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**St. Clair Die Casting, L.L.C. and International Union,
United Automobile, Aerospace & Agricultural
Implement Workers of America-UAW.** Cases
14-CA-27716 and 14-CA-27786

May 28, 2004

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS SCHAUMBER
AND WALSH

This is a refusal-to-bargain case in which the Respondent is contesting the Union's certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on January 12, 2004 in Case 14-CA-27716 and on March 1, 2004 in Case 14-CA-27786, the General Counsel issued the complaint on March 24, 2004, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by refusing the Union's request to bargain and to provide information following the Union's certification in Case 14-RC-12456. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint.

On April 20, 2004, the General Counsel filed a Motion for Summary Judgment and brief in support of Motion. On April 23, 2004, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The Respondent admits its refusal to bargain and to furnish information, but contests the validity of the certification based on its disagreement with the Board's unit determination in the representation proceeding. The Respondent asserts that the bargaining unit, which includes setup specialists, is inappropriate for purposes of collective bargaining inasmuch as the setup specialists are supervisors under the Act.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special cir-

cumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that there are no factual issues warranting a hearing with respect to the Union's request for information. The complaint alleges, and the Respondent's answer admits, that the Union requested the following information from the Respondent by letters dated October 31 and December 18, 2003, and January 12, 2004 and further admits that it has refused to provide the requested information:

1. A list of all hourly employees setting forth their date of hire, sex, age, and marital status;
2. Classifications and wage rates of all hourly employees;
3. Any bonus and/or merit increase(s) and information used to grant same;
4. A copy of any insurance benefits, such as life, accidental death, dismemberment, medical, surgical, dental, disability benefit for sickness and injury, along with the cost of each benefit per employee, per month, to the company and to the individual employee;
5. A list of all fringe benefits that employees have at the present time, such as holidays, vacations, educational allowance, jury duty, bereavement pay, break or relief time;
6. Copy of company handbook covering practices and policies currently governing employees as to discipline, rules and regulations;
7. Copy of pension plan for hourly employees;
8. Annual Registration-Statement identifying separated participants with different vested benefits;
9. Copy of profit sharing and 401(k) Plan; and
10. Number of work shifts and starting time of each shift.

Although the Respondent's answer denies that the information requested is necessary and relevant to the Union's duties as the exclusive bargaining representative of the unit employees, it is well established that all of the foregoing types of information are presumptively relevant for purposes of collective bargaining and must be furnished on request. See, e.g., *Cheboygan Health Care Center*, 338 NLRB No. 115 (2003); *Baker Concrete Construction*, 338 NLRB No. 48 (2002), and cases cited therein. The Respondent has not asserted any basis for rebutting the presumptive relevance of the information,

apart from its contention, rejected above, that the Union's certification is invalid.

Accordingly, we grant the Motion for Summary Judgment,¹ and will order the Respondent to bargain and to furnish the requested information to the Union.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Missouri corporation, with an office and place of business in St. Clair, Missouri, has been engaged in the manufacture and non-retail sale of die castings.

During the 12-month period ending February 29, 2004, the Respondent, in conducting its business operations described above, purchased and received at its St. Clair, Missouri facility goods valued in excess of \$50,000 directly from points outside the State of Missouri, and sold and shipped from its St. Clair, Missouri facility goods valued in excess of \$50,000 directly to points outside the State of Missouri.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following the election held October 9, 2003, the Union was certified on October 17, 2003, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time production and maintenance employees, including material handling, quality, and tool room employees, team leaders, and setup specialists employed by the Respondent at its St. Clair, Missouri facility, EXCLUDING temporary employees, office clerical and professional employees, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. *Refusals to Bargain*

By letters dated October 31 and December 18, 2003 and January 12, 2004, the Union requested that the Respondent furnish it with information. Since about October 31, 2003, the Respondent has failed and refused to furnish the information. By letter dated February 19, 2004, the Union requested that the Respondent recognize

the Union and bargain collectively. Since about February 27, 2004, the Respondent has failed and refused to recognize and bargain with the Union. We find that these refusals constitute unlawful refusals to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, St. Clair Die Casting, L.L.C., St. Clair, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with International Union, United Automobile, Aerospace & Agricultural Implement Workers of America-UAW, as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

¹ The Respondent's request that the complaint be dismissed is therefore denied.

All full-time and regular part-time production and maintenance employees, including material handling, quality, and tool room employees, team leaders, and setup specialists employed by the Respondent at its St. Clair, Missouri facility, EXCLUDING temporary employees, office clerical and professional employees, guards and supervisors as defined in the Act.

(b) Furnish the Union information it requested on October 31, 2003.

(c) Within 14 days after service by the Region, post at its facility in St. Clair, Missouri, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 14, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 31, 2003.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 28, 2004

Robert J. Battista, Chairman

Peter C. Schaumber, Member

Dennis P. Walsh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain with International Union, United Automobile, Aerospace & Agricultural Implement Workers of America-UAW, as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time production and maintenance employees, including material handling, quality, and tool room employees, team leaders, and setup specialists employed by us at our St. Clair, Missouri facility, EXCLUDING temporary employees, office clerical and professional employees, guards and supervisors as defined in the Act.

WE WILL furnish the Union the information it requested on October 31, 2003.

ST. CLAIR DIE CASTING, L.L.C.