SERVICE

The undersigned attorney of record hereby certifies that copies of Petitioner's Opposition to Motion for Reconsideration have been served via electronic mail on :

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June 22, 2010



Gabriel O. Dumont, Jr.

¹ Because FedEx's motion is so obviously improperly filed, Local 671 will not spend the time and the resources comparing the records of the instant case to the record before the D.C. Circuit Court of Appeals. Suffice it to say, that the instant record is far more developed on the matters found relevant by the D.C. Circuit Court of Appeals.