

A P P E A R A N C E S1
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3
4 **On Behalf of the General Counsel:**
5

6 MARA-LOUISE ANZALONE, ESQ.
7 National Labor Relations Board - Region 28
8 2600 North Central Avenue, Suite 1800
9 Phoenix, AZ 85004
10 Tel. 602-640-2117
11 Fax 602-640-2178
12
13

14 **On Behalf of the Respondent:**
15

16 JOHN A. FERGUSON, JR., ESQ.
17 Bracewell & Giuliani
18 800 One Alamo Center
19 106 S. St. Mary's Street
20 San Antonio, TX 78205-3603
21 Tel. 210-299-3518
22 Fax 210-299-0107
23
24

25 **On Behalf of the Union:**
26

27 MARK L. HEINEN, ESQ.
28 Gregory, Moore, Jeakle, Heinen
29 & Brooks, P.C.
30 65 Cadillac Square, Suite 3727
31 Detroit, MI 48226-2822
32 Tel. 313-964-5600
33 Fax 313-964-2125
34

35 **On Behalf of the Charging Party:**
36

37 JOHN SCULLY, ESQ.
38 National Right to Work Legal
39 Defense Foundation
40 8001 Braddock Road
41 Springfield, VA 22160
42 Tel. 703-321-8510
43 Fax 703-321-9319
44
45
46

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

_____)
 In the Matter of:)
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 DECO ACAL JV,)
)
 Respondent Employer,)
)
 and)
)
 JUAN VIELMA, An Individual,)
)
 Charging Party.)
)
 and) Case Nos. 28-CA-21082,
) 28-CB-6508
)
 INTERNATIONAL UNION, SECURITY,)
 POLICE & FIRE PROFESSIONALS)
 OF AMERICA (SPFPA),)
)
 Respondent Union,)
 and)
)
 JUAN VIELMA,)
)
 Charging Party.)
 _____)

The above-entitled matter came on for Hearing, pursuant to Notice, before **GREGORY Z. MEYERSON**, Administrative Law Judge, at National Labor Relations Board, Region 28, U.S. Bankruptcy Court, 8515 Longford Drive, El Paso, Texas on Tuesday, March 27, 2007 at 8:50 a.m.

1 if we had to the duty but couldn't show it, the Supremacy
2 Clause of the United States Constitution with -- direct state
3 regulation, such as by the Texas Right to Work Law, the
4 conditions of employment of employees directly engaged in
5 homeland security services at a United States Government owned
6 and operated installation -- and this has roots in a different
7 Supreme Court case from, I believe, it's 1984 that I'll be
8 arguing in the brief.

9 JUDGE MEYERSON: Well, thank you. That's interesting.

10 Mr. Ferguson, I assume you got to, also -- would like to,
11 also, make an Opening Statement.

12 OPENING STATEMENT

13 MR. FERGUSON: Yes, if I may. The Employers in this case
14 is a joint venture called Acal Deco and the -- this employing
15 unit entered into a Collective Bargaining Agreement with the
16 union in this case that has the Union Security Clause that --
17 that is at issue.

18 Just, we wanted to point out that this particular
19 Employer, that one of the partners to the -- to the joint
20 venture is Acal Security and Acal Security has entered into
21 many Collective Bargaining Agreements across the Country in
22 Right to Work states, as well as other -- as in Non-Right to
23 Work states with this union with the same Union Security Clause
24 and the great majority of the time, there's no issue whatsoever
25 because it's a -- there's no doubt that it is a Federal

1 property, Federal enclave -- no issue of it. Many are U.S.
2 Courthouses. In fact, one of Acal's Contracts was with this
3 very building here, the United States Bankruptcy Court.

4 In this particular case, the Employer was -- received --
5 and this is part of a Joint Exhibit -- received a request from
6 the union, notifying the Company that the union dues had not
7 been paid in violation of the Union Security Clause. Acal
8 notified Charging Party of that request and the union's request
9 that he be removed from the Contract, if he did not continue to
10 pay dues or pay the service fees and gave him an opportunity to
11 do it and still didn't receive compliance. So, as we've said
12 in the joint stipulation, Acal Deco, the joint venture,
13 notified the Charging Party that he was being removed from the
14 worksite, taken off the schedule and was being administratively
15 suspended in his -- compliance with the request of the union.

16 It is the Employer's position that it took those actions
17 based on the contractual obligation that it had with the union
18 in the Collective Bargaining Agreement and that it was based on
19 the union's request and for no other reason. The Employer's
20 position is, basically, the same as the union with regard to
21 the -- this whole Federal enclave issue. The Employer's
22 position is that the land in question where the Bargaining Unit
23 employees are employed is a Federal enclave, that the Union
24 Security Clause is valid and enforceable. So, we would join in
25 the union's argument in that -- in that regard.