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Coreslab Structures (Tulsa) Inc. and International Union of Operating Engineers, Local 627, AFL-CIO. Cases 14-CA-248354 and 14-CA-248812

February 25, 2026

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS PROUTY, MURPHY, AND MAYER

On December 16, 2022, the National Labor Relations Board issued a Decision and Order affirming Administrative Law Judge Robert A. Ringler’s finding that the Respondent, Coreslab Structures (Tulsa) Inc., violated Section 8(a)(5), (3), and (1) of the National Labor Relations Act (the Act).¹ Among other unlawful conduct, the Board found “that the Respondent violated Section 8(a)(3) and (1) since January 1, 2011, by discriminatorily failing to make contractually required pension contributions to the [Central Pension Fund (CPF)] on behalf of unit employees who were not union members, and violated Section 8(a)(5) and (1) since at least May 1, 2015, by modifying the 2015–2019 collective-bargaining agreement which required such payments, and since September 30, 2019, by failing to make contractually required pension contributions to the CPF on behalf of all unit employees[.]”² To remedy these violations, the Board ordered the Respondent to, inter alia, “make whole the affected employees by making all such delinquent [pension] contributions from January 1, 2011, to the present[.]”³ The Board also found that the Respondent “violated Section 8(a)(5), (3), and (1) since January 1, 2011, by unilaterally and discriminatorily changing the terms and conditions of employment of its unit employees by only offering a profit-sharing plan to those unit employees who were not union members without giving the Union notice or an opportunity to bargain[.]”⁴ To remedy these violations, the Board “order[ed] the Respondent to, on request from the Union, rescind the unlawful change,”⁵ and “also make the affected employees whole for any loss of earnings and other

benefits attributable to its unlawful conduct.”⁶ The Board further ordered the Respondent to compensate affected employees for any other direct or foreseeable pecuniary harms incurred as a result of its aforementioned unlawful conduct.⁷

Subsequently, the Respondent filed a petition for review of the Board’s Order with the United States Court of Appeals for the Tenth Circuit, and the General Counsel filed a cross-application for enforcement. On April 24, 2024, the court granted in part and denied in part the Respondent’s petition for review, granted in part the Board’s cross-application for enforcement, and remanded the case “to the Board for further proceedings consistent with [the court’s] opinion.”⁸

In its Opinion, the court found that “substantial evidence supports the Board’s findings of Act violations based on the refusal to make full pension contributions and the commencement of a profit-sharing plan that did not include Union members.”⁹ However, the court held that “the Board exceeded its statutory authority under the Act by ordering back-payments *without offset* and requiring [the Respondent] to retain the unlawfully-created profit-sharing program” unless the Union requested rescission.¹⁰ The court explained that “the Board orders to provide full back-pension contributions *and* provide full back-profit-sharing payments to all employees *without offset* for the compensation already provided to them were *not* ‘sufficiently tailored’ to the actual harms suffered by those employees, and must be made so on remand.”¹¹ The court also explained that “the order to retain the profit-sharing program *unless the Union requested its rescission* similarly exceeded the Board’s authority” because the “Board cannot dictate the terms of a labor contract” and the decision whether “to continue the profit-sharing program alongside, or in lieu of, the pension program . . . is a decision for the parties to make during the bargaining process the Act protects.”¹²

On June 18, 2024, the court issued its judgment with an attached Order and notice. In its Order, the court directed the Respondent to, inter alia, “[m]ake all current and former unit employees who were excluded from its profit-

from its profit-sharing plan because of their support for, activities on behalf of, and membership in the Union. Id., slip op. at 11, 13.

⁶ Id., slip op. at 11–12.

⁷ Id., slip op. at 12.

⁸ *Coreslab Structures (Tulsa), Inc. v. NLRB*, 100 F.4th 1123, 1147 (10th Cir. 2024).

⁹ Id. at 1139.

¹⁰ Id. at 1141, 1147 (emphasis in original).

¹¹ Id. at 1146 (emphasis in original).

¹² Id. at 1147 (internal citations omitted) (emphasis in original).

¹ *Coreslab Structures (Tulsa) Inc.*, 372 NLRB No. 31 (2022).

² Id., slip op. at 11.

³ Id. The Board explained that, “[t]o the extent that a current or former employee has made personal contributions to the CPF that are accepted by the CPF in lieu of the Respondent’s delinquent contributions during the period of the delinquency, the Respondent will reimburse the employee, but the amount of such reimbursement will constitute a setoff to the amount that the Respondent otherwise owes the CPF.” Id., slip op. at 11 n.31.

⁴ Id., slip op. at 11.

⁵ Absent such a request, the Board ordered the Respondent to cease and desist from excluding unit employees who are members of the Union

sharing plan or [the CPF] because of their union membership status whole for any applicable loss of earnings and other benefits suffered as a result of their exclusion since January 1, 2011, with offset, in amounts to be calculated in the future pursuant to the Court of Appeals' remand, and for any other direct or foreseeable pecuniary harms suffered as a result of their unlawful exclusion from the profit-sharing plan."¹³

The Respondent submitted a Certification of Posting to the Region on July 23, 2024.

On September 12, 2024, the Board notified the parties to this proceeding that it had decided to accept the remand from the court and invited the parties to file statements of position with respect to the issues raised by the remand. The General Counsel and Respondent filed statements of position.

In accordance with the court's opinion, which is the law of the case, we hereby remand this case to Region 14 to calculate the remedy, with offset, pursuant to the court's directive that the Respondent's remedial obligation must be "sufficiently tailored to expunge only the actual, and not merely speculative, consequences of the unfair labor practice[s]."¹⁴ Accordingly, the Regional Director for Region 14 should ensure that all current and former unit employees who were excluded from the Respondent's profit-sharing plan or the CPF because of their union membership status are made whole for any applicable loss of

earnings and other benefits suffered as a result of their exclusion since January 1, 2011, with offsets, in amounts to be calculated by the Region pursuant to the court's remand, and for any other direct or foreseeable pecuniary harms consistent with the court's Order.

ORDER

IT IS ORDERED that the case is remanded to the Regional Director for Region 14 for further appropriate action as set forth above.

Dated, Washington, D.C. February 25, 2026

David M. Prouty, Member

James R. Murphy, Member

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹³ In contrast, in its notice to employees, the court stated that the Respondent must make unit employees whole for direct or foreseeable pecuniary harms suffered as a result of their "unlawful exclusion from these plans." No party has raised this discrepancy, however, and the Board lacks jurisdiction to modify a court-enforced order. *Scepter Ingot*

Castings, Inc., 341 NLRB 997, 998 (2004), enfd. sub nom. *Scepter, Inc. v. NLRB*, 448 F.3d 388 (D.C. Cir. 2006).

¹⁴ *Coreslab Structures (Tulsa), Inc. v. NLRB*, 100 F.4th at 1146 (quoting *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 900 (1984)). In light of the court's opinion, we decline the former General Counsel's request to affirm the remedy in the Board's initial decision.