

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PREMIER BEVERAGE COMPANY, LLC
d/b/a BREAKTHRU BEVERAGE FLORIDA
Employer

and

Case 12-RD-374423

TIM ZULINKE
Petitioner

and

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS
Union

ORDER

The Union's Request for Review of the Regional Director's Decision and Order
Overruling Objection, Resolving One Challenged Ballot, Directing a Hearing on the Remaining

Challenged Ballots and Notice of Hearing is denied as it raises no substantial issues warranting review.¹

Accordingly, the Union's request for extraordinary relief is denied as moot.²

JAMES R. MURPHY, CHAIRMAN

DAVID M. PROUTY, MEMBER

SCOTT A. MAYER, MEMBER

Dated, Washington, D.C., September 9, 2026.

¹ In denying review, we agree with the result that the Regional Director reached (i.e., overruling the objection) but do not agree with his rationale (i.e., that the Union's objection and offer of proof provided insufficient evidence). Where the gravamen of an objection is a Sec. 8(a)(3) and/or (5) violation, the Board "has refused to consider the election objection[]" because "sustaining the objection would require finding that the objectionable conduct violated the Act." *Virginia Concrete Corp.*, 338 NLRB 1182, 1185–1186 (2003) (quoting *Texas Meat Packers*, 130 NLRB 279, 279–280 (1961)). Doing otherwise would contravene the longstanding principle that making an unfair-labor practice finding in a representation case interferes with the General Counsel's final authority under Sec. 3(d) of the Act to issue complaints and prosecute unfair-labor practice cases. *Texas Meat Packers*, 130 NLRB at 279–280 (citing *Times Square Stores Corporation*, 79 NLRB 361, 365 (1948)). In such cases, "the election process may be protected by the timely filing of charges with respect to the conduct in question." *Id.* at 280.

The Union's objection here alleges that the Employer provided an objectionable benefit to the replacement workers by employing them as driver helpers after the early January 2026 route bidding. That allegation, as the Union acknowledges, "mirrors" the dismissed charge in Case 12-CA-380319, alleging that the Employer engaged in unlawful unit packing in violation of Sec. 8(a)(1), (3), and (5) of the Act. The arguments that the Union raises in its request for review, which all pertain to the sufficiency of the Region's investigation of its unfair-labor practice charges and the Region's alleged error in finding that those charges were not meritorious, are therefore not cognizable in this representation case. Instead, the Union's means of redress is appealing the Regional Director's dismissal of the unfair-labor practices charges to the General Counsel in accordance with the procedure set forth in Sec. 101.6 of the Board's Statements of Procedure, which it has already done.

² Additionally, even if the request for extraordinary relief is not mooted by denying the Request for Review on the merits, we would still deny the stay request because the Union has not satisfied Sec. 102.67(j)'s requirement that it make a "clear showing" that a stay is "necessary" in this case, particularly where the hearing has now been postponed to October 7, 2026, and there is no indication that the Regional Director intends to decide the merits of the challenges that are tied to pending arbitration prior to the issuance of the arbitrators' decisions in those cases.