

**DTR Industries, Inc. and International Union,
United Automobile, Aerospace and Agricultural
Implement Workers of America, UAW.**
Cases 8-CA-22436 and 8-RC-14189

June 8, 1995

**SUPPLEMENTAL ORDER AND
CERTIFICATION OF RESULTS OF ELECTION**

**BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND COHEN**

On May 28, 1993, the National Labor Relations Board issued a Decision and Order in this proceeding.¹ The Respondent filed a petition for review of the Board's decision in the United States Court of Appeals for the Sixth Circuit. The Respondent sought vacation of the entire Order of the Board and dismissal of the objections to the election. The Board cross-petitioned for enforcement of its entire Order.

In an opinion dated November 3, 1994, the court found that the Board's findings of "hallmark" Section 8(a)(1) violations were not supported by substantial evidence and denied enforcement of the Board's bargaining Order.

Thereafter, on November 9, 1994, the Board filed with the court a motion to clarify whether the court had enforced other portions of the Board's Order finding that Respondent had committed "non-hallmark" violations of Section 8(a)(1), viz, unlawful solicitation of grievances, coercive interrogation of an employee, and maintenance of an invalid no-solicitation/no-distribution rule. On November 18, 1994, the Respondent filed a response and argued that the Board's motion for clarification should be denied because the Board's entire Order was before the court and the court denied enforcement of that Order.

On January 23, 1995, the court issued an order denying the Board's motion for clarification. On January 30, 1995, the court issued its mandate and entered

¹ 311 NLRB 833.

judgment concluding "that the order of the Board should not be enforced."

By letter dated February 27, 1995, the Board informed the parties that it had accepted the court's decision and that all parties could file statements of position with respect to any possible further action by the Board. Thereafter, counsel for the General Counsel and the Respondent filed statements of position.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

We have accepted the court's decision as the law of the case. The court has denied enforcement of the Board's Order. Therefore, we shall dismiss the complaint. In addition, inasmuch as the predicate for setting aside the election was the Board's finding of violations, we shall overrule the Union's objections to the election.

As the Petitioner failed to receive a majority of the valid ballots cast in Case 8-RC-14189,² we shall certify the results of that election.

ORDER

The complaint is dismissed.

IT IS FURTHER ORDERED that the Union's objections in Case 8-RC-14189 are overruled.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, and that it is not the exclusive representative of these bargaining unit employees.

² The UAW filed a petition for an election on September 25, 1989. A Stipulation for Certification Upon Consent Election was approved by the Regional Director on October 17, 1989. An election was held on November 17, 1989. The tally of ballots shows that of approximately 74 eligible voters, 73 cast ballots, of which 36 were cast for and 37 against the Petitioner. There were no challenged ballots.