

Ampersand Publishing, LLC d/b/a Santa Barbara News-Press and Graphic Communications Conference, International Brotherhood of Teamsters. Case 31-CA-029253

November 3, 2014

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA
AND SCHIFFER

On September 27, 2012, the Board issued a Decision and Order in this proceeding, which is reported at 358 NLRB 1540 (2012). Thereafter, the Respondent filed two petitions for review in the United States Court of Appeals for the District of Columbia Circuit, and the General Counsel filed a cross-application for enforcement.

At the time of the Decision and Order, the composition of the Board included two persons whose appointments to the Board had been challenged as constitutionally infirm. On June 26, 2014, the United States Supreme Court issued its decision in *NLRB v. Noel Canning*, 134 S.Ct. 2550 (2014), holding that the challenged appointments to the Board were not valid. Thereafter, the Board issued an order setting aside the Decision and Order, and retained this case on its docket for further action as appropriate.

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

In view of the decision of the Supreme Court in *NLRB v. Noel Canning*, supra, we have considered de novo the judge's decision and the record in light of the exceptions and briefs. We have also considered the now-vacated Decision and Order, and we agree with the rationale set forth therein. Accordingly, we affirm the judge's rulings, findings, and conclusions and adopt the judge's recommended Order to the extent and for the reasons stated in the Decision and Order reported at 358 NLRB No. 155, which is incorporated herein by reference.¹

¹ In agreeing with the rationale that the Respondent acted with an illegal objective in serving the 2009 subpoenas on several current and former employees to obtain their confidential Board affidavits, we rely for background purposes only on the Respondent's issuance of similar subpoenas in 2007, and we clarify that the Respondent's 2009 activity is unlawful even without regard to its 2007 actions.

In addition, we note that *Santa Barbara News-Press*, 357 NLRB 452 (2011), referenced in the now-vacated Board decision, was subsequently vacated by the U.S. Court of Appeals for the D.C. Circuit. See *Ampersand Publishing, LLC v. NLRB*, 702 F.3d 51 (D.C. Cir. 2012). The outcome of that case does not affect our decision in this proceeding.

APPENDIX

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT issue subpoenas to current and former employees prior to their testimony at a National Labor Relations Board hearing that request copies of affidavits the employees submitted to the National Labor Relations Board in an unfair labor practice investigation.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

AMPERSAND PUBLISHING D/B/A SANTA
BARBARA NEWS-PRESS

The Board's decision can be found at – www.nlr.gov/case/31-CA-029253 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.



We shall substitute a new notice in accordance with *Durham School Services*, 360 NLRB 694 (2014).