

ELECTION APPEALS MASTER

IN RE:

VIRTUE-DILEO SLATE and DOTTY MALINSKY,
Protestors.

06 Elec. App. 073 (KC)

This matter is an appeal from the Election Supervisor's decision 2006 ESD 368 issued October 12, 2006.

A hearing was held before me on October 20, 2006. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Steven R. Newmark, Esq. on behalf of the Election Supervisor, Robert Cheverie, Esq. and John Fussell, Esq. on behalf of Local Union 1150; David Hoffa, Esq. on behalf of the Hoffa 2006 Slate; Dan Virtue and Dotty Malinsky, the protesters; and Nancy Yoke on behalf of Don DiLeo.

This appeal arises out of the violation of campaign rights of IBT members in an employer parking lot. Candidates Virtue, DiLeo and Malinsky were ejected because of the improper intervention of Local Union 1150 officials, Shop Steward Terry Pacitto and President Harvey Jackson.

Accordingly, the Election Supervisor ordered Local 1150 to pay for a campaign mailing to the full membership from Virtue, DiLeo and Malinsky.

The Local appeals, arguing that a) Malinsky lacks standing to receive relief b) the appropriate remedy is to allow the injured candidates to return to the parking lot for unfettered campaigning and c) the chosen remedy interferes with the free speech rights of Local 1150 members, who do not support the candidates.

The Local argues that the cost of the mailing should be borne by the employer, while the benefited candidates argue that Jackson should personally bear the cost. As we have often noted, the choice of a remedy is within the sound discretion of the Election Supervisor.

Accordingly, his decision is affirmed.

SO ORDERED:

/s/

Kenneth Conboy
Election Appeals Master

Dated: October 31, 2006