



Weekly Summary of Cases

National Labor Relations Board

Week of December 6-10, 2010, W-3290

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Summarized Board Decisions

Interstate Brands, Inc. (19-CA-32618; 356 NLRB No. 50) Pierce and Thurston Counties, Washington, December 8, 2010. [\[HTML\]](#) [\[PDF\]](#)

The Acting General Counsel sought a default judgment in this case on the ground that the respondent failed to file an answer to the complaint.

Charge filed by United Food and Commercial Workers Union, Local 367. Chairman Liebman and Members Becker and Hayes participated.

Correctional Medical Services, Inc. (3-CA-23855; 356 NLRB No. 48) Albany, NY, December 9, 2010. [HTML](#)] [PDF](#)]

The Board accepted as the law of the case the court's determination that 5 employees' off-duty picketing of the respondent, a health-care employer, was protected, concerted activity. The Board found that the respondent violated the Act by threatening, interrogating, and discharging the employees because of their picketing.

Charge filed by Civil Service Employees Association, Local 1000, AFSCME. Chairman Liebman and Members Pearce and Hayes participated.

Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

Southern Power Company (10-CA-37348, 37414; 356 NLRB No. 43) Atlanta, GA, November 30, 2010. [HTML](#)] [PDF](#)]

In this case, the Board affirmed the administrative law judge's finding that the respondent was a successor employer and violated the Act by refusing to recognize and bargain with International

Brotherhood of Electrical Workers (IBEW) System Council U 19, on behalf of Local 801-1, as the exclusive bargaining representative of operation technicians in one plant previously operated by Alabama Power, and by refusing to recognize and bargain with IBEW Local 84 as the exclusive bargaining representative of operation technicians in three plants previously operated by Georgia Power. The Board, however, reversed the judge and found that the respondent failed to prove that a bargaining unit consisting of operation technicians at all three former Georgia Power plants was not an appropriate unit. The Board found that the judge failed to give any weight to the historical representation of employees in the three former Georgia Power plants and erred by failing to give proper consideration to the importance of multi-plant bargaining history in the unit determination. The Board further found that the respondent failed to show compelling circumstances why a three-plant bargaining unit was no longer appropriate.

Charges filed by International Brotherhood of Electrical Workers, Local 84. Administrative Law Judge Lawrence W. Cullen issued his decision November 3, 2008. Chairman Liebman and Members Becker and Pearce participated.

Dana Corporation, Inc. (7-CA-46965, et al.; 356 NLRB No. 49) St. Johns, MI, December 6, 2010. [HTML](#)] [PDF](#)] ***Dana Corporation, Inc., United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), AFL-CIO***

In a 2-1 decision, Chairman Liebman and Member Pearce held that the union and the employer, an auto parts manufacturer, did not violate the Act by entering into a letter of agreement that set forth ground rules for additional union organizing at an unorganized facility, procedures for voluntary recognition upon proof of majority support, and substantive issues that collective bargaining would address if and when the employer recognized the union. Member Hayes, dissenting, found that the parties' agreement was factually and legally similar to an earlier case (*Majestic Weaving*, 147 NLRB 859 (1964)), in which the employer and union were found to have acted unlawfully.

Charges filed by Individuals. Administrative Law Judge William G. Kocol issued his decision April 11, 2005. Chairman Liebman and Members Pearce and Hayes participated.

Divi Carina Bay Resort (24-CA-11101; 356 NLRB No. 47) Christiansted, St Croix, U.S. Virgin Islands, December 7, 2010. [HTML](#)] [PDF](#)] ***Grapetree Shores, Inc. d/b/a Divi Carina Bay Resort***

In this case, the Board found that the respondent failed and refused to recognize and bargain with the union as the exclusive collective-bargaining representative of unit employees, in violation of the Act.

Charge filed by Virgin Islands Workers Union. Chairman Liebman and Members Becker and Pearce participated.

Unpublished Board Decisions in Representation Cases

Lakeland Health Care Associates, LLC, d/b/a Wedgewood Healthcare Center (12-RC-9426)
Lakeland, FL, December 6, 2010. Order denying employer's request for review of the Regional Director's decision and direction of election and including employer's request to stay the election as moot. Member Hayes, dissenting: would have granted review. Petitioner – United Food and Commercial Workers Union, Local 1625. Chairman Liebman and Members Becker and Hayes participated.

Salem Hospital Corporation a/k/a The Memorial Hospital of Salem County (4-RC-21697)
Salem, NJ, December 9, 2010. Order denying employer's request for review of the Regional Director's decision and direction of election. Petitioner – Health Professionals and Allied Employees (HPAE). Chairman Liebman and Members Becker and Pearce participated.

Mashantucket Pequot Gaming Enterprise d/b/a Foxwoods Resort and Casino (34-RC-2392)
Ledyard, CT, December 9, 2010. Order denying employer's and intervenor's requests for review of the Regional Director's supplemental decision on objections, order directing hearing and notice of hearing. Petitioner – United Food and Commercial Workers Union, Local 371 – Intervenor – Mashantucket Pequot Tribal Nation. Chairman Liebman and Members Becket and Pearce participated.

Decisions of Administrative Law Judges

International Bedding Company (IBC of Pennsylvania) (4-RC-21705; JD-67-10) Barnesville and Frackville, PA. Petitioner – United Food and Commercial Workers, Local 1776. Administrative Law Judge Earle E. Shamwell, Jr. issued his decision December 9, 2010.

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