



NLRB NEWS:

NEW ENGLAND

REGION 1

SUBREGION 34



April 2013

First Edition

Subregion 34 – Hartford

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NLRB Approves Consolidation of Hartford and Boston Regional Offices Effective Dec. 10, 2012

The National Labor Relations Board (NLRB) has approved the formal restructuring of several regional offices, including Boston and Hartford, as proposed in July and adjusted in October, after evaluating feedback from members of Congress, NLRB staff, and the public, and conducting a pilot program in the field. The restructuring, which was effective on December 10, 2012, will change the status of four Regional Offices to subregional offices and will reassign some subregional and resident offices to new Regional Offices. The number of NLRB Regional Offices will be reduced from 32 to 28, while the total number of field offices will be unchanged at 51.

As a result of the consolidation, the Hartford Regional Office (Region 34) is now a Subregion of the Boston Regional Office (Region 1). Hartford Regional Director Jonathan B. Kreisberg was designated as the Regional Director of the consolidated Boston Regional Office, and Hartford Deputy Regional Director John Cotter was designated as the Officer-in-Charge of the Hartford Subregional office (Subregion 34). Mr. Kreisberg began his duties as the Regional Director of Region 1 in Boston on December 11, 2012.

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Contact the Region:

There is always an information officer available between 8:30 am and 5:00 pm at the Boston Regional Office or the Hartford Subregional office, by phone at 617-565-6710 (Boston) or (860) 240-3522 (Hartford) or in person at 10 Causeway St. in Boston or 450 Main St. in Hartford, to answer general workplace questions or to discuss a specific workplace problem. The information officer can offer information about the NLRA and advice as to whether it appears to be appropriate to file an unfair labor practice charge or an election petition. If filing a charge or petition appears to be appropriate, the information officer will assist you in completing the charge or petition form.

Information is also available on the Board's website at www.nlr.gov, which has a link to the Boston Regional Office and Hartford Subregional Office webpages featuring newsletters, news releases and local cases and decisions.

Meet the Director

Jonathan Kreisberg has been serving as the Regional Director of the Hartford Regional Office since his appointment there on May 18, 2009. A native of Bayside, Queens, New York, Jonathan earned his B.S. degree in 1974 from Cornell University's School of Industrial and Labor Relations, and his J.D. degree in 1977 from American University's Washington College of Law.

Jonathan began his career with the Agency in 1976 as a law student intern in the NLRB's Judges Division in Washington, D.C. He then served for three years as staff counsel to former Board Member John Penello. In December 1979, Jonathan transferred to the newly created Subregion 39 in Hartford, where he served for five years as a Field Attorney. He was promoted to the position of Supervisory Attorney in 1985, and, shortly after the Hartford office was upgraded to the status of a Regional Office in 1988, Jonathan was appointed its first Regional Attorney. Jonathan is a past Chair of the Connecticut Bar Association's Labor and Employment Law Section, and has served on many Agency-wide committees, including the Legal Writing Program, Trial Training, Advanced Trial Training, Senior Agent Training, New Employee Training, and Pleadings Manual Revisions. He also maintains an active speaking schedule, having regularly addressed labor unions, management associations, law firms, colleges and law schools in Connecticut.

Jonathan and his family have lived for the past 33 years in the small Eastern Connecticut Town of Coventry, where he has been actively involved in several local community groups, including service on the Coventry Planning and Zoning Commission, Inland Wetlands Agency, the Board of Education, and the School Building Committee. His interests include golf, tennis, softball and biking, but his pride and joy is his vast organic vegetable garden that he's maintained for many years on his Connecticut property.

Although Jonathan plans to permanently relocate to the Boston area in the near future, he will continue to regularly visit the Hartford Subregional Office for casehandling purposes and outreach events.

How to File an Unfair Labor Practice (ULP) Charge:

- Anyone may file a ULP charge within 6 months of the ULP by submitting a charge form to any Regional Office. The form identifies the parties to the charge and includes a brief statement of the basis for the charge, and must be signed by the charging party. Although charges may be filed by mail or fax, they may not be filed electronically.
- Forms are available on the NLRB website, or may be obtained from any NLRB regional office. The Boston Regional Office and the Hartford Subregional Office have information officers available to assist with the filing of charges.

When a Charge is Filed:

- The NLRB Regional Office will investigate. The charging party is responsible for promptly presenting evidence in support of the charge, which usually consists of a sworn statement and documentation of key events.
- The Region will ask the charged party to present a response to the charge, and will further investigate the charge to establish all facts.
- After a full investigation, the Region will determine whether or not the charge has merit.

BREAKING NEWS

NLRB Issues Several Significant Decisions in Dec 2012

In late December 2012, the NLRB released several significant decisions, briefly outlined below, touching on a variety of important issues, including social media postings, charter school jurisdiction, backpay awards, the chargeability of certain union lobbying expenses, an employer's responsibility to continue dues collection after the expiration of a contract, and the disclosure of witness statements. Each of these decisions can be accessed on the NLRB's website at www.nlr.gov.

Hispanics United of Buffalo (359 NLRB # 37) - An employer unlawfully fired five employees because of their Facebook posts and comments about a coworker who intended to complain to management about their work performance, because the Facebook conversation was concerted activity and was protected by the National Labor Relations Act.

Alan Ritchey, Inc. (359 NLRB #40) - Where there is no collectively-bargained grievance-arbitration system in place, employers generally must give the union notice and an opportunity to bargain before discharging or suspending employees.

Latino Express – (359 NLRB #44) - Where backpay is awarded, respondents will now be required to compensate employees for any extra taxes they have to pay as a result of receiving the backpay in a lump sum, and will also be required to file with the Social Security Administration a report allocating the back wages to the years in which they were earned.

Chicago Mathematics & Science Academy (359 NLRB # 41) - Jurisdiction was asserted over an Illinois non-profit corporation that operates a public charter school in Chicago because the non-profit was not the sort of government entity exempt from the National Labor Relations Act, and there was no reason for the NLRB to decline jurisdiction.

United Nurses & Allied Professionals (Kent Hospital) (359 NLRB #42) Lobbying expenses incurred by unions were found to be chargeable to objecting non-members, to the extent that they are germane to collective bargaining, contract administration, or grievance adjustment.

WKYC-TV, Gannet Co. (359 NLRB #30) – An employer's obligation to collect union dues under a check-off agreement will now continue after the contract expires and before a bargaining impasse occurs or a new contract is reached.

Piedmont Gardens (359 NLRB # 46) – employers must disclose witness statements unless it can establish confidentiality interest in protecting statement from disclosure.

**After the Region Makes a
ULP Determination:**

- If the Region determines that a charge has no merit—that the charged party has not violated the Act—it will dismiss the charge after giving the charging party the opportunity to withdraw. The charging party has the right to appeal a dismissal.
- If the Region determines that a charge has merit—that the charged party has violated the Act—it will attempt to settle the case. Unless there is a settlement, the Region will issue a formal complaint and proceed to trial to obtain a finding of a violation and an order directing the charged party to undertake remedial actions. The charged party has appeal rights, including a right to a hearing, with a final decision subject to a United States Circuit Court of Appeals.

Unfair Labor Practice News

Hartford Subregional Office Secures Three 10(j) injunctions

Section 10(j) of the National Labor Relations Act authorizes the NLRB to seek temporary injunctions against employers and unions in federal district courts to stop unfair labor practices while the case is being litigated before the NLRB. These injunctions are needed to protect the process of collective bargaining and employee rights under the Act, and to ensure that NLRB decisions will be meaningful. The Hartford Subregional office remarkably secured three such injunctions in 2012, each of which protected the collective bargaining process and employee rights in a timely and effective manner.

In the first case, Stamford Plaza Hotel and Conference Center was ordered by U.S. District Court Judge Mark Kravitz to reinstate 28 employees who were laid off, then rehired by a subcontractor to perform the same work, after they expressed support for a union. The layoffs occurred just weeks after UFCW Local 371 began to organize the workers. The two hotel operations that were subcontracted, housekeeping and maintenance, had demonstrated the strongest level of union support.

The Hartford Subregional office issued a complaint against the hotel, alleging that the subcontracting was an unlawful attempt to disrupt the organizing campaign. Pursuant to the NLRB's authorization, the Subregion sought an injunction from the federal court to restore the work situation to what it had been while the case works its way through the NLRB's process.

In granting the injunction on March 22, 2012, Judge Kravitz found that the Subregion was likely to prevail and that prompt action was needed to prevent irreparable harm. "Given the timing of the Stamford Plaza's decision to subcontract, its shifting explanations for that decision, and the testimony that the hotel continues to structure its subcontracting arrangements with the goal of frustrating union activity, the Court easily finds reasonable cause to believe that unfair labor practices have occurred," the judge wrote. The judge further found that it was "just and proper" to grant the injunction even though the employees had been rehired by the subcontractors, because "the termination of so many pro-union housekeeping and maintenance employees seems to have frozen, not just chilled, organization efforts at Stamford Plaza."

Following compliance with the District Court Order, the Union petitioned for an election in which it prevailed, and it was subsequently certified by the NLRB as the employees' bargaining representative.

Hartford Field Attorney Rick Concepcion, under the direct supervision of Deputy Regional Attorney Terri Craig, litigated the injunction case for the Hartford Subregional Office.

How to File a Representation Petition:

An NLRB Information Officer can assist you in completing a petition form. If you complete the petition yourself, keep in mind these helpful tips:

- Prepare your petition on our website at: www.nlr.gov (filing instructions detailed).
- Know the job titles used by the Employer and the employee shift schedules.
- Provide the Region with authorization/membership cards (or other proof of interest) signed and dated by at least 30 percent of the employees in the petitioned-for unit.
- Be prepared to enter into a stipulated election agreement or to attend a hearing. The hearing is typically held within 7-10 days from the filing date of the petition.
- Be prepared for the election to be conducted promptly after the election agreement or the hearing.

In the second case, Pressroom Cleaners, Inc. was ordered by U.S. District Court Judge Warren Eginton to offer employment to six employees who Pressroom had refused to hire after it took over the cleaning operations at the Hartford Courant offices on Broad Street in Hartford. The offices were previously cleaned by Capitol Cleaning, and Local 32BJ had long represented the Capitol workers under a collective bargaining agreement covering the workers at the Courant site.

Before taking over the account, Pressroom held a meeting with the Capitol workers, during which the workers were told that Pressroom doesn't work with unions and doesn't want the Union. Although each of the Capitol workers applied, none were hired. Instead, Pressroom began operations in mid-December 2011 with a crew of newly hired workers, many of whom were subsequently replaced by other newly hired workers. When Local 32BJ tried to reach out to the newly hired Pressroom workers in January 2012 by approaching them in front of the Courant building, Pressroom's on-site supervisor responded by repeatedly threatening the workers with termination if they spoke to the Union. One of those employees was also told by the supervisor that the employees who previously worked at the Courant were fired because of their union activity.

In granting the injunction on Dec. 12, 2012, Judge Eginton found that there was reasonable cause to believe that Pressroom unlawfully discriminated against the Capitol workers in order to avoid a bargaining obligation with Local 32BJ, noting that "[Pressroom] has offered contrary explanations for its refusal to hire Capitol employees and does not deny that their supervisor discouraged labor organization membership." The judge further found that it was "just and proper" to grant the injunction because all of the Capitol workers have expressed their current desire to work for Pressroom under the terms of the collective bargaining agreement, and they would be irreparably harmed if not immediately hired due to the likelihood that they will scatter and find themselves in different circumstances when the NLRB eventually decides the case. The judge also ordered Pressroom to reinstate the previous terms and conditions of employment that existed when Capitol ran the cleaning operation, and to rescind, at the Union's request, any unilateral changes implemented by Pressroom since it assumed the Courant cleaning operation.

Following Judge Eginton's decision, Pressroom terminated its contract with the Courant, and was replaced by Capitol. All of the workers were offered reinstatement and the collective bargaining agreement was reinstated.

Former Hartford Field Attorney Sheldon Smith, under the direct supervision of Deputy Regional Attorney Terri Craig, litigated the injunction case for the Hartford Subregional Office.

**Subregion 34
Representation Statistics -
FY 2012:**

- 39 Representation elections were conducted.
- 94% of elections were achieved by way of an election agreement between the parties.
- 97% of elections were held within 56 days from the filing of the petition.
- Elections were conducted in a median of 37 days from the filing of the petition.

**Subregion 34 Unfair
Labor Practice Statistics -
FY 2012:**

- 398 unfair labor practice charges were filed.
- 35.2% of the charges were found by the Hartford Subregional Office to be meritorious.
- 89% of the meritorious cases were settled prior to hearing.

In the third case, U.S. District Judge Robert N. Chatigny ordered a Connecticut nursing home chain to offer reinstatement to approximately 700 workers, to rescind changes made to employee wages and benefits, and to bargain in good faith with the union that has long represented its employees. The injunction against Healthbridge Management, LLC, and each nursing home followed the issuance of four separate complaints by the Hartford Subregional office against the employer alleging a series of unlawful actions at six nursing homes over more than two years. The employees are represented by District 1199 of the New England Health Care Employees Union, SEIU.

The petition seeking the injunction alleged that after 19 months of bargaining, in June 2012, Healthbridge unilaterally implemented contract proposals affecting wages, hours, benefit eligibility, and retirement and health benefits without first bargaining to a good faith impasse. Employees went on an unfair labor practice strike in protest. In mid-July, the employees through their union offered to return to work under the terms of the contract that existed prior to the unilateral implementation, but Healthbridge refused to bring them back.

In his order, Judge Chatigny found reasonable cause to believe that Healthbridge had refused to bargain in good faith, and that there was a “pressing need to restore the status quo” that existed before the unilateral changes were made. Following the issuance of the injunction on December 11, 2012, Healthbridge immediately appealed the decision and secured an emergency stay of Judge Chatigny’s Order from the U.S. Court of Appeals for the Second Circuit. The emergency stay was subsequently lifted by a Second Circuit panel on January 30, 2013, and the U.S. Supreme Court subsequently denied Healthbridge’s appeal of that ruling. Although Healthbridge subsequently reinstated all striking workers pursuant to the District Court’s Order, a dispute remains as to Healthbridge’s obligation to reinstate the terms and conditions of employment that existed prior to its June 2012 unilateral implementation of its contract proposals due to the issuance of an order by a bankruptcy judge in New Jersey temporarily relieving each individual nursing home from reinstating those terms.

Following hearings, two NLRB administrative law judges previously found that Healthbridge violated federal labor laws, and a third hearing is now in progress that includes some of the issues encompassed by the District Court’s Order described above.

Hartford Field Attorneys Tom Quigley and John McGrath, under the direct supervision of Deputy Regional Attorney Terri Craig, litigated the injunction case for the Hartford Subregional office.

**Region 1 Representation
Statistics - FY 2012:**

- 70 Representation elections were conducted.
- 88% of elections were achieved by way of an election agreement between the parties.
- 93% of elections were held within 56 days from the filing of the petition.
- Elections were conducted in a median of 37 days from the filing of the petition.

**Region 1 Unfair Labor
Practice Statistics - FY
2012:**

- 750 unfair labor practice charges were filed.
- 36.4% of the charges were found to be meritorious.
- 93% of the meritorious cases were settled prior to hearing.

******MORE BREAKING NEWS******

***NLRB Initiates Cost-Saving Measures in light of 5%
Budget Sequester and Continuing Resolution***

As a result of a 5% budget sequester and the Continuing Resolution funding the NLRB for the remainder of the fiscal year ending September 30, 2013, measures have been implemented to ensure that the Board's resources are administered as efficiently as possible (see Memorandum OM 13-37 dated March 21, 2013). These measures may have an impact on our case handling activities.

Travel constitutes a very significant cost area and must be carefully coordinated within each field office. The Region will monitor all case handling travel to ensure that it is being done in the most efficient manner. For instance, case related travel may have to be planned in such a way that assignments that would otherwise be accomplished by several trips may be combined into a single trip. Most importantly, parties who are within or near a radius of 120 miles of an NLRB field office will be requested to present themselves and their witnesses in that office. If such parties are unable to present their evidence in the office, the investigation of a charge may be delayed in order for the Region to schedule travel in that case with other cases in the same geographical area.

Other specific measures have been implemented in order to reduce overall operating costs. This includes redoubled efforts to secure settlements of meritorious unfair labor practice cases and election agreements to resolve pre-election disputes; increased use of teleconferencing equipment for investigations, trials, and hearings; restricting outreach activities to local travel; decreased reliance on private delivery services and certified mail; and strongly encouraging the parties to use e-mail and e-filing for communications with field offices.

While every effort will be made to process cases as expeditiously as possible, some of these necessary measures may have an impact on the time required to process a case. We appreciate your cooperation with our efforts to manage our resources in the most effective manner.

Contacte a la Region:

Siempre hay un agente de guardia disponible entre las 8:30 a.m. y las 5:00 p.m. en la Oficina Regional de Boston o en la Oficina Subregional de Hartford, por telefono al 617-565-6710 (Boston) o al 860-240-3522 (Hartford) o en persona en el 10 Causeway St. en Boston o en el 450 Main Street, Hartford, para contestar preguntas generales que se refieren al lugar de trabajo o para discutir algun problema especifico del trabajo. El oficial de informacion puede ofrecer informacion acerca del NLRB y aconsejar, si es que es apropiado; archivar un cargo de practica laboriosa injusta. Si se archiva una peticion que aparece inapropiada, el agente de informacion le asistira a llenar el formulario del cargo o la peticion.

Tambien hay informacion disponible en la pagina electronica de informacion de la Junta, al www.nlr.gov, la cual tiene una conexion a la Oficina Regional de Boston y a las paginas de la Oficina Subregional de Hartford, cuales paginas proporcionan notas de informacion, noticias y casos locales asi como decisiones tomadas.

Region 1 Professional Staff Directory

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Subregion 34 Professional Staff Directory

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