

**OFFICE OF THE ELECTION SUPERVISOR**  
**for the**  
**INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

**IN RE: REUBEN MORENO,** ) Protest Decision 2016 ESD 253  
 ) Issued: June 17, 2016  
**Protestor.** ) OES Case Nos. P-200-030316-FW  
\_\_\_\_\_ )

Reuben Moreno, member and delegate candidate in Local Union 439, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Local Union 439 interfered with parking lot access rights of Moreno and his slate.

Election Supervisor representative Deborah Schaaf investigated this protest.

**Findings of Fact and Analysis**

Local Union 439 is entitled to elect five delegates and two alternate delegates to the IBT convention. At the nominations meeting held February 17, 2016, fifteen delegate candidates and six alternate delegate candidates divided among three full slates were nominated. Protestor Moreno was a candidate on the Restore the Pride slate.

Moreno alleged that Local Union 439 officials pressured management officials at Martin-Brower and Fresh Start Bakery, two employers under the jurisdiction of the local union, to deny parking lot campaign access to Moreno and supporters of the Restore the Pride slate. Joe Diniz, HR manager of Martin-Brower, told our investigator that when Moreno, who he has known for some twenty years because of Moreno’s past employment by the local union, told him he would be campaigning at Martin-Brower, Diniz called the union because “I don’t know the rules.” He said he spoke with Greg Lucero, a business agent, who told Diniz that Moreno had the right under the *Rules* to campaign there. Diniz said that about a month later, at a grievance meeting with Cary Daughters and Ron Finch, another local union business agent and a local union trustee, respectively, Daughters and Finch “blasted me” for allowing Moreno on the parking lot. Diniz told them he had “gotten permission” from Lucero, which he requested because he was “tired of the drama and tired of being accused of being Reuben’s friend.” Diniz further told Daughters and Finch, and subsequently told Moreno, that no one from the local union would be permitted to campaign in the employee parking lot. Promptly after the protest was filed, our investigator spoke with Diniz and advised him of members’ rights under the *Rules* to campaign in employee parking lots. Diniz reversed his ban on such activity, candidates were notified, and Moreno and his supporters thereafter campaigned there. The period during which the ban on parking lot activity was in place at Martin-Brower was a few days in early March 2016, several weeks before ballots were mailed on March 25.

John Slater, Bakery Director at Fresh Start Bakery, reviewed information about parking lot campaigning provided by our investigator and stated he would honor activity that conformed to the *Rules*, including having campaigners check in with security and identify themselves on arrival. Slater denied that any union official attempted to influence him with respect to campaigning. He said that he observed campaigners on the property at some time in late February or early March and, after they sat in lawn chairs there for some 2½ hours, asked them to leave the premises, stating that they did not

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identify themselves and had posted campaign signs on the property. Protestor Moreno conceded that he did not check in with security when he campaigned successfully in late February or early March but denied the other claims Slater made.

On these facts, we find that the brief banning of campaign activity in the Martin-Brower parking lot occurred remote in time to the mailing of ballots and was quickly reversed so as not to impede in any appreciable manner the access candidates had to employees who work there. With respect to Fresh Start, we find that Slater's directive that the campaigners leave the premises occurred after they had campaigned for a significant period and was prompted by the campaigners' failure to identify themselves; Fresh Start thereafter permitted parking lot campaigning that conformed to the *Rules*.

For the reasons stated, we deem this protest RESOLVED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kathleen A. Roberts  
Election Appeals Master  
JAMS  
620 Eighth Avenue, 34<sup>th</sup> floor  
New York, NY 10018  
kroberts@jamsadr.com

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1050 17<sup>th</sup> Street, N.W., Suite 375, Washington, D.C. 20036, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark  
Election Supervisor

cc: Kathleen A. Roberts  
*2016 ESD 253*

**Moreno**, 2016 ESD 253

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**DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):**

Bradley T. Raymond, General Counsel  
International Brotherhood of Teamsters  
25 Louisiana Avenue, NW  
Washington, DC 20001  
braymond@teamster.org

David J. Hoffa  
1701 K Street NW, Ste 350  
Washington DC 20036  
hoffadav@hotmail.com

Ken Paff  
Teamsters for a Democratic Union  
P.O. Box 10128  
Detroit, MI 48210-0128  
ken@tdu.org

Barbara Harvey  
1394 E. Jefferson Avenue  
Detroit, MI 48207  
blmharvey@sbcglobal.net

Teamsters United  
315 Flatbush Avenue, #501  
Brooklyn, NY 11217  
info@teamstersunited.org

Louie Nikolaidis  
350 West 31<sup>st</sup> Street, Suite 40  
New York, NY 10001  
lnikolaidis@lcnlaw.com

Julian Gonzalez  
350 West 31<sup>st</sup> Street, Suite 40  
New York, NY 10001  
jgonzalez@lcnlaw.com

David O'Brien Suetholz  
515 Park Avenue  
Louisville, KY 45202  
dave@unionsidelawyers.com

Fred Zuckerman  
P.O. Box 9493  
Louisville, KY 40209  
fredzuckerman@aol.com

Reuben Moreno  
Bp350@hotmail.com

Teamsters Local Union 439  
1531 E. Fremont St.  
Stockton, CA 95205  
jade@teamsters439.com

Deborah Schaaf  
1521 Grizzly Gulch  
Helena, MT 59601  
dschaaf@ibtvote.org

Jeffrey Ellison  
214 S. Main Street, Suite 212  
Ann Arbor, MI 48104  
EllisonEsq@aol.com