

Summary Of NLRB Decisions For Week Of June 6 – 10, 2016

June 24, 2016 | [National Labor Relations Board, Labor Relations](#)

The summary of NLRB decisions for the week of June 6 – 10 is [now available](#). **Summarized Board Decisions *CVS Albany, LLC d/b/a CVS*** (29-RC-155927; 364 NLRB No. 21) Brooklyn, NY, June 7, 2016.

Decision on Review and Order remanding the proceeding to the Regional Director for further appropriate action. Having carefully considered the record, the Board reversed the Regional Director and found that the challenges to the ballots of three employees at issue should be sustained because these employees were “floaters,” a classification explicitly excluded from the unit in the Stipulated Election Agreement. The Board agreed with the Regional Director that the Board’s *Caesar’s Tahoe* test is the proper standard for resolving the case, and that the Stipulated Election Agreement was ambiguous with respect to the excluded category of “floaters,” which is not a job classification maintained by the Employer and is not defined in the agreement. The Board further found, however, contrary to the Regional Director, that this ambiguity could be resolved through usual methods of contract interpretation, including the examination of extrinsic evidence. Applying methods of contract interpretation, the Board found that the Petitioner’s interpretation of the term, covering all employees whose home store was not the Flatbush location but who simply worked there periodically or sporadically, was the more reasonable interpretation, and provided effective meaning to the Stipulated Election Agreement as a whole. The Board also considered the change in language from the initial petition to the Stipulated Election Agreement, as well as testimony concerning instances in which store managers used the term “floater,” finding that these pieces of evidence supported the Petitioner’s interpretation of the term. Members Hirozawa and McFerran would also rely on testimony from employees concerning their understanding of the term “floater,” finding that their testimony generally supported the interpretation proffered by the Petitioner. Petitioner- Local 338 Retail, Wholesale and Department Store Union (RWDSU), United Food and Commercial Workers International Union (UFCW). Chairman Pearce and Members Hirozawa and McFerran participated. [Continue reading on the NLRB website](#).

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