

# National Labor Relations Board



# Weekly Summary of NLRB Cases

Division of Information

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W-2939

CASES SUMMARIZED  
VISIT [WWW.NLRB.GOV](http://WWW.NLRB.GOV) FOR FULL TEXT

<a href="#">Midwest Precision Heating &amp; Cooling, Inc.</a>	Kansas City, MO	1
<a href="#">UAW-Daimler Chrysler National Training Center</a>	Detroit, MI	1

## OTHER CONTENTS

<a href="#">List of Decisions of Administrative Law Judges</a>	2
<a href="#">No Answer to Complaint Case</a>	2
<a href="#">List of Unpublished Board Decisions and Orders in Representation Cases</a>	3
<ul style="list-style-type: none"><li>• Contested Reports of Regional Directors and Hearing Officers</li><li>• Uncontested Reports of Regional Directors and Hearing Officers</li><li>• Requests for Review of Regional Directors' Decisions and Directions of Elections and Decisions and Orders</li></ul>	

Operations-Management Memorandum ([OM 04-35](#)): Board's Interest Rate Rises to 5 Percent for Third Quarter, Fiscal Year 2004

**CORRECTION:** In the March 12, 2004 issue (W-2938), regarding the summary of *McAllister Towing & Transportation Co., Inc.*, 341 NLRB No. 48, on page 4, the Board rule on allegations of misconduct is Section 102.177, not 102.77.

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*Midwest Precision Heating & Cooling, Inc., et al.* (17-CA-20825; 341 NLRB No. 52) Kansas City, MO March 11, 2004. The Board affirmed the administrative law judge's finding that Respondent Midwest Heating and Air Conditioning (Air Conditioning) was an alter ego of Respondent Midwest Precision Heating & Cooling (Precision). It upheld the judge in finding that the Respondents violated Section 8(a)(5) and (3) of the Act by discharging Precision's union-represented employees; violated Section 8(a)(3) by offering Precision's bargaining unit employees jobs with Air Conditioning on the condition that there would be no union or collective-bargaining agreement; and violated Section 8(a)(5) by repudiating the applicable agreement and refusing to bargain with Sheet Metal Workers Local 2. [\[HTML\]](#) [\[PDF\]](#)

Relying on *First Class Maintenance Service*, 289 NLRB 484 (1988) and *Victor Valley Heating & Air Conditioning*, 267 NLRB 1292 (1983), the Respondent challenged the judge's alter ego finding, arguing that the Respondents lack common ownership. The Board found both cases are distinguishable and agreed with the judge's finding that Air Conditioning was an alter ego of Precision. It noted, among others, that in *First Class Maintenance* and *Victor Valley*, the older businesses continued as separate, ongoing concerns, and there was no evidence that the new entities were set up to avoid the unions. In this case, the evidence supports a finding that Air Conditioning was established as a vehicle to replace Precision and continue the existing family business without the Union.

The Board found merit in the General Counsel's argument that the judge erroneously failed to find that the Respondent violated Section 8(a)(5) by dealing directly with bargaining unit employees and failed to provide make-whole relief for employees who performed bargaining unit work for Air Conditioning on and after March 1, 2000. The Board accordingly modified its order to correct the judge's inadvertent omissions.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Sheet Metal Workers Local 2; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Overland Park, June 19-21, 2001. Adm. Law Judge James L. Rose issued his decision Sept. 19, 2001.

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*UAW-DaimlerChrysler National Training Center* (7-CA-46187; 341 NLRB No. 51) Detroit, MI March 9, 2004. The Board adopted the administrative law judge's finding that Respondent violated Section 8(a)(5) and (1) of the Act by permanently laying off Glenn "Alex" Winnie on April 11, 2003, without prior notice to and without affording Office Employees Local 512 an opportunity to bargain with Respondent regarding the layoff and its effects on the bargaining unit. [\[HTML\]](#) [\[PDF\]](#)

(Members Schaumber, Walsh, and Meisburg participated.)

Charge filed by Office Employees Local 512; complaint alleged violation of Section 8(a)(1) and (5). Hearing in Detroit on October 1, 2003. Adm. Law Judge Arthur J. Amchan issued his decision Dec. 4, 2003.

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**LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES**

*Quatum Electric, Inc.* (Electrical Workers [IBEW] Local 520) Round Rock, TX March 5, 2004. 16-CA-22918; JD(ATL)-12-04, Judge Michael A. Marcionese.

*Telcom USA, Inc.* (UNITE) Lawrence, MA March 8, 2004. 1-CA-40938, 41193; JD-16-04, Judge Donald L. Evans.

*Sanitation Salvage Corp.* (Teamsters Local 813) New York City, NY March 8, 2004. 2-CA-35481-1; JD-12-04, Judge Michael A. Rosas.

*Midwest Television, Inc. d/b/a KFMB Stations* (Television and Radio Artists, San Diego Local) San Diego, CA February 25, 2004. 21-CA-34683, et al.; JD(SF)-11-04, Judge James L. Rose.

*Enloe Medical Center* (California Nurses Association) Chico, CA February 23, 2004. 20-CA-31241; JD(SF)-17-04, Judge John J. McCarrick.

*The Commercial Linen Exchange, a Div. of Sodexho* (UNITE) Phoenix, AZ March 3, 2004. 28-CA-18708, et al., 28-RC-6175; JD(SF)-18-04, Judge Lana H. Parke.

*AK Steel Corp., Butler Works* (Butler Armco Independent Salary Union and Butler Armco Independent Union) Butler, PA March 12, 2004. 6-CA-32677, 32724; JD-17-04, Judge John T. Clark.

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**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.)*

*Cray Construction Group LLC* (Laborers Local 130) (4-CA-32367; 341 NLRB No. 50) Gap, PA March 5, 2004. [\[HTML\]](#) [\[PDF\]](#)

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**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 ORDER**

*Valcourt Building Services, Inc.*, Elizabeth, NJ, 22-RC-12384, March 10, 2004

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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 DIRECTION**

*Jimco Fire Protection, Inc.*, Au Gres, MI, 7-RC-22546, March 8, 2004  
*Global Electric, Inc.*, Bluffton, OH, 8-RC-16566, March 8, 2004

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Tecza Environmental Group, Inc.*, Elgin, IL, 13-RC-21103, March 8, 2004  
*Unicco Service Co.*, Pine Brook, NJ, 1-RC-21649, March 8, 2004  
*Halama Brothers Electric, Inc.*, Monaca, PA, 6-RC-12275, March 10, 2004

**DECISION AND CERTIFICATION OF RESULTS OF ELECTION**

*Horizon Group USA, Inc.*, Union, NJ, 22-RC-12375, March 8, 2004  
*United Crane*, Irving, TX, 16-RC-10546, March 10, 2004

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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)*

*Crossing Recovery Centers*, Patchogue, NY, 29-RC-10145, March 9, 2004  
*Meshberger Brothers Stone Corp.*, Portland, IN, 25-RC-10215, March 10, 2004  
*Eurotech Millwork, Inc.*, Waterbury CT, 34-RC-2063, March 10, 2004  
*Charlie Hillard, Inc., d/b/a Hillard Auto Park*, Fort Worth, TX, 16-RC-10555, March 10, 2004  
New York Rehabilitation Care Management LLC d/b/a New York Center for Rehabilitation Care & New York Care Inc., et al., Astoria, NY, 29-RC-9785 March 10, 2004

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*(In the following cases, the Board issued decisions after granting requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)*

**DECISION ON REVIEW AND ORDER**

*Solar International Shipping Agency, Inc./Yang Ming, Jersey City, NJ, 22-RC-12294, March 11, 2004*  
*Cosco North America, Inc.*, Secaucus, NJ, 22-RC-12236, March 11, 2004

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