Region 10 PERSPECTIVE

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MARTY'S (LAST) SOAPBOX

Comments by Regional Director Martin M. Arlook

Recently, I sent this message to the Region 10 staff:

> *To roughly paraphrase Ecclesiastes, there's a season for everything, including, naturally, a time to work AND a time to retire. After over 55 years of federal service (three and a half active duty Army enlisted and commissioned; the rest with this Agency), my time has come. November 30, 2011 is the date. I shall miss doing the good work we do and, of course, those with whom it is done.*

Over my half-century career with the NLRB in three regional offices (Manhattan, Puerto Rico, Atlanta), I've litigated or participated in the decision-making process of a goodly number of high profile labor cases and otherwise enjoyed many other memorable and varied experiences. I've had a hand in everything from conducting last or final-offer elections in dock strike situations during the "cooling off" period mandated by the Taft-Hartley Act to obtaining convictions of several defendants while serving as special counsel in the federal court prosecution for criminal contempt of a Board-obtained temporary restraining order that enjoined violent conduct ... not to mention *Arlook v. S. Lichtenberg*, 952 F.2d, 367 (11th Cir.1992), which remains the Eleventh Circuit standard in Section 10(j) cases.

It's been a source of much satisfaction to me to have been privileged to perform the public service of helping to administer the nation's preeminent labor law and working with the dedicated and talented people who staff this Agency.

Goodbye and good luck to all.

Martin M. Arlook

NLRB's Longest-Serving Active Director Announces Retirement

After nearly 52 years with the Agency, Regional Director Martin Arlook has announced the end of his colorful career with the Agency. He will step down November 30, 2011. Director Arlook has served in Region 10 since March 1, 1982. Commented Region 14, Saint Louis, Regional Director Chip Harrell, formerly a Region 10 ARD, "The Agency suffers a great loss when its 'dean' of Regional Directors moves on to his well-deserved retirement. Not only do we lose his institutional knowledge, but also his humor, his love of his work, and his pursuit of life to its fullest. I wish him well."

Director Arlook is a native of Jersey City, New Jersey. He graduated with honors from the Milford Preparatory School in Connecticut and received his undergraduate degree from the University of Chicago. Mr. Arlook received his law degree from Rutgers University where he served as an editor of the law review, and, from 1956 until 1959, served as an Assistant Staff Judge Advocate at 3rd Army Headquarters in Atlanta.

After his military service, Mr. Arlook received an LL.M in labor law from New York University School of Law and began his NLRB career in the Manhattan Regional Office in 1960. In 1969, he was appointed Assistant Regional Attorney in Puerto Rico and was promoted to Regional Director in that Region in 1978.

Director Arlook and his wife Elinor recently celebrated their 51st wedding anniversary. Their son Richard heads The Arlook Group, a personal management, production and consulting firm in the entertainment industry in Beverly Hills, California. Grandson Ethan, 19, is studying at Emerson College in Boston, while granddaughter Rachel, 23, having recently completed college, works at United Talent agency in Los Angeles as an agent-trainee and granddaughter Emily, 21, is pursuing a career in acting in California. The Arlooks' son Edward is deceased. After more than a half-century of dedicated public service, the Arlooks are looking forward to traveling and spending time with family.

Said Acting General Counsel Lafe Solomon: "Even after 50 years with the Agency, Marty Arlook's enthusiasm and passion for his work have never waned. He has an amazing energy that he brings to the Agency's mission. It will be hard to imagine the Atlanta Regional Office without Marty at the helm. I wish him well in his retirement and thank him for the many contributions he has made to the NLRB."

Associate General Counsel Anne Purcell echoed the thoughts of the Acting General Counsel, noting that even at the Regional Directors' Conference in September, when one could have expected him to simply sit back and enjoy, Marty was fully engaged in the difficult discussions, providing insights that were valued because of his significant experience and knowledge. She wished Marty all the best as he moves into this next passage of his life and urges him to stay in touch.

LIEBMAN STEPS DOWN AFTER 14 YEARS

National Labor Relations Board Chairman Wilma B. Liebman, who served on the Board for nearly 14 years and under three presidents, left the agency at the completion of her third term at midnight, August 27.

The White House designated Member Mark Gaston Pearce to be Board Chairman upon Chairman Liebman's departure.

Chairman Liebman was first appointed to the Board by President Bill Clinton and was confirmed by the Senate in 1997. She was reappointed by President George W. Bush in 2002 and 2006, and was designated Chairman by President Barack Obama on January 21, 2009. She is the third longest serving member in the Board's 76-year history.

REGION TEN'S NEW FACES

Nicole Deitman is our newest Field Examiner. Nicole was born and raised in Western Pennsylvania, where she earned a Masters of Business Administration and Master of Arts in Industrial and Labor Relations from Indiana University of Pennsylvania. In 2009, Nicole began her career with the Agency in Region 31, Los Angeles. Recently, Nicole transferred to Region 10. On why Nicole made the move to Atlanta: "I enjoyed my time on the West Coast, but I knew that I wanted to head back East. I missed seeing all four seasons. Atlanta has been great; plenty to do, great food, and charming Southern hospitality. I'm so fortunate to now be able to call Atlanta home!"

Sarah Marx was born and raised on Long Island NY. She received an undergraduate degree in Policy Analysis and Management from Cornell University, a Masters in Public Administration from the Maxwell School at Syracuse University, and a Juris Doctorate from Touro Law Center, where she was Editor-in-Chief of the Touro Law Review and interned for US Senator Hillary Clinton. She says, "This is my first time living in the South and my first time with the Agency. Atlanta so far has been a fantastic experience, and all of the people I have met both in and out of the Region have been wonderful resources and mentors. I have wanted to come to the Agency for some time, so it's been like living a dream to finally be working here!"

Mariana Ryan transferred to Region 10 in September from Region 13, Chicago. She joined the Agency in May 2010 as Language Clerk. She has a background in Spanish, French and Italian Language and Literature from the University of Dallas and is originally from Argentina. This is her third move to Georgia, and she is thoroughly enjoying living in the South again.

WELCOME

EMPLOYEE RIGHTS NOTICE POSTING DEADLINE POSTPONED

The National Labor Relations Board has postponed the implementation date for its new notice-posting rule by more than two months in order to allow for enhanced education and outreach to employers, particularly those who operate small and medium sized businesses. The new effective date of the rule is Jan. 31, 2012.

The decision to extend the rollout period followed queries from businesses and trade organizations indicating uncertainty about which businesses fall under the Board's jurisdiction and was made in the interest of ensuring broad voluntary compliance. No other changes in the rule, or in the form or content of the notice, will be made. Private-sector employers (including labor organizations) whose workplaces fall under the National Labor Relations Act will be required to post the employee rights notice where other workplace notices are typically posted. Additionally, employers who customarily post such notices on an internet or intranet site will be required to post the Board's notice on those sites. Copies of the notice will be available at no charge from the Agency's regional offices and may also be downloaded at www.NLRB.gov.

The 11x17 notice, which is similar to that required by the U.S. Department of Labor for federal contractors, states that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful conduct by employers and unions and instructs employees how to contact the NLRB with questions or complaints. For additional information, please see FAQ on the Agency's website.

BOARD RULES ON INFLATABLE RAT ISSUE

The National Labor Relations Board has ruled that displaying a large inflatable rat balloon at a secondary employer's premises to protest the labor practices of its non-union contractor is not coercive, and so does not violate U.S. labor law. The case, *Sheet Metal Workers Local 15 (Brandon Regional Medical Center)*, 356 NLRB #162 (2011), was originally decided in January 2006by the Board, which found that a mock funeral staged by the union in front of an acute care hospital was unlawfully coercive. Given that finding, the Board found it unnecessary to rule on the display of the inflatable rat balloon.

The Union, which had been protesting the hospital's use of non-union contractors, appealed the decision to the Court of Appeals for the District of Columbia Circuit, which reversed the Board's decision, finding that the use of a faux coffin and a costumed Grim Reaper outside the hospital was not "coercive." The case was remanded to the Board for review of other issues raised in the case, including the legality of the balloon display.

The Board's 3-to-1 decision on remand follows the reasoning laid out in Carpenters Local 15006 (Eliason & Knuth of Arizona, Inc.), 355 NLRB No. 159 (2010), which found the display of large stationary banners at secondary employer locations was not unlawful. The National Labor Relations Act prohibits conduct found to "threaten, coerce, or restrain" a secondary employer not directly involved in a primary labor dispute, if the object of that conduct is to cause the secondary to cease doing business with the primary employer. Picketing that seeks a consumer boycott of a secondary is usually coercive and therefore unlawful, whereas stationary handbilling with that same object is not, and is therefore protected speech. The question before the Board was where the use of a 16-foot-tall inflatable rat balloon fell on that continuum.

The Board majority found that, unlike picketing, the balloon display did not involve any confrontational conduct. Nor was the display coercive in other ways, the majority found, observing that union agents involved in the display did not move, shout, impede access, or otherwise interfere with the hospital's operations. Rather, the "rat balloon itself was symbolic speech. It certainly drew attention to the Union's grievance and cast aspersions on [the contractor], but we perceive nothing in the location, size or features of the balloon that were likely to frighten those entering the hospital, disturb patients or their families, or otherwise interfere with the business of the hospital."

In his dissent, Member Brian Hayes found that the display was coercive, and therefore unlawful. "Considered in the abstract, or viewed from afar, the display of a gigantic inflated rat might seem more comical than coercive," Member Hayes wrote. "Viewed from nearby, the picture is altogether different and anything but amusing. For pedestrians or occupants of cars passing in the shadow of a rat balloon, which proclaims the presence of a 'rat employer' and is surrounded by union agents, the message is unmistakably confrontational and coercive."

SPOTLIGHT: THOMAS WAYCHOFF, Co-op Student

I grew up in northwest Pennsylvania in the small town of Pleasantville. It's the type of town that isn't really a town. In order get to the nearest grocery store or gas station, you have to drive 15 minutes. Growing up, I knew little about unions or workers' rights. It was not a part of my life as very few in my family were union-affiliated. Those who were never really talked about it or, if they did, I didn't understand.

I first learned more about the terms 'labor' and 'union' in an elective history course at the University of Pittsburgh at Titusville. I liked the professor's teaching style and thought the class would be interesting. The course did not discuss law or workers rights; rather, it focused on the events that molded today's workforce. Soon after taking the course, I transferred to Robert Morris University near Pittsburgh. I chose RMU to pursue a career in Sport Management figuring it would be awesome to work in the sport industry. However, this aspiration only lasted one semester as I soon discovered the very poor outlook for a successful career in this field. I decided to switch to Business Management, a very broad major, because I had no idea what I wanted to do for a career. I started looking into Masters programs such as sustainability and human resources. Then I met Dr. Jeff Guiler.

Dr. Guiler introduced me to labor relations. Labor relations management was a required course for my degree in business management. I didn't have any particular interest in this subject and just wanted to get through the class with a decent grade. As the weeks went on, Dr. Guiler's enthusiasm and experiences in the field caught my attention. With my increased interest, I took an elective class that involved examining and arguing both the labor and management sides of a case, arbitration, collective bargaining, and mediation. Given the job market in a weak economy, Dr. Guiler encouraged me to apply for the Employment and Labor Relations Masters program at Indiana University of Pennsylvania. I was accepted into the program and awarded a graduate assistantship. From a foundation built on Dr. Guiler's teachings, I have excelled at IUP.

At IUP I learned about the NLRB and the Act that the Board enforces. Since a fair amount of my education has revolved around this agency's workings, I applied for an educational co-operative position to further experience what labor relations in this arena had to offer. A Board co-op allows me to gain experience and at the same time "audition" for a potential permanent job. Having grown up in a small rural area, moving to one of the largest cities in the United States to work took a leap of faith, but I knew the benefits and value that this short-term position could provide.

Within two weeks of my arrival in Atlanta, I was assigned two cases to investigate and informed I would assist in running two elections. Everyone treated me like I was one of them, even though at that point I had no idea what I was getting myself into. Several months later, I am now known as "The Coop" by several of my colleagues, and my experience has been great. Everyone has been very helpful and supportive. I'm almost positive that I have asked everyone in this office a question of some sort, and they are all always willing to help. With the guidance of Supervisory Attorney Lisa Henderson, ARD Terry Combs, and mentors Jason Hardman and Frank Rox, I have been investigating cases from beginning to end. I have been given the responsibility to apply my growing knowledge and skills to real-life situations arising under the NLRA.

During my time with the Board, I have taken witness affidavits, conducted representation elections, written final investigative reports, dedicated endless hours to legal research, written numerous memos, assisted with colleagues' cases, and even helped redact pages upon pages of documents for a FOIA request. This remarkable experience has been the most valuable of all of my work experiences. Not only have I gained a practical experience here, but I have also gained a great personal experience as well. I am grateful to have had the opportunity to learn and contribute to the work of the National Labor Relations Board. I sincerely hope that I will be fortunate enough to have the opportunity to work with the Board again in the future.

In August, under the auspices of the Feds Feed Families campaign, Region 10 again conducted intra-office food drives. The Atlanta Regional Office collected 500 lbs. on behalf of Atlanta Community Food Bank, and the Birmingham Resident Office brought in 375 lbs. for Birmingham's United Way Community Food Bank. Region 10's staffers exceeded last year's totals by 240 lbs.!

FACEBOOK FOLLOW-UP ...

The National Labor Relations Board's Acting General Counsel has released a report detailing the outcome of investigations into 14 cases involving the use of social media and employers' social and general media policies. Social media include various online technology tools that enable people to communicate easily via the internet to share information and resources. These tools can encompass text, audio, video, images, podcasts, and other multimedia communications. Recent developments in the Office of the General Counsel have presented emerging 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.

Each case detailed in the Acting General Counsel's report was submitted by a regional office to the NLRB's Division of Advice in Washington, DC. In four cases involving employees' use of Facebook, the Division found that the employees were engaged in protected concerted activity because they were discussing terms and conditions of employment with fellow employees. In five other cases involving Facebook or Twitter posts, the Division found that the activity was not protected. In one case, it was determined that a union engaged in unlawful coercive conduct when it videotaped interviews with employees at a nonunion jobsite about their immigration status and posted an edited version on YouTube and the Local Union's Facebook page. In five cases, some provisions of employers' social media policies were found to be unlawfully broad. A final case involved an employer's lawful policy restricting its employees' contact with the media.

Pursuant to New Horizons for the Retarded, 283 NLRB 1173 (1987), the rate used to calculate interest on back pay and other monetary remedies provided for in Board Orders is to be based upon the "short-term Federal rate," i.e., the rate assessed by the Internal Revenue Service on the underpayment of taxes. The rate assessed for the third and fourth quarters of Fiscal Year 2011, April 1 to September 30, 2011, was 4 percent. The rate dropped to 3 percent for the first quarter of Fiscal Year 2012, October 1-December 31, 2011.

A list of rates to be used to calculate interest on Board monetary awards from April 1, 2001, to the present may be found in Operations Management (OM) Memo 11-39, posted under Publications on the agency's website, www.nlrb.gov.

REGIONAL R-CASE ROUND-UP

Since May 1, 2011, the following final election results were recorded in Region 10:

- **10-RC-15818**, Forest Park GA — Ozark Automotive (14) -Teamsters (28)
- **10-RC-15822**, Robins AFB GA — L-3 Vortex Communications (6) - IAMAW (6)
- **10-RC-15824**, Atlanta GA — BFI Waste Services (1) - IAMAW (3)
- **10-RC-15825**, Atlanta GA — Hanson Pressure (27) -Teamsters (26)
- **10-RC-15827**, Atlanta GA — Paragon Systems (5) - SPFPA (44) - USPOA (10)
- **10-RC-60048**, Etowah TN — Johns Manville (55) - GMPPAWINU (130)
- **10-RC-60092**, Marshall Space Center AL — Coastal International Security (1), IUESSMFW, CWA (5)
- **10-CA-60095**, Hinesville GA — Veolia Transportation (3), ATU (8)
- **10-CA-60140**, Oak Ridge TN — WSI Oak Ridge (2) - ITUA (5) - SPFPA (69)
- **10-CA-60938**, Alabaster AL — MacLean Power (46) - United Steelworkers (22)
- **10-CA-61277**, Atlanta GA — Tenet Health System (60) - SRWU, SEIU (272)
- **10-CA-61343**, East Point GA — Tenet South Fulton (24) - SRWU, SEIU (162)
- **10-RD-1507**, Atlanta GA — Southside Medical (39) - AFSCME (41)
- **10-RD-1508**, Fort Stewart GA — Shiloh Services (0) - IAMAW (11) - Teamsters (24)
- **10-RD-1511**, Decatur AL — Morningstar Foods (19) - UFCW (30)
- **10-RD-1512**, Grovetown GA — GIW Industries (65), IAMAW (40)

AMENDMENTS PROPOSED TO R-CASE RULES AND REGS

On June 21, the NLRB published in the *Federal Register* a Notice of Proposed Rulemaking, which proposed amendments to the Board's existing rules and regulations governing procedures in representation cases. The proposed amendments are intended to reduce unnecessary litigation, streamline pre- and post-election procedures, and facilitate the use of electronic communications and document filing. For details on the proposed amendments, view this fact sheet and summary.

At a July 18-19 public meeting, more than 60 people representing a wide range of perspectives offered their thoughts to Board Members about the proposed changes. Transcripts from both days are posted to this NLRB Fact Sheet on the proposal. Video of the presentations, broken down by individual speaker, are posted on the NLRB's YouTube channel and can be accessed here.

BOARD BRIEFS: The Board's August 26, 2011 Decision and Order in *Lamons Gasket Co.*, 357 NLRB No. 72, focuses on the new bargaining relationship created by an employer's voluntary recognition of a union based on a showing of support by a majority of employees. This case overrules *Dana Corp.*, 351 NLRB 434 (2007), and returns to the standards in place prior to *Dana*, preventing challenges to a union's representative status for a "reasonable period" following voluntary recognition, in order to give the new bargaining relationship a chance to succeed. In the case of voluntary recognition, "a reasonable period" the period of protection will range from six months to one year, depending on the circumstances.

REMINDER: The NLRB's new website has launched !

Highlights of the new site include more case information available more quickly than ever before. All Board decisions are now posted to the site at the time they are issued, rather than after a one-day holding period. The Board is also posting unpublished decisions, which do not appear in the official bound volumes of Board decisions, for the first time. Additional previously unavailable documents from Washington and the regional offices will be posted to the site over time.

For the first time, the agency's regional offices are prominently featured in the new site. An interactive map shows regional borders and allows visitors to quickly locate their own regional office. Pages for each region list top officials and contact info and feature newsletters, news releases, and local cases and decisions. A data section tracks NLRB activities over the years and will launch with eight charts and tables covering a variety of indicators, from charges filed to back pay collected. More charts and tables, with greater interactivity, will be added through the year. Our page can be reached at http://www.nlrb.gov/category/regions/region-10

Better info, easier navigation AND links to the Agency's regional webpages. Check it out: http://www.nlrb.gov/

RECENT REGION 10 RECIPIENTS OF GOVERNMENT SERVICE AWARDS

Deputy Regional Attorney Gaye Nell Hymon	**35 years**
Regional Attorney Secretary Yvette Davis	**30 years**
Senior Field Attorney Lauren Rich	**20 years**
Senior Field Examiner Alex Edinger	**20 years**
Senior Field Examiner Jason Hardman	**10 years**

REGION 10 COMMUNITY OUTREACH

- In May, Resident Officer Doug Marshall addressed a gathering of human resource directors of major non-union trucking companies; Supervisory Attorney Lisa Y. Henderson participated in an SBA roundtable on regulatory affairs.
- In June, Regional Attorney Mary L. Bulls spoke to students in the Pre-Law Undergraduate Scholars Program, Georgia State University; SA Henderson led a workshop at the 22nd annual Georgia Labor Management Conference, focusing on the *Boeing* and "Facebook" cases; Attorney Kathy Chahrouri led a session at the Alabama Governor's Conference and addressed students and led a mock election at a local school.
- In July, Resident Officer Doug Marshall spoke at the Huntsville Area Labor Management Council luncheon; Attorney Carla Wiley addressed legal interns at the Atlanta office of the EEOC, providing an overview of Board law and procedures.
- In September, Attorney Gregory Powell represented the Agency at Samford University's Cumberland Law School Government Career Fair; RO Marshall addressed attendees at the Alabama State LERA Conference.

Birmingham Bits

C. Douglas Marshall, Resident Officer

In July, I had the distinct pleasure of being telephoned at home by both former Chairman of the Board Wilma Liebman and the Acting General Counsel Lafe Solomon in the same evening—but only to inform me that the Chairman's flight from DC to Huntsville had been cancelled at the last minute. Chairman Liebman could not find any other flight to get her to Huntsville to address the Area Labor/Management Council luncheon the following day. Once they tracked me down -- I had not provided her my home or cell telephone number when we made arrangements for her to speak months earlier – I spoke with the Chairman and the Acting GC at great length and thus was able to fill in for her the next day with 'information straight from the top.'

Other employees have participated in the Agency's Outreach events as well. Attorney Kathy Chahrouri represented us at the Alabama Governor's Labor-Management Conference this summer. She compiled a slide show from the 75th Anniversary web site that continuously played as attendees came by the NLRB table. Attorney Greg Powell again covered the annual Cumberland Law School Government Career Fair Day for the office. Back in August, Kathy Chahrouri and I hosted a dozen law school students from the University of Fribourg in Switzerland as part of the University of Alabama Law School exchange program. After I covered the structure and legislative history of the NLRB and discussed how cases proceed through the agency, Kathy told them what it was like to be a field attorney investigating and trying cases, including the rare, for Birmingham at least, 10(j) injunctive proceeding.

Finally, in late September I made my annual address to the Alabama State LERA Conference and discussed the ever-popular *Boeing* and Facebook/social media cases, as well as updating them on the status of Board vacancies, the new employee rights posting requirement, and case law and policy developments.

ATLANTA CELEBRATES HISPANIC HERITAGE MONTH

Region 10 celebrated Hispanic Heritage Month on September 20 with culinary delights prepared by RA Mary Bulls and two new staff additions, field attorney Sarah Marx and language clerk Mariana Ryan.

Sarah Marx prepared a Puerto Rican staple, *arroz con pollo y frijoles*, or chicken and rice with black beans. She was introduced to the dish when she was about 11 years old, vacationing near Lake George, NY. Her family befriended a Puerto Rican family who passed along their enjoyment of the traditional dish. Marx advised that the dish may be embellished with shrimp, *chorizo* (a spicy Spanish sausage) or green olives and noted that two key ingredients are *sofrito* (a tomato-based sauce) and *recaito* (a cilantro-based seasoning.)

Mariana Ryan introduced *yerba mate*, a drink popular throughout South America, especially Argentina. The beverage is prepared by steeping dried leaves of a species of holly in hot water. Traditionally yerba mate is brewed in a hollowed-out gourd called a *guampa* and is sipped from the gourd through a metal straw (the *bombilla*) that also serves as a filter. Yerba mate is highly touted for its nutritional benefits and is rich in vitamins, minerals and antioxidants. Yerba mate is drunk at all hours, by people from all walks of life, according to Ryan.

RA Mary Bulls prepared a margarita cake for the staff using tequila, a beverage dating back to 16th century Mexico. Tequila, derived from the agave plant , was first distilled by the Spanish from a fermented beverage concocted by the Aztecs. In addition to the margarita cake, Bulls brought in colorful zinnias—first grown in Mexico—from her own garden, as well as home-grown tomatoes, which originated in South and Central America.

M. Ryan, S. Marx, M. Bulls

ATTORNEY CHAHROURI INTROS STUDENTS TO BOARD PROCESSES

Birmingham, Alabama's The Horizons School offers a non-degree postsecondary program specifically designed to facilitate personal, social and career independence for students with mild learning disabilities and other mild handicapping conditions. In August 2010, Field Attorney Katherine Chahrouri met Cory Reinkemeyer, the school's Career Coordinator, to discuss the ways his career programs address employment laws and employment rights. While the existing curriculum included information on basic wage laws and the EEOC, there was no information about the NLRB or the NLRA. Chahrouri offered, and Reinkemeyer welcomed, assistance with developing materials about the NLRB in the school's career development programs. Reinkemeyer suggested that they meet again in January 2011, when he would have a better sense of how to work the Agency's materials into his program for the coming year.

In January 2011, Reinkemeyer provided Chahrouri with portions of the existing curriculum on employment laws and employment rights. From January through April, she worked intermittently on developing curriculum materials about the NLRB to work into the existing curriculum. To assist in formatting the material to best reach the students, she visited the career development class on two occasions in April 2011. Chahrouri was introduced to the class and answered a few basic questions about the NLRB and what we do, but was primarily there to observe the students, to see how they responded to various modes of presentation of material in their classes, to assess their attention spans, etc.

After her observation visits, Chahrouri submitted to Reinkemeyer a draft of the materials she had developed, and she and Reinkemeyer scheduled a two-part presentation of the NLRB materials to take place on May 2 and May 9, 2011. On May 2, 2011, Chahrouri set up an NLRB voting booth in a classroom, and conducted a mock election in which students received a ballot on which they marked their preference of NLRB topics to learn about first. At the end of this mock election, all gathered in the election space to tally the ballots and announce the winning selection.

On May 9, 2011, Chahrouri gave a one-hour presentation on the NLRB to the career development class, starting with the topic selected in the election. She presented the materials in the PowerPoint format to which they were accustomed and provided corresponding hand-outs for the students to follow along and take notes. The students were very engaged in the icebreaker activity, a series of bullet points under the heading "CAN YOU GET FIRED FOR THAT?" used to introduce the general topic of workplace rights. They were also very interested in the recent NLRB cases involving discipline and discharge for postings to Facebook, which likewise generated some lively discussion. By the end of the session, the students expressed a general understanding of the NLRA, the dual functions which the Agency performs (elections and ULP investigations), and "protected concerted activity." They were provided a resource sheet ("Who You Gonna Call?") with various government agency functions and corresponding state and federal agency contact information. After the presentation, the students were invited to select from a grab-bag of NLRB-logo items Chahrouri brought along.

Chahrouri has been invited to participate in the 2011 program and to make this an annual event and looks forward to further refining and presenting information about the NLRB to future career development classes at The Horizons School.

Q: "Six-zero-zero ...? Hey! What's up with the case numbers?!?"

A: "Don't worry. In June, the Agency implemented a long-awaited nationwide case management system. The new system assigns case numbers sequentially, no matter the region in which a charge is filed. The "new" numbers, which began with 60000, apply to ULP and representation cases alike."

BOARD RULES NO BACKPAY FOR UNDOCUMENTED WORKERS

The National Labor Relations Board has ruled unanimously that a 2002 U.S. Supreme Court decision compels the conclusion that the Board lacks remedial authority to award back pay to undocumented immigrant workers whose rights have been violated under the National Labor Relations Act, even in cases where their illegal status was known to the employer at the time of hiring.

In *Mezonos Maven Bakery*, 357 NLRB No. 46 (2011), the Board cited broad language in the Supreme Court decision, *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137(2002), which made clear that "awarding back pay to undocumented workers lies beyond the scope of [the Board's] remedial authority, regardless of whether the employee or employer violated" the Immigration Reform and Control Act of 1986 (IRCA). View the decision here.

The seven employees in question worked for Mezonos Maven Bakery in Brooklyn for up to eight years and were not asked for documentation when they were hired. They were fired on February 12, 2003, after complaining as a group about mistreatment by a supervisor. Unfair labor practice charges were filed, the parties settled, and the Board issued an unpublished Decision and Order pursuant to a formal settlement stipulation. The Board ordered Mezonos, among other things, to offer reinstatement and to make the employees whole for lost wages and benefits, and that order was enforced by the United States Court of Appeals for the Second Circuit. However, Mezonos later argued that it could not offer reinstatement or backpay under the *Hoffman* decision because the workers were undocumented. On November 1, 2006, Administrative Law Judge Steven Davis decided against the employer, finding that in this case (unlike *Hoffman*), it was not the workers but the employer who violated IRCA by failing to verify their work authorization status. That decision was appealed to the Board, resulting in the current decision.

KEEP UP WITH *BOEING* — On April 20, the Acting General Counsel of the National Labor Relations Board issued a complaint against the Boeing Company alleging that it violated federal labor law by deciding to transfer a second airplane production line from a union facility in Washington state to a non-union facility in South Carolina for discriminatory reasons. A hearing in the matter was held in June in Seattle before an NLRB administrative law judge.

Follow @NLRBBoeingtrial on Twitter for the latest information on this cutting-edge topic:

- Boeing trial documents (complaint, briefs, memos, rulings, orders, etc.) here.
- Congressional correspondence regarding the Boeing case.
- NLRB news releases and statements
- Background
- The law and supporting cases

It is important to note that the complaint represents allegations by the Acting General Counsel , and the Board has made no findings on the allegations. At the hearing, both parties were provided an opportunity to present evidence and argue in favor of their position. The decision of the judge may be appealed to the Board in Washington by the filing of exceptions by either party. Click here for a flow chart of the NLRB process.

A NOTE FROM THE EDITOR

Region 10 Perspective always encourages your questions, suggestions, comments and feedback. Please feel free to contact me at Lisa.Henderson@nlrb.gov or 404-331-2889.

Thank you!
Lisa Y. Henderson, Supervisory Attorney

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The **National Labor Relations Board** is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers, and to engage in other protected concerted activity with or without a union, or to refrain from all such activity. The NLRA extends rights to most private sector employees, to their employers, and to unions/labor organizations. The NLRA protects workers who form, join, support or assist unions, and protects groups of workers (two or more employees) without a union who engage in protected concerted activities seeking to modify their wages or working conditions. The Act protects non-union and union employees against employer and union discrimination based on union-related activities or other protected concerted activities.

Employees wishing to pursue workplace organization issues or allegations of unfair labor practices may seek assistance from the nearest regional NLRB office. Employers and unions who wish to pursue allegations of unfair labor practices may do the same. The Agency has 51 regional, sub-regional, or resident offices to serve the public.

Please let us know if you'd like to be added to or deleted from our newsletter mailing list. If you would like to receive future copies of Perspective by email, please notify us at NLRBRegion10@nlrb.gov.

We're on the Web!
www.nlrb.gov

NLRB Speakers are Available for Your Group

Members of the Region's staff are available to make presentations before any employer or union group, classroom group, legal services clinic or service agency, or labor relations association to describe the Act's protections, how the Region investigates and resolves unfair labor practice charges, how it processes representation petitions, or any NLRB topic of interest.

To arrange for a speaker and to discuss possible topics, please do not hesitate to contact Regional Outreach Coordinator Jason Hardman at Jason.Hardman@nlrb.gov or (404) 331-2888.

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