

Summary Of NLRB Decisions For Week Of May 9 – 13, 2016

June 1, 2016 | [National Labor Relations Board, Labor Relations](#)

The summary of NLRB decisions for the week of May 9 – 13 is [now available](#). **Summarized Board Decisions *Roy Spa, LLC*** (19-CA-083329; 363 NLRB No. 183) Great Falls, MT, May 10, 2016. A Board panel majority consisting of Chairman Pearce and Member Hirozawa affirmed the Administrative Law Judge's order granting the General Counsel's request for an extension of time to file a motion to dismiss the Respondent's application for an award under the Equal Access to Justice Act (EAJA). Having found that the judge did not abuse his discretion in granting the extension of time, the majority also affirmed the judge's finding that the General Counsel was substantially justified in asserting jurisdiction over the Respondent pursuant to a theory of national defense jurisdiction as articulated in *Ready Mixed Concrete & Materials, Inc.*, 122 NLRB 318 (1958). However, because the judge failed to determine whether the General Counsel's position on the underlying merits of the case was substantially justified, the majority found it appropriate to remand the case for further proceedings, giving the General Counsel an opportunity to file an answer to the Respondent's EAJA application. Member Miscimarra dissented. He found that the General Counsel had neither shown nor attempted to show good cause based on excusable neglect for the late filing of the motion to dismiss, and that the judge erred in granting the General Counsel's request for an extension of time. Accordingly, Member Miscimarra would strike the General Counsel's untimely motion to dismiss and would direct the judge to decide the issues presented by the EAJA application on the basis of the existing record. Charge filed by International Brotherhood of Teamsters Local 2. Administrative Law Judge Michael A. Marcionese issued his supplemental decision on February 28, 2014. Chairman Pearce and Members Miscimarra and Hirozawa participated. [Continue reading on the NLRB website.](#)

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