

Aluminum Casting & Engineering Co., Inc. and United Electrical, Radio and Machine Workers Union of America (UE). Cases 30-CA-12855, 30-CA-12902, 30-CA-12943, 30-CA-12944, and 30-CA-12949

January 18, 2008

THIRD SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS LIEBMAN AND SCHAMBER

On April 9, 1999, the National Labor Relations Board issued a Decision and Order¹ directing the Respondent, Aluminum Casting & Engineering Co., Inc., to make its employees whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful failure to grant them a planned annual wage increase in 1995. On October 13, 2000, the United States Court of Appeals for the Seventh Circuit enforced the Board's decision in part and remanded it in part, with instructions for the Board to conform its Order with the court's opinion.² On May 16, 2001, the Board issued a Supplemental Decision and Order, substituting a new Order and notice for those previously issued on April 9, 1999.³

A controversy having arisen over the amount of backpay due the discriminatees, on May 11, 2007, the Regional Director for Region 30 issued an amended compliance specification.⁴ On June 4, 2007, the Respondent filed an answer admitting all of the allegations in the amended compliance specification.

Thereafter, the parties entered into a Stipulation and Amendment to the Amended Compliance Specification (Stipulation). In the Stipulation, the parties noted that certain hours worked by the discriminatees at the end of

calendar year 1995 were not accounted for in the amended compliance specification. The parties agreed to correct this omission as indicated in two attachments to the Stipulation. The Regional Director approved the parties' Stipulation on September 20, 2007.⁵

On October 1, 2007, the General Counsel filed a Motion for Summary Judgment with the Board. On October 11, 2007, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted.

The Respondent and the Charging Party filed responses to the General Counsel's motion on October 9 and 15, 2007, respectively. The Respondent requests that the Board grant the motion, asserting that the allegations in the motion "are all correct and accurate." The Charging Party similarly acknowledges that the allegations in the motion are correct, but takes issue with the Board's underlying decision to limit the discriminatees' backpay period. The Charging Party accordingly requests that the Board deny the motion, modify its earlier decision, and find that the backpay period in this case extends from 1995 to the present.⁶

On the entire record in this case, the National Labor Relations Board⁷ makes the following

Ruling on the Motion for Summary Judgment

According to the uncontroverted allegations of the General Counsel's Motion for Summary Judgment, the Respondent owes backpay to the discriminatees in the amounts specified in the amended compliance specification as further amended by the parties' Stipulation. In the absence of any dispute as to the accuracy of those backpay amounts, we grant the General Counsel's motion and find the Respondent liable for backpay as alleged.

¹ 328 NLRB 8.

² *NLRB v. Aluminum Casting & Engineering Co.*, 230 F.3d 286 (7th Cir.).

³ 334 NLRB 1.

⁴ The Regional Director issued an initial compliance specification on April 30, 2003. Following a hearing on the initial compliance specification, Administrative Law Judge Bruce D. Rosenstein issued a Supplemental Decision on November 14, 2003, which adopted the compliance specification in large part, but rejected the compliance specification's allegations with regard to the backpay period. The judge found that the appropriate backpay period was limited to calendar year 1995 rather than extending from 1995 "until such time as the Respondent permanently applies the appropriate across-the-board wage increase to their hourly wages for the years 1996 through 2003."

On January 31, 2007, in response to the parties' exceptions to the judge's Supplemental Decision, the Board issued a Second Supplemental Decision and Order in this proceeding. (349 NLRB 178.) The Board affirmed the judge's finding that the backpay period for the discriminatees should be limited to calendar year 1995 and ordered the Regional Director to amend the compliance specification accordingly. The amended compliance specification that issued on May 11, 2007, reflects this change.

⁵ In a letter dated September 13, 2007, the Charging Party clarified its position that, in signing the Stipulation, it agreed only to the accuracy of the backpay calculations therein and did not waive its right to challenge the underlying Board decision with regard to the backpay period.

⁶ On October 22, 2007, the Charging Party filed an "Opposition to Motion for Summary Judgment" with the Board. That document is essentially identical to the Charging Party's October 15, 2007 response to the Motion for Summary Judgment and therefore does not warrant separate discussion.

⁷ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Members Liebman and Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

ORDER

The National Labor Relations Board orders that the Respondent, Aluminum Casting & Engineering Company, Inc., Milwaukee, Wisconsin, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest to be computed in the manner set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and State laws:

Name	Identification No.	Amount
Dorothy Adams	1188	\$430.45
Larry D. Adams	444	552.65
Allen Albino	1427	40.75
H. Aparicio Alegria	559	136.35
David Alexander	731	197.41
John J. Alonzo	605	401.41
Felipe Alvarez	755	493.23
Jose Alvarez	1060	144.52
Jose Alvarez	447	261.80
Isaac Apau	281	67.40
Jose Aquilar	1028	331.85
Jose Aravjo	753	441.67
Jesus Arce	526	404.27
Leovardo Arenas	452	102.10
Alfonso Arrieta	1170	423.82
Amparo Avila	1180	119.65
Miguel Avila	902	144.99
Carlos Azurdia	1256	37.65
Bruce Banaszak	1447	42.79
Crelensiano Barragan	652	141.05
Jaime Barron	852	398.03
Robert Basterash	364	426.83
Gary Beierle	1306	502.88
Anthony Beles	971	109.48
Earl E. Bentley	418	373.43
John Bentley	1071	428.32
Julio Bergara	443	42.41
Eraclio Bernal	952	260.67
Linda Bolden	1024	454.04
Eddie Booker	316	400.71
Tony Bowen	205	411.81
Kevin Brasile	317	38.37
Danny Brown	877	516.83
Scott Brown	210	41.24
Gregory Burba	1277	39.09
Michael Burdette	870	103.32

Javier Cabrales	1033	\$52.50
Ubaldo Calderon	719	449.91
Jorge Campos	107	39.85
Manuel Carlos	1111	126.10
Tronnie Carr	800	484.15
Angel Cartagena	864	417.03
Brenda Kay Carter	878	447.05
Richard Casper	873	438.22
Mariano Castro	385	81.58
Samuel Castro	622	290.44
Orlando Chacon Jr.	110	428.28
Noah Chambliss	1426	3.30
Roberto Chapa	871	414.32
Andres Charriez	869	50.76
David Clark	1284	396.43
Jerry Clark	828	139.76
Robert Clark	276	10.04
Angel Claudio	401	147.22
Jerry Glen Coleman	587	414.31
Chester Collier	783	532.53
Marta Colon	1258	410.60
Francisco Coronado	953	403.97
Jose Coronado	1084	421.38
Hector Correa	1143	122.40
Thomas Corstvet II	791	511.44
Aaron Crosby	383	25.13
Joe Crossley	180	294.40
Terri Cruvello	777	82.96
Gloria M. Cucuta	372	509.22
Brian Culver	1270	474.92
Stanley Cunningham	307	409.63
Michael E. Czappa	404	393.03
Greg Dalton	967	504.66
Jesus Delacruz	1052	400.19
Ramon Delgado	601	501.70
Christopher Desilva	402	412.28
Carlos S. Diaz	174	123.45
Tommie Dickerson	135	7.90
Michael Dionisio	830	421.12
Dennis Drews	1190	47.98
Andrew Elem	260	100.80
Aurelio Escobar	184	490.18
Manuel Espino	1098	192.25
Norberto Espinoza	1002	130.99
Pedro Esqueda-Ruiz	1408	44.61
Jose Estrada	112	379.65
Marcos Estrada	348	5.54
Nassar Farah	629	433.21
Anthony Fayne	881	402.57
Edwin Feliciano	162	110.97
Nathaniel Ferguson	724	81.74
Humberto Fernandez	166	270.30

Rogelia Fernandez	722	\$443.68	Brian Held	509	\$501.85
Artemio Ferreira	578	426.90	Allen H.	586	351.15
Jose Ferrer	723	151.25	Hendrychowski		
Abraham Figueroa	624	415.75	Jorge Hernandez	111	492.85
Richard Finch	161	27.30	Jose Luis Hernandez	640	106.80
Jaurdon Fisher	1079	28.37	Juan Hernandez	774	261.66
Gustavo Florentino	1273	255.93	Mario Hernandez	221	48.75
Stephen Flores	512	410.88	Nelson Hernandez	390	227.36
Miguel Fonseca	746	482.59	Pamela Herwig	1198	159.22
Cleophus Fox, Jr.	515	300.29	Emmanuel Hill	988	74.08
Dean A. Froemming	375	560.35	Jimmie Hoard	103	489.94
Brian Gabelbauer	1217	98.45	Timothy Holl	420	46.01
George Gabelbauer	254	464.69	Roosevelt Holt	1050	67.28
Raymond Gabik	1234	304.47	Jane E. Hoyt	1259	461.17
Florentino Galindo	123	483.82	Nehemias Huertas	649	52.07
Moises Gallegos	367	44.47	Robert Jackson	303	8.74
Gene Gallonski	926	412.15	Victor Jaramillo	331	220.56
Enrique F. Galvan	109	1.95	Miguel Jimenez	798	375.50
Steve Gamroth	324	424.25	Salvador Jimenez	948	441.27
Angel Garcia	1424	38.45	Peter Jiru	695	38.68
Benito Garcia	445	418.74	David W. Johnson	384	508.21
Jesus Garcia	1250	192.70	J.T. Johnson	707	523.86
Norberto Garcia	665	341.75	Jacqueline Johnson	345	415.19
Rogelio Garcia	990	103.40	Melvin Jones	901	1.60
Victor Garcia	898	439.79	David Jurasovich	196	378.52
Samuel R. Gardison	663	470.73	Jerome Kastenholz	156	426.36
Tillman Garth	1329	461.80	Martha Kelley	475	398.95
Alex Garza	773	148.89	James Kennedy	115	386.61
Daniel Garza	1368	418.52	Greg Kerner	1027	410.36
Arthur Gee	119	436.29	Keith Kriegsman	121	498.21
Julius Glenn	1265	408.93	Steven Krueger	1005	126.12
Alfredo Gonzalez	142	30.06	Beth A. Krumnow	277	527.69
Antonio Gonzalez	993	441.34	Kris A. Krumnow	933	465.97
Bruno Gonzalez	1020	448.72	Joseph Kubasik	1072	119.78
Jesusa Gonzalez	122	519.58	Tammy Kuehl	399	17.02
Luis Gonzalez	262	6.40	Bipin Kumar	571	447.61
Manuel Gonzalez	1459	55.10	Juan Laboy	1174	431.30
Rafael Gonzalez	842	385.83	Heinz A. Langner	607	244.88
Lana Griffin	352	177.23	Hugo Lares	596	397.33
Eddie Groves	350	385.27	Roy Lattimore	725	495.90
Gary S. Gruenweller	876	421.32	Eugene Lawson	810	166.30
Lawrence Guerrero	860	17.90	Israel Lechuga	726	427.93
Juan Gutierrez	947	405.68	Joel Lechuga	1116	415.88
Salvador Gutierrez	240	449.83	Jose Luis Ledezma	714	438.68
Miguel Guzman	326	473.70	Carl Lee	1127	235.16
Jack Hager	563	27.71	Darian Lee	691	376.07
Larry Harder	242	16.11	Francisco Lopez	287	313.15
Joe Hardin	1022	380.53	Juan Lopez	646	402.88
James Harris	987	234.23	Melchor Lopez	591	470.53
Ronald Harris	465	103.55	Miguel Deleon Lopez	942	430.26
Jerry L. Hartman	373	268.08	Rene B. Lopez	218	411.37
Allen Hastings	362	463.62	Robert Lopez	648	383.83

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

William Lopez	1291	\$502.57	Frederico Pena	1398	\$45.91
Phyllis Luckett	319	38.85	Guadalupe Perez	974	403.91
Reinaldo Macate	1215	144.85	Jose Perez	202	42.00
Salvador Madrigal	151	283.55	Juan Perez	981	70.70
Anacleto Mancha, Jr.	702	401.85	Gerald Peters	170	367.37
Juan Marroquin	807	387.60	Froylan Pichardo	1192	427.90
Mark Martin	708	444.56	Michael Piedt	351	44.58
Heriberto B. Martinez	1269	502.05	David J. Pike III	621	508.64
Jesus Martinez	834	357.39	Francisco Quiroz	912	474.65
Nereo Martinez	1089	352.53	Pedro Quiroz	1114	484.27
Rafael Martinez	172	81.90	Jeffery Raedel	153	24.25
Ricardo Martinez	422	2.80	Felix Ramirez	1350	391.30
Ricardo Martinez	1246	415.14	Francisco Ramirez	169	40.88
Victor Martinez	1091	12.80	J. Santos Ramirez	977	435.65
Akram Massad	1041	424.24	Jeronimo Ramirez	368	44.97
Alfredo Matos	120	179.20	Jose Ramirez	679	124.50
William Matos	846	99.21	Luis Ramirez	304	18.17
David E. McNamer	520	49.30	Luis Ramirez	661	326.70
Anselmo Medina	1182	442.55	Manuel Ramirez	732	419.03
Ricardo Melen drez	562	416.08	Marcos Ramirez	167	16.00
Cain Mendez	1333	443.08	Salvador Ramirez	427	21.20
Ismael Mendoza	823	135.88	Fernando I. Ramos	1349	413.69
Martin Mendoza	1209	386.50	Saul Ramos	588	441.06
Jose Mercado	979	43.40	Earnest Rembert Jr.	410	465.12
James C. Micheau	570	403.43	Candido Reyes	1208	430.75
Charles Miller	382	25.45	Herodes Reyes	419	465.95
Christopher Mitchell	1249	24.59	Hubert Riley	312	41.47
Jorge Montanez	280	154.80	Raul Rios	407	374.96
Juan Montenegro	936	425.75	Aaron Ritzow	266	397.44
Alvis Moorer	644	419.63	Justino Rivas	771	425.69
William J. Morris	874	404.30	Daniel Rivera	895	91.02
Manuel Mota	1004	399.54	Javier Robelo	270	43.99
Pheng Moua	1013	62.80	Otto Roberts	1304	410.26
Adolfo Munoz	283	15.59	Charles Robinette	636	439.41
Eudoro Munoz	758	401.43	Geraldine Robinette	793	451.40
Sergio Munoz	1048	307.13	Edgar Roche	543	497.17
Leonard Murdock	128	1.60	Dennis A. Rochefort	683	662.08
Santiago Navarrete	152	146.48	Norman Rochefort	540	611.18
Cristian Navarro	1223	411.53	Charles A. Rodgers	741	434.75
Jose Naveja	1414	19.57	Claudio Rodrigues	776	472.56
Angel Negron	338	39.85	Eduardo Rodriguez	954	391.70
Eric Nelson	886	376.12	Juan Rodriguez	245	374.55
Debra Neumann	293	15.59	Martin Rodriguez	1117	192.30
Lawrence Neumann	705	48.28	Edwardo Rojas	341	51.03
Jesus Nieves	992	422.47	Miguel Rosa	204	377.91
Arturo Oliva	268	537.52	Pedro Rosales	188	404.82
Armando Olmos	904	398.29	Roberto Rosales	395	41.89
Jose Ornelas	982	423.26	Jesus Falcon Rosario	524	187.10
Rogelio Ornelas	1431	72.09	Hector Rosas	160	139.10
Michael Pampuch	1176	465.45	Regulo B. Ruiz	114	401.60
Frederico Paramo	1363	54.72	Jose Saguen	400	417.20
Ferman Payne	889	221.26	Euzebio Salazar	927	127.40

Luis Salgado	568	\$126.50	Charles Tardy	435	454.71
Guadalupe Salinas	433	26.83	Chao Thao	1228	356.13
Johnny Samarripa	955	433.08	Rosia Lee Thicklen	1229	401.64
Hugo Sanchez	959	295.63	Petrie Tillier	1452	15.02
Lorenzo Sanchez	462	391.99	Samson Tillis	1035	450.53
Kenith Sandifer	717	362.20	Rodd Tooke	709	146.76
Ramon Sandoval	1067	117.65	Reyes Trinidad	574	480.95
Ricardo Sandoval	630	474.00	Charles Tripp	132	396.30
Antonio Santana	397	41.55	Tim A. Tutaj	989	328.52
Francisco Santiago	1087	6.90	Tony Tyra	437	7.45
Jose Santiago	1196	245.83	Norberto Valdes	934	442.76
Miguel Santiago	742	118.40	Felipe Valdes	1130	383.28
Gabriel Santos	639	397.55	Florencio Vallejo	634	418.29
Jose Sarmiento	965	436.00	Luis Felipe Valles	1001	415.85
Khamphong	837	443.58	Victor Valles	155	447.80
Sayavongsa			Bee Vang	1436	39.60
Daniel Schneeberger	1422	20.00	Manuel Varela	388	365.75
Camille Schwartz	784	485.23	Jose Vargas	1006	432.09
Jeffrey S. Schwartz	1404	441.09	Sergio Vasquez	966	428.91
Julio Seda	131	427.35	Basilio Vela	359	42.85
Ignacio Sepulveda	482	399.50	Jesus Velasquez	1153	465.02
Javier Serna	975	410.40	Eliezer Velazquez	198	415.38
Terrance Shaw	1169	400.80	Pedro Velazquez	1203	292.74
Angel Silva	415	27.60	Reinaldo Vellon	389	57.60
Kim Allen Sjolund	865	433.33	Alfredo Vigil	754	326.51
Ahmad Smith	259	452.03	Ralph Villanueva	453	38.89
Calvin Smith	278	20.16	Raul Villanueva	1423	39.30
Juanita Smith	715	535.73	Van Vuong	956	31.35
Larry Smith	718	40.38	Winifred Warner	814	383.44
Thomas Smith	782	428.34	Ruth Mae Watson	461	260.75
Pedro Solano	623	336.95	James P. Weber	346	550.72
Jorge Solis	1128	29.25	Robert Wettengel	347	510.02
Gregory Solomon	1235	421.71	Brenda Williams	339	225.62
Miguel Sotelo	597	451.73	Carl A. Williams	264	404.23
Jose Soto	672	399.73	Melvin Williams	379	369.80
Pablo L. Soto	392	516.11	Theodore Williams	847	59.87
Lenis Sowell	688	82.60	Jeff Wolk	315	347.18
Carrie Stevenson	762	419.24	Paul J. Wood	177	438.03
Ronald Stoltz	1053	25.25	Raleigh Wright	438	449.03
Aaron Strobusch	295	65.35	Fong Xiong	626	49.45
Susan Struck	727	107.76	Kao Xiong	1012	352.27
Miguel Suarez	222	402.55	Vang Xiong	566	120.90
Regino Suarez	323	457.08			
Stanley Sudol	236	40.85			
Michael Susedik	301	982.68			
			TOTAL		\$109,873.28