

NOT RECOMMENDED FOR PUBLICATION

File Name: 10a0379n.06

Nos. 09-1972/09-2441

FILED
Jun 24, 2010
LEONARD GREEN, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GALICKS, INC.,)	
)	
Petitioner/Cross-Respondent,)	ON APPEAL FOR
)	ENFORCEMENT OF AN
v.)	ORDER OF THE NATIONAL
)	LABOR RELATIONS BOARD
NATIONAL LABOR RELATIONS BOARD,)	
)	
Respondent/Cross-Petitioner,)	
)	
SHEET METAL WORKERS INTERNATIONAL)	
ASSOCIATION, LOCAL UNION NO. 33,)	
)	
Intervenor.)	

Before: **MARTIN** and **GRIFFIN**, Circuit Judges; **DUGGAN**,* District Judge

PATRICK J. DUGGAN, District Judge. This matter was submitted to the panel on briefs on March 30, 2010, with arguments addressing the merits of the underlying order of the National Labor Relations Board (“the Board”). On June 17, 2010, however, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, No. 081457, holding that the Board lacks authorization to act when it has fewer than three current members. There is no dispute that the underlying order in this case was issued at a time when there were only two members on the Board.¹

*The Honorable Patrick J. Duggan, United States District Judge for the Eastern District of Michigan, sitting by designation.

¹A member of the Board’s General Counsel contacted the Clerk’s Office on June 21, 2010, indicating the Board’s intent to file motions to remand in all cases pending before the Court affected by the *New Process Steel* decision, including this one. The motion, however, has not yet been filed.

09-1972/09-2441

- 2 -

In light of the Supreme Court's decision in *New Process Steel*, we *sua sponte* **REMAND** for proceedings consistent with that opinion.