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NLRB Region 3

Outreach



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Buffalo Regional Office (716) 551-4931

Niagara Center Building

Suite 630, 130 S. Elmwood Avenue

Buffalo, NY 14202-2465

Albany Resident Office (518) 431-4155

Leo W. O'Brien Federal Bldg

11A Clinton Avenue - Rm. 342

Albany, NY 12207

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Regional Director's Corner

The NLRB has frequently appeared in the news, in social media blogs and on television in the last several months. The media has focused on whether the Agency has exceeded its mandate by issuing a complaint against Boeing, requiring employers to post a notice about employee rights under the Act, and issuing decisions regarding the Act's protections of employee comments on social media. Of course this dialogue is not occurring in a vacuum, but rather, against a backdrop of political vitriol in an election cycle when the economy is weak and unemployment is high.

The result has been much debate about whether the Act should be amended and the Agency's remedial authority limited, whether defunding the Agency would be appropriate or limiting expenditures of allotted funds to prohibit those acts that some find abhorrent.

So what can we expect in the coming months? My guess is more of the same. The Boeing litigation will continue, and ultimately the courts will decide whether the Employer acted within its entrepreneurial rights when it set up a production line in South Carolina, and whether the Board exceeded its rulemaking authority in requiring the posting of a notice regarding the Act's protections.

More decisions will issue concerning employee comments about the workplace in social media and the budget will no doubt continue to be debated. The good news is that the debate is taking place and the protections provided by the Act have had a spotlight shined upon them.

The Agency celebrated its 75th anniversary last year. After 75 years, it continues to be relevant in everyone's daily life and the subject of social discourse. While not everyone is in agreement about the outcome of the Board's decisions, that is certainly not new. As Ralph Waldo Emerson said,



• **How to File a Charge:**

Anyone may file an unfair labor practice charge with the NLRB. To do so, they must submit a charge form to any Regional Office or, they may file electronically through the Board's website at www.nlr.gov. The form must be completed to identify the parties to the charge as well as a brief statement of the basis for the charge. The charging party must also sign the charge.

• Forms are available for download from the NLRB website. They may also be obtained from an NLRB office. NLRB offices have information officers available to discuss charges in person or by phone, to assist filling out charge forms, and to mail forms.

• You must file the charge and serve it on the charged party within 6 months of the unfair labor practice.

• **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. Usually evidence will consist of a sworn statement and documentation of key events.

• Please promptly present your evidence in support of any charge you file.

• 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.

(Regional Director's Corner Continued)

"Whatever you do, you need courage. Whatever course you decide upon, there is always someone to tell you that you are wrong. There are always difficulties arising that tempt you to believe your critics are right." Debate follows every decision as someone is always on the losing side. In Region 3, we are deciding cases relevant to the discussions taking place throughout the country.

We are continuing our outreach efforts and encourage you to participate with us in an ongoing dialogue. Please join us on November 15th for Coffee with Board Chairman Pearce, to participate in the discussion.

Rhonda P. Ley,
Regional Director, Region 3

Region 3 Alumnus Mark Gaston Pearce Replaces Chairman Wilma Liebman After 14 Years

First appointed to the Board by President Clinton, Chairman Wilma Liebman was confirmed by the Senate and began serving on November 14, 1997. She was the third-longest serving Board member in history.

Among her achievements, Chairman Liebman created the new position of Special Counsel for Congressional and Intergovernmental Affairs in the Chairman's Office in order to centralize and better coordinate the Agency's interaction with Congress and other federal agencies and departments.

In a statement posted on the Board's website, Chairman Liebman said: "It has been a privilege to serve on the Board and to work with people committed to carrying out the important mission of this agency. The values embodied in the National Labor Relations Act – which gives Americans a voice at work and helped to build a middle-class society – are enduring. I am confident that the Board will hold fast to those values, even in challenging times."

President Obama named Board Member Mark Gaston Pearce a Region 3 alumnus, as the new Board Chairman. Chairman Pearce began serving on the Board on April 7, 2010, after receiving a recess appointment from President Obama. Chairman Pearce was confirmed by the Senate for a term that will expire on August 27, 2013. He worked as an attorney and district trial specialist in Region 3 (Buffalo) from 1979 to 1994, and subsequently practiced union-side labor and employment law at Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria, LLP. In 2002, he became a founding partner of the Buffalo, New York law firm of Creighton, Pearce, Johnsen & Giroux, where he represented unions in labor and employment cases before state and federal courts and agencies. In 2008, he was appointed to the New York State Industrial Board of Appeals, an agency responsible for review of certain rulings and compliance orders of the New York Department of Labor. Chairman Pearce received his J.D. from State

After the Region Makes a 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 unless the charging party withdraws the charge. 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 proceed to trial before an administrative law judge to obtain a finding of a violation and an order directing the charged party to undertake remedial actions. The charged party has appeal rights, with a final decision subject to appeal to a federal court.

Remedies for Violations

When there has been a violation, the Act does not impose fines or other direct penalties. Rather, it requires a make whole remedy to correct the violation and its effects.

NLRB remedies require those who have violated the Act to cease the violation, to inform employees that they will respect their rights, to reinstate employees who have been unlawfully fired, and to pay compensation for lost earnings.

(Region 3 Alumnus Continued)

University of New York, and his B.A. from Cornell University. Chairman Pearce issued the following statement upon his designation as Chairman: “I am honored to be given this awesome responsibility which was performed with grace and distinction by Wilma Liebman. I will be eternally grateful for her steadfast leadership, scholarship and exemplary service to this agency and the labor-management community. I wish her the best.”

Save the Date!

Join us for Coffee With Mark Pearce the New Board Chairman

Tuesday, November 15, 2011 at 10:00 a.m., take advantage of an opportunity for an informal discussion about the Board with newly designated Board Chairman Mark Pearce. As many of you know, Chairman Pearce began his career in Region 3 and he has graciously agreed to participate as a guest speaker at our next Coffee with the Board Process and Procedures Meeting to be held in Room 423A (4th Floor), 130 South Elmwood Avenue, Buffalo, New York at 10:00 a.m. on November 15, 2011. If you plan to attend please call Vallana Harris at (716) 551-4933.

Region 3 Facebook Case – First of it’s Kind!

Administrative Law Judge finds Unlawful Discharge of Employees Following Facebook Posts

An Administrative Law Judge has found that a Buffalo nonprofit organization unlawfully discharged five employees after they posted comments on Facebook concerning working conditions, including work load and staffing issues.

On May 9, 2011, Regional Director, Rhonda P. Ley issued a complaint alleging that the Employer violated Section 8(a)(1) of the Act. The case involves an employee of Hispanics United of Buffalo, which provides social services to low-income clients. After hearing a coworker criticize other employees for not doing enough to help the organization’s clients, the employee posted those critical assertions to her Facebook page. The initial post generated responses from other employees who defended their job performance and criticized working conditions, including work load and staffing issues. Hispanics United later discharged the five employees who participated, claiming that their comments constituted harassment of the employee originally mentioned in the post.

The case was heard by Administrative Law Judge Arthur Amchan on July 13-15, 2011. Judge Amchan issued his decision on September 2, finding that the employees’ Facebook discussion was protected concerted activity within the meaning of Section 7 of the National Labor Relations Act,

How to File a Representation Petition

Filing NLRB representation petitions can be simple and convenient. An NLRB Information Officer can assist you in completing a petition form. Our contact information is on page one of this newsletter. If you complete the petition yourself, keep in mind these helpful tips:

- Know which Regional office will handle your petition. Region 3 covers all of New York except New York City, Long Island, Orange, Putnam, Rockland and Westchester Counties. Persons may also obtain service at Region 3's Resident Office located in Albany, New York.
- 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.
- Although 91% of elections are conducted pursuant to election agreements, be prepared for a hearing by knowing: (1) the employer's operations; (2) the community of interests of various employee job categories; and (3) who the "supervisors" are. Hearings are typically held 10-14 days from date the petition was filed.
- Be prepared for the election to be conducted within 42 days from the date the petition was filed.
- Always call the assigned Board agent with questions or concerns.

(Region 3 Facebook Case Continued)

because it involved a conversation among coworkers about their terms and conditions of employment, including their job performance and staffing levels. The judge also found that the employees did not engage in any harassing or other conduct that forfeited their protections under the Act.

Judge Amchan ordered that Hispanics United reinstate the five employees, and awarded the employees backpay because they were unlawfully discharged. The judge's decision also requires that Hispanics United post a notice at its Buffalo facility concerning employee rights under the Act and the violations found. Hispanics United has indicated that it will appeal the decision to the Board in Washington.

Social Media and the Act: Crossing the Minefield

By: Ron Scott, Attorney

Certain principles that we are all familiar with are enshrined in the Act and in the Board's jurisprudence. Employees have the right to engage in protected, concerted activity (PCA). It is an unfair labor practice for an employer to interfere with that right. Employers' policies or conduct rules may violate the Act if, on their face, they restrict Section 7 activity or could reasonably be read to restrict them. However, employees who engage in misconduct or who disparage the employer, its product or its customers will not find protection in the Act.

Board law hasn't changed much in the last couple of decades. But the world has. It was perhaps inevitable that we would see a surge in cases involving employees' social media activities, employer discipline for such activities, and rules that restrict them insofar as they relate to the workplace.

Employers, unions and employees may be wondering these days where the land mines are. Recent developments in the Office of the General Counsel have presented issues concerning the protected and/or concerted nature of employees' Facebook and Twitter postings, the coercive impact of a union's Facebook and YouTube postings, and the lawfulness of employers' social media policies and rules.

Fortunately, some guidance may be found in Operations Memorandum OM 11-74, which is the *Report of the Acting General Counsel Concerning Social Media Cases*. (available to the public at: www.nlr.gov/operations-management-memos; click on OM 11-74). This report, issued on August 18, 2011, discusses 14 "social media" cases that were considered during the preceding year in the General Counsel's Division of Advice, at the request of regional directors around the nation. The reader may be able to get a sense of the kind of employee activity that is protected or unprotected and (which is equally important) concerted or not. One can also get a sense of what considerations are important when

Section 7 of the National Labor Relations Act (NLRA) gives employees the rights to:

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

Non-Union Protected Concerted Activity

Q: Does the NLRA protect activity with other employees for mutual aid or protection, even if you don't currently have a union?

A: Yes. For instance, employees not represented by a union, who walked off a job to protest working in the winter without a heater were held by the Supreme Court to have engaged in concerted activity that was protected by the NLRA and that they could not be lawfully discharged for such action.



(Social Media Continued)

looking at conduct rules and personnel actions to determine whether or not they are lawful.

While I will not recapitulate the report here, (you're welcome), I would offer a few observations about it.

(1) Concertedness is key. It's the "C" in "PCA." Compare the case of the car salesman who complained on Facebook about hot dogs (yes, hot dogs) with the retail employee who complained of "tyranny" and referred to her manager in derogatory terms.

(2) You might be surprised at what may be protected conduct. A lot of conduct that might ordinarily be considered out of bounds...angry, emotional outbursts, even name calling and some degree of vulgarity...may be protected if it is in the context of concerted activity relating to wages, hours and other terms and conditions of employment. In one of the cases discussed in the report, the employee posted a message on Facebook in which she referred to her supervisor as a "scumbag." Nevertheless, the report notes that this was found to be part of the context of the employee's PCA. In *The Tampa Tribune*, 351 NLRB 1324 (2007) (not discussed in the report), the Board said that: "Longstanding precedent establishes that employees are entitled to some leeway for impulsive behavior when engaging in concerted activity, subject to the employer's right to maintain order and respect." Which means (you guessed it) a balancing test. For that, see *Atlantic Steel*, 245 NLRB 814, 816-817 (1979).

(3) But it's not "Anything Goes." The report makes this quite clear. For example, out and out disparagement of the employer, or its product, is unprotected. See *NLRB v. Electrical Workers Local 1229 (Jefferson Standard)*, cited in the report.

(4) Ambiguity can be problematic. In a number of cases discussed in the report, rules restricting employees' Facebook postings and other social media activity were overly broad. As can be seen from the report, rules that prohibit tweets or postings that are "rude," "offensive," or "inappropriate" may not insulate an employer from a violation (though "limiting language" that excludes Section 7 activity from the scope of the rule, or a rule that is narrowly drawn to prohibit specific misconduct, might). The cases to look at are *Lafayette Park Hotel* and *Lutheran Heritage Village*. Both are cited in the report.

(5) Not just an employer problem. A union violated Section 8(b)(1)(A) when it interrogated employees at a nonunion job on camera about their immigration status and posted a video of the interrogations on YouTube and Facebook. The case is discussed in the report.

To sum up, the law on PCA and Employer policies/conduct rules applies to social media no less than it does to oral speech or printed matter. Employees, unions and employers may still think that they are tiptoeing through a minefield, but at least some of the mines might be detected with the help of OM 11-74.

Don't Tell Me I Can't Talk About My Wages!

The National Labor Relations Act (NLRA) protects the rights of both unionized and non-unionized employees. The NLRA protects employee rights to join and support unions where they work, to participate in protected concerted activities with other employees, and to refrain from participating in such activities. Under the NLRA, two or more employees have the right to act together to raise workplace issues with their employer or to press for changes in wages or other working conditions. Such employee's actions are known as protected concerted activities.

Employer rules which have a tendency to chill employees in the exercise of these rights violate the NLRA. In this regard, the Board has held, among other things, which employers may not prohibit employees from discussing their own wages or attempting to determine what other employees are paid. The mere maintenance and announcing of these rules is a violation, even if these rules are not enforced. Juniper Medical Center Pavilion, 346 NLRB 650 (2006).

Action by Region 3 in Federal Court: Recent Section 10(j) Activity

By: Michael J. Israel, Regional Attorney

On July 18, 2011, Region 3 issued an administrative complaint in Cases 3-CA-27996 and 3-CA-28104, against Island Oasis Manufacturing, LLC alleging violations of Section 8(a)(1) and (5) of the National Labor Relations Act. The complaint alleges that the Employer unlawfully refused to recognize and bargain with the Bakery, Confectionary, Tobacco Workers & Grain Millers, AFL-CIO, CLC, Local 36G as the exclusive collective-bargaining representative and failed to provide requested information necessary for the Union to perform its representative duties. The Union had historically represented a bargaining unit of production and maintenance employees at Rich Products at a Niagara Street facility where beverage bases and products were produced. The Region has alleged that Island Oasis took over certain manufacturing operations of Rich Products and hired a majority of former Rich Products bargaining unit employees. As such, the Region alleges that Island Oasis had an obligation as a successor to recognize and bargain with the Union. Region 3 sent the matter for review by the Acting General Counsel of the NLRB in Washington, D.C. and the Acting General Counsel recommended to the Board that it authorize the seeking of interim relief under Section 10(j) of the Act. Section 10(j) authorizes the Board to pursue temporary relief in federal district court for alleged violations of the Act, while the administrative proceeding is completed. The goal of Section 10(j) relief is to prevent the frustration of the remedial purposes of the Act, due to the time taken to complete the administrative proceeding.

On August 5, 2011, the Board authorized the pursuit of Section 10(j) relief and a petition for injunctive relief was filed by Region 3 in the United States District Court for the Western District of New York on September 1, 2011. The Board is seeking as relief from the District Court, an interim order directing Island Oasis to recognize and bargain in good faith with the Union and provide the Union with the information it requested. In November, the District Court will review the parties' positions concerning both procedural and substantive aspects of the case.

In the meantime, the administrative hearing has been completed and on October 6, 2011, the Administrative Law Judge issued a decision and found merit to all violations alleged in the complaint. ([ALJD \(NY\)-38-11](#)); click on Case 03-CA-027996).

Other Litigation News

Newburg Eggs, 3-CA-27834 (ALJD dated April 27, 2011). ALJ Robert Ringler found merit to all violations alleged in the complaint, including Section 8(a)(1) allegations that Respondent, at a number of captive-audience meetings held shortly before a rerun election, had solicited

REGION 3 STAFF

All staff can be contacted via email using the following format: firstname.lastname@nlrb.gov

Buffalo Office

- Jesse Feuerstein, Field Attorney
- Renee Hutt, Field Examiner
- Michael Israel, Regional Attorney
- Barbara Keough, Office Manager
- Kevin Kitchen, Field Attorney
- Sandra Larkin, Compliance Officer
- Linda Leslie, Field Attorney
- Rhonda Ley, Regional Director
- Mary Mattimore, Deputy Regional Attorney
- Thomas Miller, Co-Op Field Examiner
- Paul Murphy, Assistant to the Regional Director
- Patricia Petock, Field Examiner
- Lillian Richter, Supervisory Field Attorney
- Nicole Roberts, Field Attorney
- Ron Scott, Field Attorney
- Sara Selan, Co-Op Field Examiner
- Aaron Sukert, Field Attorney
- Patricia Wideman, Field Examiner

Albany Resident Office

- Barnett Horowitz, Resident Officer
- Brie Kluytenaar, Field Attorney
- Gregory Lehmann, Field Attorney
- Kelly Moore, Field Examiner
- Alfred Norek, Field Attorney
- David Turner, Field Examiner

(Other Litigation News Continued)

grievances and remedied or promised to remedy these grievances, informed employees it had fulfilled a promise of benefit, and implied to employees that it would be futile to select the UFCW as their bargaining representative. One of the most interesting allegations pertained to the hiring by Respondent of a bilingual human resources manager. The ALJ found that Respondent violated Section 8(a)(1) when the Respondent’s president told the employees that he was giving them a valuable company-paid benefit by hiring the HR manager who could communicate with them in Spanish and help them address and remedy their grievances. The ALJ also ordered that the Notice be read by a Board agent in English and Spanish to employees during worktime, in the presence of Respondent’s president and plant manager. The ALJ also set aside the election conducted in 3-RC-11918 and ordered a new election based on objections filed by the UFCW to the Employer’s conduct in the election, which objections had been consolidated for hearing with the ulp case. The Board recently granted Respondent’s motion for reconsideration and remanded to the ALJ to consider Respondent’s brief, which Respondent had served on the parties but had failed to file with the ALJ.

Dresser-Rand Company, 3-CA-27141, et al. (ALJD dated February 2, 2011). ALJ Paul Buxbaum found that Respondent violated Section 8(a)(1) of the Act by coercively interrogating employees about the Union’s activities and internal Union matters, but did not violate the Act by denying employees the representative of their choice during investigatory interviews, by suspending and discharging an employee because he engaged in protected concerted activity or Union activity, or maintain or unlawfully apply rules that restricted Section 7 activity in order to suspend and discharge the employee, in violation of Section 8(a)(1) of the Act. The case is pending before the Board on Respondent and Union exceptions.

New York State Nurses Association, 3-CA-27723 (ALJD dated February 25, 2011). ALJ Bruce Rosenstein found that Respondent violated Section 8(a)(1) and (5) of the Act, by unilaterally implementing a “Blackberry” policy which impacted, among other things, cell phone reimbursement practices and disciplinary policies for employees, but dismissed the Section 8(a)(1) allegation that Respondent interfered with employees’ union organizing activities by changing terms and conditions of employment, including compensation, for bargaining unit employees during a union organizing campaign. Exceptions and cross-exceptions by all parties are pending before the Board, as well as a motion to remand the case to the Region based on the parties’ recent non-Board settlement of the matter.

Times Union, 3-CA-27347, -27367. (ALJD dated August 18, 2010). ALJ Mark Carrisi found that the Employer violated Section 8(a)(5) of the Act by placing unit employees it had proposed for layoff on paid leave without providing the Union with timely notice and an opportunity to bargain, and by unilaterally imposing the terms of a final offer and laying

Learn More: Visit Us Online!

The NLRB website, www.nlr.gov, contains a great deal of additional information about the protections of the Act, Board policies and procedures, and how to contact the nearest Regional Office.

Region 3 Has its Own Web Page

You can now access link the [Region 03 Web Page](#) through the NLRB website, www.nlr.gov using the find your Regional Office link. Or use the link provided in this article.

On the [Region 03 Web Page](#) you can find upcoming events that are planned in Region 3 as well as recent outreach activities and Regional Office news.



(Other Litigation News Continued)

off 11 employees in the absence of a lawful impasse. The Board affirmed and adopted the ALJ’s decision in a decision dated June 1, 2011 (356 NLRB No. 169).

Columbia Memorial Hospital, 3-CA-27921 and 27967. (ALJD dated August 26, 2011). ALJ Paul Bogas found that Respondent violated Section 8(a)(1) of the Act by prohibiting its employees from wearing, in patient-care areas, certain union paraphernalia buttons stating “Proud 1199 SEIU Member,” and “Have a Heart Do Your Part”), but did not violate the Act by prohibiting its employees from wearing a button stating “Access Denied! Ask the Boss WHY?” or a sticker depicting a person about to be crushed by a large boot, or that Respondent violated the Act by disciplining an employee for wearing the boot sticker.

Local 471, Rochester Regional Joint Board, Workers United (Sodexho, Inc.), 3-CB-9172, 9176. (ALJD dated August 9, 2011). This involved whether the Respondent Union had unlawfully sought and obtained in collective-bargaining negotiations contractual provisions involving vacation pay and scheduling designed to punish two supporters of a rival union. The ALJ found that the Union violated Sections 8(b)(1)(A) and 8(b)(2) of the Act by negotiating such provisions.

Recent Representation Law Developments at the NLRB

By: Paul J. Murphy, Assistant to the Regional Director

The Board issued three decisions in the waning days of Chairman Liebman’s term in which it overruled precedent. These three cases will be summarized below.

In Dana Corporation, 351 NLRB 434 (2007), the Board modified its established recognition bar doctrine to provide for a 45 day window period after voluntary recognition in which employees could file a decertification petition, or a rival union could seek an election. This 45 day window period was coupled with the requirement that the parties notify the NLRB to obtain a notice informing employees that recognition had been granted and apprising them of their right to file a decertification petition or seek representation from a rival union during the 45 day window period. Under Dana Corporation, employers and unions were free to ignore the notification requirement, but there would be no recognition bar, and, in the event they reached a collective-bargaining agreement, no contract bar until the notification requirement was satisfied.

On August 26, 2011, in Lamon’s Gasket, 357 NLRB No. 77, (2011), the Board, by a three to one vote, with Member Hayes dissenting, overruled Dana Corporation. The Board returned to the traditional recognition bar doctrine, and eliminated the 45 day window period and notice posting mandate. As a result, after an employer and union enter into a voluntary

Our New Electronic Filing System is in Place

The entire Agency has transitioned from its old Case Automated Tracking System (CATS) to an integrated web-based database and case management system code-named "NxGen." In NxGen, all case documents will be uploaded into the system so that they may be retrieved electronically. Documents not received electronically must be manually scanned into the system. Accordingly, we ask that whenever possible you submit documents to us in electronic form. Your assistance will be greatly appreciated!!

(Recent Representation Continued)

recognition agreement, the union will enjoy an irrebuttable presumption of majority status for a reasonable period of time in which to negotiate a contract. The Board also, for the first time, established bench marks for measuring the "reasonable period of time." In doing this, the Board borrowed from Lee Lumber & Building Material Corp., 334 NLRB 399 (2001), and cases where the Board has issued a remedial bargaining order and indicated that a recognition bar will create an un rebuttable presumption of majority status for at least six months, and no more than one year. In determining whether a reasonable period of time has elapsed after the first six months, but before the end of the year, the Board will weigh (1) whether the parties are bargaining for initial contract; (2) the complexity of the issues being negotiated and the bargaining processes; (3) the amount of time elapsed since the bargaining commenced and the number of bargaining sessions; (4) the amount of progress made in negotiations and how near the parties are to concluding an agreement; and (5) whether the parties are at impasse.

In conjunction with its decision in Lamon's Gasket, on August 26, the Board also issued its decision in UGL-UNNICO Services Company 357 NLRB No. 76 (2011), overruling MV Transportation 337 NLRB 770 (1972) and restoring the "successor bar" doctrine. The "successor bar" is comparable to the recognition bar and is utilized to afford a union a reasonable period of time in which it enjoys an irrebuttable presumption of majority status when a successor employer is required to recognize and bargain with its predecessor's employees' bargaining representative under NLRB v. Burns Security Services, 406 NLRB 272 (1972) and Fall River Dyeing and Finishing Corp. v. NLRB 482 U.S. 27 (1987).

The last of the notable decisions issued in the final days of Chairman Liebman's tenure is Specialty Healthcare and Rehabilitation Center of Mobile 357 NLRB No. 83 (2011). The Board overruled Park Manor Care Center 305 NLRB 872 (1991), and ruled that a unit comprised of only certified nurses aides and excluding all other service and maintenance employees was an appropriate unit in a non-acute health care facility. In addition, the Board indicated that it was reiterating and clarifying its standard for determining whether a petitioned-for unit is inappropriate in any setting except for acute health care facilities. In doing so, the Board indicated that when a petitioned-for unit contains a readily identifiable group of employees who have a community of interest, and another party asserts that the unit is inappropriate because it does not contain additional employees, that party bears the burden of establishing that the additional employees it seeks to include share an overwhelming community of interest with the petitioned-for employees.

NLRB Releases Videos on Website

In its continuing effort to enhance the public's ability to transact business with the Agency, the NLRB now features the following videos on our site at www.nlr.gov:

“**Introduction to the NLRB Public Website**, which provides viewers with a guided tour of the Agency's website; **How to use CiteNet**, which explains how to use the Agency's electronic legal research database of Board and court decisions dating from 1002; and the “**Representation Case**” video, which is designed to inform the public about the role of the Agency in conducting elections.

NLRB Poster on Employee Rights Now Available for Download

A workplace poster that describes employee rights under the National Labor Relations Act is now available for free download from the NLRB website at www.nlr.gov/poster.

Private-sector employers within the NLRB's jurisdiction will be required to display the poster where other workplace notices are posted as of January 31, 2012. Employers who customarily post personnel rules or policies on an internet site must also provide a link to the rights poster from those sites.

In addition, a small number of copies of the Notices are available without charge from any NLRB regional office. Requests for large numbers of notices can be made to the Regions and they will be forwarded to Headquarters for processing.

For further information about the posting, including information on where to post the notice, how to get copies, which employers are covered by the NLRA, and what to do if a substantial share of the workplace speaks a language other than English, please see the [Frequently Asked Questions](#) link on the NLRB website.

Curious?

A new feature has been added to the Agency's updated website on the internet. This new feature allows public access to all final dismissal letters issued by Regional Offices and letters from the office of appeals denying appeals in dismissal actions. Memoranda issued by the Division of Advice ([GC Memorandum 11-12](#); click on OM 11-12) instructing Regions to dismiss the submitted allegations of the charge will also continue to be posted. On the other hand, letters deferring charges, conditionally dismissing charges, approving withdrawal requests and unilateral settlement agreements or setting forth compliance determinations will not be uploaded onto the website. Only letters issued on June 1, 2011 and thereafter that dismiss a case or deny an appeal will be uploaded. The public may access and download the uploaded documents.

To protect the privacy interests of individuals associated with our cases, only redacted copies of these documents will be posted on the website for public view.

Our Service Standards

- We will attempt to answer your questions about the case, consistent with the confidentiality rights of the other persons and the Privacy Act.
- If necessary we will provide bilingual services if we are given sufficient notice of that need.
- We will provide the same treatment to all persons regardless of race, sex, religion, national origin, age, political affiliation, sexual orientation or disability.
- Our facilities are accessible to persons with disabilities. Please let us know if you will need an accommodation.

If you wish, you may be represented by an attorney or other representative of your choice.

Welcome Aboard!

Region 3 Extends a Warm Welcome to the Following New Staff Members

Tom Miller joined Region 3 in June as a student co-op. He will be working in the Buffalo office until the end of the year. Tom will graduate in May 2012 from Indiana University of Pennsylvania with a concentration in employment and labor relations.



Sara Selan is currently interning with the National Labor Relations Board, Region 3 office. She received a B.A. in Psychology with a minor in Business Administration from Indiana University of Pennsylvania (IUP). In January of 2011 she began coursework for a Masters degree in Employment and Labor Relations at IUP. Sara expects to complete her coursework in May 2012.



Doren Goldstone Retires After 34 Years

Doren, a graduate of Cornell's ILR School and UB Law, spent the first 24 years of his career representing the General Counsel of the NLRB in administrative hearings. Doren was often tapped by the Region to handle the most complex cases due to his outstanding trial skills and unflappable calm in the court room. Some of Doren's most notable cases included **E.I DuPont, Landis Plastics, Kenmore Contracting and Good Samaritan Hospital**. For the last 10 years of Doren's federal service, he chose to pursue his interest in labor-management relations by serving as the national grievance chairperson on the executive board of the NLRBU, the Union that represents all professionals and support staff in the field and offices and support staff in headquarters.

Doren is an avid tennis player and also loves to golf and read. The Region is confident that he will be as successful in retirement as he was throughout his career.

Jack Sullivan Retires After 36 Years

Jack retired from the NLRB after 36 years of federal service; 34 of which while serving as a field examiner in Region 3, Buffalo NY. Not only was he the longest serving FX in the Buffalo office's history, he takes pride in never missing a representation election, no matter what the weather. Since retiring on June 3, 2011, Jack has been like a kid in a candy shop. He has gone back to windsurfing, jeeping, fishing, and numerous other activities.

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NLRB Region 3 Outreach

Contact the Region:

There is always an information officer available at an NLRB Regional Office to answer general inquiries or to discuss a specific workplace problem or question. The information officer can offer information about the Act and advice as to whether it appears to be appropriate to file an unfair labor practice charge. If filing a charge does appear to be appropriate, the information officer can assist in completing the charge form.

The information officer at Region 3 may be reached by telephone at:

1-866-667-6572
(Toll free)

or

716-551-4931 (Buffalo)
518-431-4155 (Albany)

Para información en Español llame al:

1-866-667-6572
(Toll free)

TOLL FREE NUMBER:

The Agency also has a toll free telephone number that offers a general description of the Agency's mission, referrals to other related agencies and access to an Information Officer based upon the caller's telephone number. A Spanish language option is also available. Toll free access is available by dialing:

(TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.

(Jack Sullivan Retires Continued)

He has also spent more time with his family, including wife Anne, daughter Katie, son Bob and his wife Shuana, nephews Doug, Eric, and Cooper, and grandson Henry.

In addition, he has resumed volunteering for the New York State Niagara Region Interpretive Programs Office as a naturalist. In this role, he runs the New York State Whirlpool State Park's nature center once or twice a week, where he interacts with people from around the world who come to see the world class Niagara River

Gorge. Jack is grateful for his career with the NLRB, during which he also interacted with many kinds of people. While Jack misses his co-workers, he has embraced the challenges of retirement and feels lucky to be an "old retired guy".



Rhonda P. Ley, Regional Director
National Labor Relations Board, Region 3

To receive this newsletter electronically send an email including:

- ❖ Name
- ❖ Agency
- ❖ Email address(es)

to: Katy.Domagala@nlrb.gov