

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS LOCAL, 592 A/W INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS (20<sup>th</sup> CENTURY FOX FILM CORP)

and

TERRINGUS WALKER  
An Individual

Case No. 05-CB-273681

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS LOCAL 592, A/W INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS (EYE PRODUCTIONS INC., D/B/A/ CBS STUDIOS, INC.)

and

THE ESTATE OF ROBERT PATRICK O'CONNELL  
An Individual

Case No. 05-CB-276302

and

JAMES OLIVER HARRIS  
An Individual

Case No. 05-CB-277877

*Barbara Duvall, Esq.*, for the General Counsel.  
*Jonathan G. Axelrod, Esq (Beins, Axelrod & Keating, P.C., Washington, D.C.)*  
for the Respondent.

DECISION

STATEMENT OF THE CASE  
Statement of Facts  
Jurisdiction

Arthur J. Amchan, Administrative Law Judge. This case was tried in Richmond, Virginia on April 15-16, 2025. Terringus Walker filed the charge 05-CB-273681 on March 1, 2021.

Robert Patrick O’Connell, who is now deceased, filed the charge in 05-CB-276302 on April 28, 2021. James Oliver Harris filed the charge in 05-CB-277877 on June 1, 2021. The General Counsel issued a consolidated complaint on December 20, 2024.<sup>1</sup>

At least since April 2019, Respondent, Teamsters Local 592, which is a labor organization within the meaning of Section 2(5) of the Act, has entered into collective bargaining agreements with a number of film industry employers, including Eye Productions Inc. d/b/a CBS Studios, 20<sup>th</sup> Century Fox and Stalwart Films. CBS, which is based in Los Angeles, California, purchases and receives goods valued in excess of \$50,000 at its Los Angeles facility. It is an employer engaged in commerce within the meaning of Section 2 of the Act

Pursuant to these agreements Local 592 has become the exclusive bargaining representative of certain employees who perform driving services for these employers while they are producing films within the jurisdiction of the Union.<sup>2</sup> The employers cannot hire employees directly, they must utilize the Union’s referral rules when seeking driver employees, e.g. G.C. Exh 8, at 5. The agreements do not contain any requirement that employer utilization of the Union’s referral rules be performed in an objective, non-arbitrary manner.

Respondent maintains rules outlining the procedures for referring employees to driving work in the film industry. The General Counsel alleges that Local 592 has violated Section 8(b)(1)(A) of the Act by operating its hiring hall in an arbitrary manner and/or without objective criteria. More specifically, Respondent maintains 2 lists for referring drivers to film industry employers. There is a regular or A list, to which film employers must go in seniority for drivers before hiring any others. This is a list of very senior union members, which has been closed to additional employees for at least 20 years. There is also an “extra or B list” for less senior employees, which has been closed to additional employees since 2020. The General Counsel alleges that the manner in which the Union manages and refers employees from the extra list violates the Act.

One of the employees adversely affected by this is alleged to be Charging Party Terringus Walker. The General Counsel also alleges that Respondent has violated the Act in refusing to refer Walker to film industry employers since November 2020, in retaliation for the unfair labor practice charge he filed against the Union in 2019.

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<sup>1</sup> Contrary to the introductory paragraph in Respondent’s brief, complaint paragraphs 7 and 11-13, of the December 20, 2024, complaint challenge Respondent’s operation of its exclusive hiring in a manner that referred individuals on the “extra list” without objective criteria in the selection of applicants. The complaint was not limited to its failure to refer Terringus Walker for employment.

I have read and considered the post-trial briefs filed by the General Counsel and Respondent Union.

<sup>2</sup> An extensive area centered on Richmond, but not including all of Virginia, such as the area north of Fredericksburg. This excludes the Northern Virginia suburbs of Washington, D.C. from Local 592’s jurisdiction.

The employer may bring in an employee to operate equipment that nobody on the referral lists is qualified to operate, if the employer leases trucks from Hollywood and had them transported to Virginia. That driver must be represented by Teamsters Local 399. A celebrity (e.g., Stephen Spielberg) may insist on using his own driver.

The General Counsel also alleges that Respondent Union violated the Act in failing to adequately notify employees of a significant change in its referral rule for Regular list employees. Between 2018 and 2021 several films were being produced within the Union's jurisdiction at the same time. According to the Union's pre-March 2021 rules, an employee on the Regular list could bump an employee with less seniority if the Regular list employee's film finished before a less junior employee's film. On March 18, 2021, without prior notice to unit employees, the Union changed its referral rules so that this bumping was no longer allowed. The Union notified unit employees of the change by mail the day after the change became effective. Charging Parties Harris and O'Connell were not allowed to bump more junior employees as a result.<sup>3</sup>

During the hearing the General Counsel, relying on *Teamsters Local Union No. 667 (Spector Freights System, Inc.)* 248 NLRB 260 (1980), enfd. 654 F. 2d 254 (6<sup>th</sup> Cir. 1981), moved to amend the complaint to also allege that Respondent violated Section 8(b)(1)(A) by charging employees a fee without rendering them a service or a fee in excess of costs attributable to the services rendered. Respondent objected to the motion to amend. I stated that I would take the motion and objection under advisement and would determine whether or not Respondent was prejudiced by the amendment.<sup>4</sup>

#### *The Union's referral system*

When a film industry employer shoots a film in Local 592's jurisdiction, it hires a 592 member from the regular list to be the transportation coordinator. The Union selects the coordinator, who becomes a management employee of the employer. However, some employers hire coordinators who are not Local 592 members.<sup>5</sup> The Union designates other members to be the captain and co-captain of the transportation crew, who operate somewhat like a foreman, directing drivers when to show up for their tasks, G.C. Exh 10 at 2. The captain remains a bargaining unit employee. At least in some cases, the transportation coordinator picks the captain for a production, Tr. 166-68.

During the period 2018-2021 a number of movies were filmed in Local 592's jurisdiction. This includes films with the following titles: *Walking Dead*, *Dopestick*, *Tapawingo*, *Fellow Travelers*, *Gravediggers (aka Ray and Raymond)*, *Swagger*, which was a TV series, and

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<sup>3</sup> O'Connell died on December 28, 2023. His April 30, 2021, affidavit is in the record as G.C. Exh. 20. As to its admissibility and the weight accorded to it, see my discussion relating to the more important affidavit of Ronald "Bo" Jenkins, Jr.

<sup>4</sup> In *Teamsters Local Union No. 667 (Spector Freights System, Inc.)* 248 NLRB 260 (1980), the Union charged a referral fee to stay on a "miscellaneous" or extra referral list. However, contractors were not required to get labor via the hiring hall and employees were not required to pay the referral fee to work. Local 667 mailed the miscellaneous list to employers, but those employers hired labor directly and ceased calling the Union for referrals. The Board found that Local 667 did not perform any service warranting any fee. By doing so, the Board found that Respondent violated Section 8(b)(1)(A) and 8(b)(2).

<sup>5</sup> The transportation coordinator for *Dopestick*, Jonathan Bergholz, is not on Local 592's regular film industry referral list. He is on the March 2021 extra list, G.C. Exh. 5. Witness testimony indicates Bergholz is from Baltimore. Bo Jenkins was appointed captain on *Dopestick* in about October 2020.

*Good Lord Bird*. Some of these were feature films and others were “low budget” productions. In April 2021, *Walking Dead* and *Dopestick* were still in production. *Swagger* finished in March 2021, Robert O’Connell affidavit, G.C. Exh. 20., G.C. Exh. 28.

5           The Union first provides employers with its “Regular list” of long-time unit members. The employer was required to hire these employees in order of their seniority. Regular list employees can pick the equipment they operate in order of seniority. It appears that transportation coordinators were often, if not always, unit employees from the Regular or A list.

10           Afterwards, employers were allowed to hire from an “Extra list” of less senior employees, which is provided to the employer by the Union. Employees are allowed to join the extra list only when there is sufficient filming work in Local 592’s jurisdiction. Currently (2025), it is not open. To remain on the extra list, employees must pay a death benefit of about \$46-\$49 and an additional fee of about \$53.32 annually in January, (\$100 total). The \$53+  
15           annual charge was designed to limit the number of employees on the list. Regular list employees pay only a death benefit of somewhere between \$45 and \$50. The extra list is not limited to Local 592 members. Employees on the extra list may also be on referral lists in other local unions. They need to pay union dues only if they join Local 592, which they are not required to do.

20           The Union, through its stewards, provides film employers the extra list when there is enough work. The list is alphabetical. There appears to be no requirement as to how employees are selected from the Extra list. Ronald Roger Taylor, a regular list employee, who has been a captain on 3 productions, including *Dopestick*, testified that there is “no rhyme or reason” as to which employees on the extra list get hired and which do not, Tr. 171. As captain, Taylor  
25           testified, he does not decide which employees to call to make job offers, he merely calls employees as directed by the coordinator.

30           “Bo” Jenkins, Jr., who served as a captain for many productions, including *Walking Dead*, *Swagger* and *Dopestick*,<sup>6</sup> stated in his 2021 affidavit, “The extra list is physically in alphabetical order, but there is no order to how those drivers have to be called and anyone can be selected or not.”<sup>7</sup> In some cases, employees who knew by word-of-mouth of a filming were hired by contacting the captain of the crew for that production.

Jenkins’ affidavit continues:

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<sup>6</sup> It appears that he was captain for each of these shows at different times and other employees were the captain for the same shows at other times. This was the case for *Walking Dead*. Jenkins was the captain for this film in 2019, but for *Dopestick* in 2020 and 2021.

<sup>7</sup> Jenkins died on November 6, 1993, 2 years after giving his affidavit to a Board Agent. The Board has specifically held that, although admissible, such an affidavit “must be evaluated with maximum caution, and only be relied on if and when consistent with extraneous, objective, and unquestionable facts.” A rule of cautious scrutiny also applies to the testimony of witnesses regarding conduct of the deceased. *Weco Cleaning Specialists*, 308 NLRB 310 fn. 7, 314-15 (1992); *East End Bus Lines, Inc.* 366 NLRB No. 180 at 26, *Colonna’s Shipyard* 293 NLRB 136, 143 fn. 2 (1989). I credit the statements in Jenkins’ affidavit only to the extent that they are uncontroverted or immaterial. The same is true of the O’Connell affidavit, which unlike the Jenkins affidavit, does not contain any disputed statements or assertions. I credit Terringus Walker’s testimony as to his conversations with Jenkins for reasons unrelated to Jenkins’ affidavit.

Ultimately, the production [Employer] is the one who makes the decision on who from the extra list gets called. Coordinators will occasionally ask for my opinion on who should get called from the extra list and I will give advice on people who are good at the job, but the coordinator and the production direct me on who is going to get hired from the extra list, and I then place those calls to bring drivers on. I won't recommend someone not get hired and would just not mention them as opposed to recommend them...Coordinators are often local guys who sometimes have an idea of who they want to hire anyway.

G.C. Exh. 19 at 3.

The testimony of Robert "Lee" Mitchell, who has served as a transportation coordinator on many films is somewhat different, Tr. 140-41. He testified that while the production company communicates the number of drivers needed, it does not identify individuals to be hired. Several unit employees who have never been selected by the Union to be a coordinator or captain in Local 592's jurisdiction testified as to how they were hired to work on films within Local 592's jurisdiction. The essence of this testimony is that sometimes they were called and offered a job by the coordinator and sometimes by the captain.

Anthony Conard heard about the availability of work by word of mouth. In 2019, Conard called both Robert Foster, Sr.,<sup>8</sup> the coordinator and Bo Jenkins the captain on *Walking Dead* to let them know he was available. Bo Jenkins called Conard to offer him employment. To work on the second season of *Walking Dead*, Conard called Jenkins again. Bo Jenkins called Conard to offer him that job and work on *Dopestick*. Conard's testimony does not reflect whether or not Jenkins received instructions from Foster or the film company to hire him, Tr. 126. To work on *Atlantis*, Conard called the union captain, Roger Taylor.

Gerald Blue-El testified that he was called by both Robert Foster and Bo Jenkins to work on *Walking Dead* in 2019. His first call was from Sharon Hooper, the Union's Office Manager, the second from Captain Bo Jenkins, Tr. 179. However, he also testified that Foster, the coordinator, called him first, Tr. 182. Blue-El testified that "Robert "Lee" Mitchell offered him a job on a production called *Harriet*.<sup>9</sup>

The testimony of Roger Taylor, who has worked as a captain on *Good Lord Bird*, *Dopestick* and *Atlantis*, a 2024 production, is that it is the transportation coordinator that generally chooses employees from the extra list to hire, Tr. 168, 171. Robert "Lee" Mitchell's testimony is similar, but indicates some input on hiring from the captain, Tr. 141-44.<sup>10</sup>

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<sup>8</sup> His son, Robert Foster, Jr., another regular list employee, has also been a coordinator, Tr. 48-49. 187-88, G.C. Exh. 4. There is a Robbie Foster on the extra list, who I assume is a different person, but related to Robert Foster, Sr. and Jr. Robbie Foster worked on *Dopestick*. Witness Gerald Blue-El described the Union as being run by families, Tr. 187-88.

<sup>9</sup> A film about Harriet Tubman.

<sup>10</sup> The General Counsel contends that Roger Taylor is not a disinterested witness and should not be credited, G.C. brief at 18 n. 10.

The testimony of Danny Thomas is somewhat different than that of the employees who the Union has designated as captains and several other witnesses with regard to the role of the captain. Thomas is a member of Teamster Local 639, the Washington D.C. local. Before the COVID pandemic he worked in the Richmond area on *Good Lord Bird*. He met Roger Taylor, who was working on a film within Local 639's jurisdiction. Taylor, who was the captain on *Good Lord Bird*, told Thomas to call Bo Jenkins. Thomas was not yet on Local 529's referral list. Thomas testified that Jenkins offered him work on *Good Lord Bird* and *Swagger*, Tr. 236, 240-41. He testified that Roger Taylor, as captain, offered him a job on *Dopestick* and *Atlantis*.

Thomas does not know whether or not the captains were directed by a coordinator to call him, Tr. 245. He testified that Robert "Lee" Mitchell was the coordinator on all the shows on which he worked in Richmond. Mitchell confirmed that he was coordinator for *Swagger* and *Good Lord Bird*.

*Respondent changes its referral rules, terminating the right of regular list employees to bump less senior employees*

Prior to March 18, 2021, employees on the regular list were allowed to bump less senior employees when either their filming ended or the equipment they had driven was no longer being used. However, under these rules, bumping was not allowed if the employer viewed it as disruptive to the production. It does not appear that this occurred in the 2019-2021 time period. On March 18, 2021, the Union ceased the bumping privilege without prior notice to employees on the regular list.

One of the reasons for the change concerned the COVID pandemic. Employees were often required to test for COVID for 3 consecutive days, with each employee being paid \$250 per day for taking the test by the film production company. Obviously, bumping increased the employer's costs and they were very unhappy about this.

In early March 2021 Charging Party O'Connell, who was on the regular film industry referral list, was working on the *Swagger* film, which was winding down. He texted Robert Foster, Sr., the coordinator on *Walking Dead* advising Foster that he was available for work. Not hearing anything for a few days, on about March 11, 2021, O'Connell went to the union hall and spoke with Local President James Smith.

O'Connell told Smith he was seeking to bump a junior employee from *Walking Dead*. The Union did not advise O'Connell that it was about to eliminate bumping rights. O'Connell asked Union President James Smith to work on a set-deck truck on *Walking Dead*. He had worked a lot of overtime on *Swagger* and wanted something less taxing, G.C. Exh. – 20. After March 18, O'Connell asked Smith to bump onto any equipment on *Walking Dead*. Smith told O'Connell that bumping was no longer allowed.

On March 19, the Union sent O'Connell and other regular list members a letter advising them that it had updated the film industry referral rules. The changes in those rules which became effective on March 18, eliminated the bumping rights of Regular, A list unit members.

Charging Party James Oliver Harris, a regular list unit member, who was also working on *Swagger*, also asked to bump. Smith also denied his request. Harris filed a grievance, which the Union denied.<sup>11</sup>

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### *Terringus Walker*

Terringus Walker is a member of Teamsters Local 639 in Washington, D.C. Another Teamster driver told Walker about work in the Richmond area in about July 2019. Walker called Ronald “Bo” Jenkins, Jr., who was the Union’s captain on the film seeking employment. Jenkins called Walker and told Walker when and where to report for work.<sup>12</sup>

Walker worked in the Union’s jurisdiction on the film *Walking Dead* produced by Stalwart Films from July until December 13, 2019. The transportation coordinator on *Walking Dead* was Robert Foster, Sr., who is on the Union’s Regular A list<sup>13</sup>. Walker had little to no interaction with either Foster or Jenkins. He generally reported to the IATSE construction foreman.

In October 2019, Walker and a crew member from IATSE<sup>14</sup> had a confrontation which ended with the IATSE employee throwing a can of peanuts at Walker’s head.<sup>15</sup> Walker wanted the employee terminated. After complaining to the IATSE foremen, Walker called Jenkins and then Foster.

After that, Walker met with representatives from the production company. The IATSE employee was suspended from work for one day. Walker testified that shortly after his meeting with representatives from the production company, coordinator Robert Foster called him and said if he was to drop the issue, he would be guaranteed five years of work in Richmond, Tr. 302. This testimony is uncontradicted and therefore credited. Robert Foster, Sr. did not testify in this proceeding. His name is not mentioned in the complaint.<sup>16</sup> Afterwards, Walker testified that he was harassed by the IATSE crew. Eventually, Walker was transferred to a different crew, Tr. 185.

After talking to Union president James Smith, Walker filed a grievance with the Union, G.C. Exh. 34. He alleged that he had to continue working with the IATSE employee in question, thus creating a hostile work environment. He did not request any remedy from the Union. Union President Smith declined to process the grievance. Walker then filed an unfair labor

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<sup>11</sup> Both O’Connell and Howard first contacted Robert Foster, the coordinator on “Walking Dead,” seeking to bump onto that production as “Swagger” was finishing.

<sup>12</sup> It appears that when *Walking Dead* resumed in 2020, that somebody else was the captain on *Walking Dead*. In October 2020, Jenkins was the captain for *Dopestick*.

<sup>13</sup> Robert Foster, Jr., Robert Senior’s son has also been a coordinator, but has no relationship with the issues in this case.

<sup>14</sup> IATSE stands for International Alliance of Theatrical Stage Employees.

<sup>15</sup> Local 592 employees often are working with IATSE members on film productions. Local 592 employees perform the driving work, secure the load on the truck and operate the liftgate. IATSE employees perform non-driving tasks such as set construction, painting and plumbing.

<sup>16</sup> Respondent submits that if an adverse inference should be drawn from the failure of Foster to testify if should be drawn against the General Counsel, R. Brief at 22.

practice charge against Local 592, on November 19, 2019, alleging that by refusing to process his grievance, the Union was violating Section 8(b)(1)(A) of the Act. The General Counsel did not issue a complaint based on this charge. Walker also filed a complaint with the Equal Employment Opportunity Commission.

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Due to the COVID pandemic, film work in the Richmond area shut down completely or almost completely in early 2020 and then resumed in about October 2020 with the films *Swagger*, *Dopestick* and *Walking Dead*. Terringus Walker called Union President James Smith in about October 2020 seeking work. He also talked to Bo Jenkins, who was the Union's captain on *Dopestick* several times.

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Jenkins confirmed that he spoke to Walker in about November 2020 and several times in December 2020. According to Jenkins' affidavit, he told Walker that *Dopestick* was already staffed but told Walker that *Walking Dead* needed drivers and that he suggested that Walker call Robert Foster, Sr., the coordinator on that film.

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In a telephone call on December 9, 2020, Walker testified that Jenkins told him that nobody would hire him because all he would do would be to file an unfair labor practice charge, Tr. 273. Further, Walker testified that Jenkins said Walker had cost the Union money (which Jenkins disputed) and opened up some wounds. In a later conversation, Walker testified that Jenkins told him he had not been hired because his name was so far down in the alphabet. Jenkins denied this in his affidavit. Then, according to Walker, Jenkins repeated that Walker had opened up wounds.

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Jenkins' affidavit regarding Walker not getting work states as follows.

I don't recall saying anything to Walker about not being hired because of filing charges with the NLRB or EEOC or anything similar to that.

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Walker did say in one of the conversations that he thought he wasn't being worked because everyone thinks he's a troublemaker. I replied that I didn't believe that and have never heard that.... I don't recall saying anything about him costing the Union money and I don't recall talking about anything to do with the Union.

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I don't recall talking to Walker about anyone recommending him for *Walking Dead* or any other production. We continued to talk throughout December...

Walker and I talked again after the new year...but [I, Jenkins] asked if he had talked to Bob Foster (coordinator for *Walking Dead*) and Walker said he called. I never talked to Foster about this.

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Walker also testified that he spoke with Transportation Coordinator Robert Foster, Sr., in December 2020. Walker testified that Foster told him he only had a skeleton crew on *Walking Dead*, but to contact Foster in 2021.

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Walker testified that he spoke with Jenkins in January. Jenkins, who at this time was the captain on the *Dopestick* film, told Walker that he would submit his name for work on



*Walking Dead*. After that, Walker spoke with Foster again. Foster told Walker that he did not have work for him. After that, Walker spoke to Jenkins again. Jenkins told him Foster did not need more employees and that he was trying to make do with a skeleton crew.

Walker has not been hired to work on any film in Local 592's jurisdiction since. He paid the referral fee to stay on the extra list in 2019, 2020 and 2021, but not since. There is no evidence that anyone used objective criteria in hiring employees to work on films in Richmond after October 2020 instead of Walker.

### *Analysis*

Respondent Union concedes that it operates an exclusive hiring hall for film industry employers operating within its jurisdiction. It retains exclusive authority for referrals to film production employers. These employers may not hire drivers directly.

A union operating an exclusive hiring hall has a duty of fair representation to all individuals using the hall. As part of this duty, the union must operate the hall in a fair and impartial manner. The duty of fair representation requires a union to employ objective standards for the referral of employees. Operating an exclusive hiring hall without reference to such is a violation of Section 8(b)(1)(A) of the Act. Allowing union officials unfettered discretion in making referrals is a violation of a union's fiduciary responsibility, *Plumbers Local 619 (Bechtel Corp.)* 268 NLRB 766 (1984). More specifically, when a union makes referrals, as did Jenkins, on the basis of a subjective judgement regarding qualifications, it violates Section 8(b)(1)(A), *Polis Wallcovering Co.*, 262 NLRB 1336, 1338-39 (1982) *enfd.* in pertinent part 717 2d 805 (3d Cir. 1983).

When a union prevents an employee from being hired for reasons other than the failure to pay dues, initiation fees, or other fees uniformly required, there is a rebuttable presumption that it acted unlawfully because that "demonstrates its power to affect the employees' livelihood in so dramatic a way as to encourage union membership among the employees." *Operating Engineers Local 18 (Ohio Contractors Assn.)*, 204 NLRB 681, 681 (1973), *enf. denied* on other grounds 496 F.2d 1308 (6<sup>th</sup> Cir. 1974); *International Alliance of Theatrical Stage Employees, Local 838 (Freeman Decorating Co.)*, 364 NLRB 1062 (2016).

A union may delegate its functions. However, when it does so, the person or entity to which it delegated its functions is under the same legal obligations as the union would be if it chose to perform these functions itself, i.e., hiring hall referrals. Here the Union has an obligation to refer unit employees for employment in the film industry using objective standards. It may, as it has done with regard to the extra list, delegate that function to the employer. However, if the employer (including the transportation coordinators and/or captain) does not employ objective standards, the union is in violation of Section 8(b)(1)(A). The Union cannot avoid its legal obligations by delegating its functions to the employer or unit members, *Branch 600, National Assn. of Letter Carriers*, 232 NLRB 263 (1977), *enf'd.* 595 F.2d 808 (D.C. Cir. 1979); *Boilermakers Local 302 (Henders Boiler)*, 300 NLRB 29 (1990). It does not matter whether the person or entity is normally an agent of the union or not.

I find, below, that the transportation coordinators and captains are agents of Respondent in the hiring process from the extra list. I also credit Terringus Walker's testimony as to his conversations with Bo Jenkins. Thus, I find that Walker's protected activity in filing a grievance and unfair labor practice was a material factor in Respondent's failure to refer him for work after October 2020. However, my ultimate conclusion does not rest either on the agency status of the coordinators and captains, or Jenkins' comments to Walker. Respondent violated the Act in delegating its duty of fair representation to somebody and was bound to assure that hiring from the extra list complied with that duty. Respondent is ultimately responsible for the fact that hiring from the extra list was not made according to objective criteria regardless of who made the hiring decisions. It violated Section 8(b)(1)(A) and 8(b)(2) generally and also specifically in failing to offer Terringus Walker employment.

*Transportation Coordinators and Captains in the Film Industry are agents of Local 592 in the referral process*

The transportation coordinators may be employees of the production company under the terms of Local 592's collective bargaining agreements with film industry employers. However, they retain many obligations as bargaining unit members. To the extent the transportation coordinators make hiring referrals from the extra list, the transportation coordinators are acting in a dual capacity as management representatives and agents of the Union and are bound by the Union's duty of fair representation, *United Brotherhood of Carpenters, etc. (Endicott Church Furniture, Inc., 125 853, 872-73 (1959); IBEW, Local No. 25, 202 NLRB 918, 919-920 (1973); and 202 NLRB 912, 915-916 (1973).*

The record makes it clear that unit employees, seeking employment in the film industry in Local 592's jurisdiction, normally begin the process by contacting the Union's captain for that production. In referring applicants to the coordinator or film production company, the captain may, as shown in the Jenkins affidavit, use their discretion as to whether to refer that applicant to the coordinator or film production company. In doing so, the captain is acting on behalf of Local 592 and is its agent pursuant to Section 2(13) of the Act, *Bio-Medical Applications of Puerto Rico, Inc., 269 NLRB 827, 828 (1984)*. Additionally, statements a captain makes regarding Local 592's referral process or practices to unit employees, makes the captain an agent of Local 592, on the basis of the captain's apparent authority, *Teamsters Local No. 886, 354 NLRB No 52 (2009); 355 NLRB 583 (2010)*.<sup>17</sup>

It is clear that whoever made the hiring decisions from the extra list, that person did not follow any objective criteria in doing so. By their failure to use objective criteria, Local 592 violated Section 8(b)(1)(A) of the Act.

*I draw an Adverse Inference from Respondent's failure to adequately search and produce documents pursuant to the General Counsel's Subpoena Duces Tecum B-1-INYEUJF.*

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<sup>17</sup> Respondent suggests if Bo Jenkins had discretion as to who to hire or recommend for hiring, he was a supervisor within the meaning of Section 2(11) of the Act. Assuming that Jenkins was a supervisor of the production company, I find that he was also an agent of the Union pursuant to Section 2(13).

The General Counsel makes a very broad request for an adverse inference based on Respondent's failure to file a petition to revoke its subpoena or make an adequate search for documents, particularly with regard to its requests 9-14. In drawing such an inference, I rely primarily on the Union's failure to comply with request nos. 9 and 12.

9. For the period covered by this subpoena [January 1, 2019, through December 31, 2024], documents that show requests by Film Employers, Coordinators, or Captains for referral of individuals from Respondent's Regular List and Extra List, the dates of such requests, the job classifications for which individuals were requested, and the number of individuals requested for each job classification.

12. For the period covered by this subpoena, communications between Respondent, including Ronald "Bo" Jenkins, Jr., and the Film Employers, related to assignment for each Film Production for the Regular List and Extra List.

The record establishes that Respondent Union did not search for emails to and from its film industry captains. Such documents, if they exist, would establish the nature of the captains' authority and involvement in staffing film productions. If Respondent had a valid objection to searching the emails of its captains, it should have filed a petition to revoke the General Counsel's subpoena on that basis. Since, it did not, I find that Respondent was obligated to conduct the search and make the production requested by the General Counsel. In responding to a subpoena, an individual (or employer or union) is required to produce documents not only in his possession or control, but any documents that he or she had a legal right to obtain, *Clear Channel Outdoor, Inc.*, 346 NLRB 696, 702 fn. 10 (2006)

Emails to and from the captains would either prove or disprove the Union's assertions that its captains were merely performing a ministerial function in the referral process. Due to its failure to adequately comply with the subpoena, I find that an adequate search and production would prove just the opposite; the union captain is the person who decides who gets hired and who does not for a film in Local 592's jurisdiction or effectively recommends and controls who gets hired.

Due to Respondent Union's failure to adequately comply with the subpoena, I decline to credit the testimony of its witnesses that hiring decision in the Richmond film industry are made exclusively by the coordinators.

Furthermore, regardless of what he said to Terrigus Walker, I find that Bo Jenkins effectively denied him further employment either by deciding not to refer Walker to whoever made the hiring decisions or making that decision himself. Moreover, due to the failure by the Union to search for communications to and from Bo Jenkins, I find that Walker was not employed in the Richmond film industry after October 2020 at least in part due to the fact that he filed a grievance with the Union and an unfair labor practice charge against Local 592.

Finally, I credit Walker's testimony regarding his conversations with Bo Jenkins. In his affidavit, Jenkins admitted to being aware of Walker's 2019 ULP charge and having several conversations with Walker between November 2020 and January 2021 regarding his employment in on-going film productions. Within 2 months of their last conversation, on March

5, 2021, the Union was served with the ULP charge that Walker filed in the instant case. A Board agent took Jenkins' affidavit on July 14, 2021. In that affidavit Jenkins stated that he did not recall saying anything about Walker not being hired because of filing charges with the NLRB or EEOC or anything similar. I find that Jenkins would in July 2021 have remembered, and did  
 5 remember whether or not he mentioned the charges or not. The fact that Jenkins recalled telling Walker that the fact that his name began with W had nothing to do with his not being called, is a factor in my finding that Jenkins remembered what else he said to Walker.

10 *Failure to notify regular list unit members of impending changes to the Union's referral rules eliminating their bumping rights*

The instant case differs from *Plumbers Local 230*, 293 NLRB 315 (1989), cited by the General Counsel, in that Local 592 gave regular list unit employees virtually contemporaneous notice of the change in its referral rules. The statutory violation that the General Counsel alleges  
 15 is the failure to give advance notice of impending changes. Although I conclude otherwise, Respondent concedes a technical violation of 8(b)(1)(A), R. brief at 24-25.<sup>18</sup> However, Respondent submits that neither James Harris nor O'Connell's estate is entitled to any remedy, including backpay.

20 There is no requirement that the Union provide advance notice of changes in its referral rules. Thus, I find that the Union did not violate its duty of fair representation to either James O. Harris or Robert O'Connell

25 Had Union President Smith advised O'Connell that his bumping rights would expire in the near future, O'Connell may have been less selective as to what equipment he was willing to drive. In fact, I infer that he would have been, given his request to drive anything after learning that he no longer had bumping rights. I infer that O'Connell relied on the belief that he would still have bumping rights in initially demanding bumping only to the set-deck operation.

30 However, had the Union provided advance notice of the impending rule change to O'Connell, I find that its duty of fair representation would have required it to give such advance notice to all unit employees on the regular list. Since there is no obligation to do so, I dismiss the complaint allegations regarding failure to notify regular list employees of the forthcoming  
 35 cessation of their bumping rights. Respondent's mail notification of the change on the day after it became effective satisfied its statutory obligations.

*Referral fee for staying on the extra list*

40 In general, I find that the Union provides a service to unit members by maintaining an exclusive referral system for the film industry. With a few exceptions, one must be on either the regular or extra list to be hired. As Respondent points out, if the lists serve no purpose, it is at least arguable that Respondent does not operate an exclusive hiring hall.

45 I glean from Union President Smith's testimony that one of, if not the only purpose, of the referral fee for employees on the extra list is to keep additional employees off the list. I find

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<sup>18</sup> Citing *Teamster Local 519 (Rust Engineering)* 276 NLRB 898, 904 (1985).

that the Union renders a service to employees on the list in that it limits their competition for employment opportunities.

### *Conclusions of Law*

Respondent, Teamsters Local 592 operates an exclusive hiring hall for unit employees seeking work in the film industry within its jurisdiction. In so doing Local 592 violated and continues to violate Section 8(b)(1)(A) and 8(b)(2). It does so either in referring unit employees for work in the film industry from its extra list without applying any objective, non-arbitrary criteria or delegating its referral function without making any effort to determine whether employees are hired for film industry work pursuant to such criteria. Moreover, I conclude that hiring in the film industry from the extra list has been done in an arbitrary and unfair manner.

I specifically find that Respondent violated Section 8(b)(1)(A) and (b)(2) in failing to insure the Terringus Walker was considered for employment in the film industry pursuant to objective and non-arbitrary criteria.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>19</sup>

### *Order*

The Respondent, International Brotherhood of Teamsters, Local 592, its officers, agents, and representatives, shall

1. Cease and desist from

- (a) Operating an exclusive hiring hall and referral system in an arbitrary manner and/or without objective criteria.
- (b) Maintaining and applying its Film, Video, and Entertainment Industry Referral Rules in a manner that refers individuals on its extra list to employers without objective criteria in the selection of applicants.
- (c) Failing and refusing to refer employees for employment without applying objective criteria.
- (d) Failing and refusing to refer employees for employment because they filed an NLRB charge, an EEOC charge or grievance.
- (e) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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<sup>19</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- 5 (a) Within 14 days from the date of this Order, rescind and/or revise all exclusive hiring hall referral rules for extra list employees which operate an exclusive hiring hall in an arbitrary manner and/or without objective criteria.
- 10 (b) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- 15 (c) Within 14 days of this Order, make Terringus Walker whole for any loss of earnings and other benefits suffered as a result of Local 592's failure to refer him to employment.
- (d) Within 14 days of this Order reimburse Terringus Walker for any interim or search for work expenses, suffered because we failed to refer him for employment with interest.
- 20 (e) compensate Terringus Walker for the adverse tax consequences, if any, of receiving a lump-sum backpay award.
- (f) Within 14 days of this Order, reinstate Terringus Walker to Local 592's extra list.
- 25 (g) Within 14 days after service by the Region, post at its facility at 3705 Carolina Avenue, Richmond, Virginia and any other of its physical locations, copies of the attached notice marked "Appendix".<sup>20</sup> Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to unit members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its unit members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.
- 30 (h) Within 14 days after service by the Region, mail copies of the attached notice to all Film Employers with whom it has had a contract since September 5, 2020, and request that the notice be posted at all the employers' current jobsites within the Union's jurisdiction.
- 35 (i) Within 14 days of this Order, mail copies of the attached notice or send it by electronic means to all members and/or employees who have been on the extra
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<sup>20</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

list for the Film, Video and Entertainment Industry at any time since  
September 5, 2020.

- (j) Within 21 days after service by the Region, file with the Regional Director for  
Region 5 a sworn certification of a responsible official on a form provided by  
the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 30, 2025

A handwritten signature in cursive script, reading "Arthur J. Amchan".

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Arthur J. Amchan  
Administrative Law Judge

## APPENDIX

### NOTICE TO MEMBERS AND OTHER EMPLOYEES WHO HAVE BEEN ON OUR EXTRA REFERRAL LIST FOR THE FILM, ENTERTAINMENT AND VIDEO INDUSTRY SINCE SEPTEMBER 5, 2020

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 on your behalf with your employer  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

WE WILL NOT operate and maintain an exclusive hiring hall system with employees in the film, video and entertainment industry without using objective criteria for referral of extra list drivers or delegating our hiring hall functions without assuring that referrals are made pursuant to objective, non-arbitrary criteria.

WE WILL NOT refuse or fail to refer employees for employment for arbitrary or discriminatory reasons, such as the filing of charges with the National Labor Relations Board or filing a grievance.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed to you by Section 7 of the Act.

WE WILL make Terringus Walker whole for any loss of earnings and other benefits suffered as the result of our failure/refusal to refer him for employment, less interim earnings, with interest.

WE WILL reimburse Terringus Walker for any interim or search for work expenses, suffered because we failed to refer him for employment with interest.

WE WILL within 14 days from the date of the Board's Order, reinstate Terringus Walker to the extra referral list for the Film, Entertainment and Video Industry.

WE WILL compensate Terringus Walker for the adverse tax consequences, if any, of receiving a lump-sum backpay award.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.



TEAMSTER LOCAL UNION No. 592, a/w  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS

(Labor Organization)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation, and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlrb.gov](http://www.nlrb.gov).

Edward A. Garmatz Federal Courthouse  
National Labor Relations Board, Region Five  
101 West Lombard St., Suite 700  
Baltimore, Maryland 21201  
(410) 962-2822  
Hours: 8:15 a.m. to 4:45 p.m.

The Board's decision can be found at <https://www.nlrb.gov/case/05-CB-273681> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**  
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE  
DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY  
OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE  
WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S  
COMPLIANCE OFFICER (410) 962-2880.