

The Gateway-River City Times

SECTION 7 OF THE NATIONAL LABOR RELATIONS ACT (NLRA) GIVES EMPLOYEES THE RIGHT TO:

FORM, JOIN OR ASSIST A UNION

CHOOSE REPRESENTATIVES TO BARGAIN WITH THEIR EMPLOYER ON THEIR BEHALF

ACT TOGETHER WITH OTHER EMPLOYEES FOR THEIR BENEFIT AND PROTECTION

CHOOSE NOT TO ENGAGE IN ANY OF THESE PROTECTED ACTIVITIES

NLRB Region 14 St. Louis, MO and Subregion 33 Peoria, IL



St. Louis



Peoria

Regional Director Ralph R. Tremain Retires



After 42 years with the Board, 16 of those as Director of Region 14, Ralph Tremain retired effective January 2, 2010. At a party at Kemoll's Restaurant in downtown St. Louis held on January 29, 2010, Mr. Tremain was sent off in style by his current and former co-workers and family, wife Julie and son Chris (pictured left).

In his words...

I was privileged to have such a long career enforcing the Act, and I feel very fortunate to have found a career that was so interesting and rewarding. As I am moving in to the next stage of my life, I find that I don't miss working, but I miss the

work and the people with whom I have dealt for so long. I will follow with interest developments in the Act, the Board, and the labor-relations community in the coming years.

Over my career enforcing the Act, I have always attempted to act impartially and legally correct. I am told by staff in the Regional offices that representatives of both management and labor have expressed the opinion that my decisions showed that I was prejudiced in favor of the other "side". I hope that such a divergence of opinion shows that I was biased in favor of no party. That is a much more satisfying interpretation than another explanation--that I was always wrong no matter who the party involved.

In reviewing the mass of material that I had saved over the course of my career, I discovered that during my days before becoming a supervisor, there was a period of 26 months in which I tried 21 cases, and I was considered an able settler of cases. I don't believe that all of the attorneys in the two offices combined have tried 21 cases in the last 26 months. That is certainly in part a demonstration of the skill and diligence of the staff in the settlement process, but it is also a tribute to the good sense of you in the labor relations community. Your willingness over the past 16 years to compromise in settlement of disputes brought before the Region has gone far in avoiding the interruptions in the flow of commerce that the Act was designed to prevent. I am confident that your good sense and reasonableness will continue to make the labor relations process run even more smoothly in the coming years. I would like to take one last opportunity to urge that cooperation at the investigative stage is in everyone's interest. The Region can only act on those facts which it can obtain. Cooperation by all parties helps to insure that the right result can be reached and unnecessary litigation can be avoided.

Finally, I want to express my appreciation to the individuals who have worked in the St. Louis and Peoria offices while I was Regional Director. They have been and remain an able, hard-working group, dedicated to seeing that the Act is properly enforced. Their skill and dedication made my job an easy one. I leave with complete confidence that these talented people will carry on the task that has so long occupied me.

Inside this issue:

Status of the Board	2
NLRB Outreach Video	2
Outreach Corner	3
Region 14 Wrap Up	4
How Did it Play in Peoria?	6
The Basics	8



STATUS UPDATE: AUTHORITY OF THE TWO-MEMBER BOARD



In previous issues, we have discussed the vacancy of three of the NLRB's seats, and the question of whether the two-member Board has the authority to decide cases. Rather than cease functioning, the two remaining members – currently Chairman Wilma B. Liebman, a Democrat, and Member Peter C. Schaumber, a Republican – have continued to issue decisions in matters on which they can agree. In doing so, they drew on advice from the U.S. Department of Justice's Office of Legal Counsel, which concluded that, "if the Board delegated all of its powers to a group of three members, that group could continue to issue decisions and orders as long as a quorum of two members remained." The two members have issued nearly 500 decisions so far, most of which have been accepted by the parties or led to settlements.

However, parties in dozens of cases have questioned the legitimacy of the two-member decisions in federal court. Decisions at the appellate court level have been split. Upon request by the U.S. Solicitor General, the Supreme Court agreed to take on the question of the Board's authority in *New Process Steel v. NLRB*, 564 F.3d 840 (7th Cir. 2009), pet. for cert. filed, 77 U.S.L.W. 3670 (U.S. May 22, 2009) (No. 08-1457). The Supreme Court heard oral arguments on the case on Tuesday, March 23, 2010.

Speaking of the Board vacant seats, on March 27, 2010, President Obama announced the recess appointment of Mark Gaston Pearce and H. Craig Becker to fill the two vacant Democratic seats on the National Labor Relations Board. Click [here](#) to read the press release. There is no word on the status of the nomination of Brian Hayes to fill the vacant Republican seat, so it remains pending as of this publication.



**WE WANT TO HEAR
FROM YOU!**

NLRB RELEASES EXPANSIVE OUTREACH VIDEO



To support the Agency's current efforts to increase the public's awareness of the National Labor Relations Act, we have produced a digital video presentation in English and Spanish for public distribution. The video is designed to inform the public, including potential voters, employers, and unions, about the role of the Agency in representation matters. The video uses narrators and actors in vignettes to chronologically depict an

organizing campaign, from the filing of a petition through post-election procedures, as well as general information about what may be unlawful during an organizing campaign. We have copies of the DVD for distribution to employers, employer associations, labor organizations, and other entities who request it by contacting Region 14 or Subregion 33. The Agency has also posted the video on its website. To see the streaming video, click [here](#).

We would like to know if this Newsletter is helpful and informative. We would also like to know if there are certain topics, issues, Board decisions, or Regional practices that you would like to see discussed in future editions. If so, please contact Region 14 Outreach Coordinators [Lynette Zuch](#) or [Cindy Flynn](#) at (314) 539-7770 or Subregion 33 Outreach Coordinator [Melissa Olivero](#) at (309) 671-7080. Your feedback will be greatly appreciated and carefully considered. You may also contact the Outreach Coordinators if you would like to be added or deleted from our mailing list. If you can suggest any other media sources for informing the public about NLRB issues and procedures, please let us know!

Outreach Corner

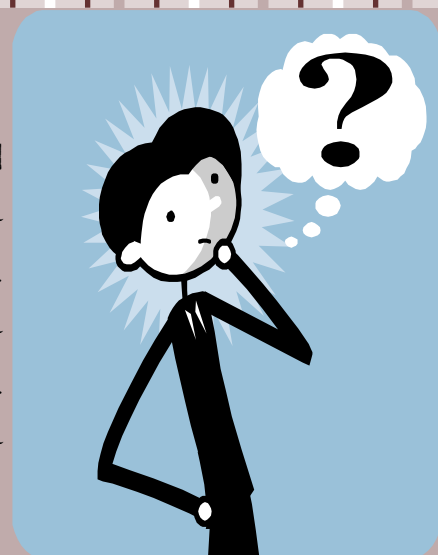
This section will highlight Region 14 and Subregion 33 Outreach events

- **October 7, 2009** Managerial staff spoke to students and faculty at the St. Louis University Center for Employment Law on current developments in NLRB law.
- **October 14, 2009** Field staff spoke to students at Lindenwood University about collective bargaining.
- **October 15, 2009** Managerial and supervisory staff gave an overview of unfair labor practice and representation cases to students visiting the Regional Office from Washington University.
- **October 16, 2009** Field staff spoke to students at Ranken Technical College about the NLRB's relationship to the construction industry.
- **November 12, 2009** Field staff gave an overview of NLRB procedures to Boilermaker union representatives.
- **November 23, 2009** Managerial and field staff presented a seminar to representatives of the Painters' District Council 2 on NLRB procedures and construction industry-related topics.
- **January 21, 2010** Field staff spoke to students at Lindenwood University about collective bargaining.
- **January 26, 2010** Field staff provided an overview of NLRB procedures and collective bargaining to students at Hannibal-LaGrange College.
- **February 24, 2010** Field staff provided an overview of NLRB procedures at the 2010 Greater St. Louis Labor Council, AFL-CIO "Ask the Experts" Seminar.
- **February 26, 2010** Field staff attended a job fair at Washington University Law School.
- **February 27, 2010** Field staff gave an overview of NLRB procedures to students at Southern Illinois University Law School.

Our staffs are ready and willing to appear at your events! If you are interested in having someone from Region 14 or Subregion 33 speak to your group, please contact Region 14 Outreach Coordinators [Lynette Zuch](#) or [Cindy Flynn](#) at (314) 539-7770 or Subregion 33 Outreach Coordinator [Melissa Olivero](#) at (309) 671-7080.

ASK the DIRECTOR

If you have a question or topic that you would like the Acting Regional Director to address, please email us at [Region 14](#), call us at 314-539-7770, or write to Region 14, 1222 Spruce Street, Room 8.302, St. Louis, MO 63103. The Acting Regional Director will respond to topics that are of interest to the general readership in the next Newsletter. For any questions of an individualized nature, the Acting Regional Director will make every effort to respond to you directly in a timely manner.



Welcoming Claude “Chip” Harrell as the New Regional Director



Effective February 28, 2010, the Board and General Counsel appointed Claude “Chip” Harrell, ARD Region 10 (Atlanta), to succeed retired Regional Director Ralph R. Tremain. Chip began his career as a Field Examiner in Region 9 (Cincinnati) in 1976. He was promoted to Supervisory Examiner in 1992. In 2003, he was selected to fill the Assistant to the Regional Director vacancy in Atlanta.

Commenting on his appointment, Chip says, “I am honored by my selection. My career has been blessed and shaped by

serving with bright and talented coworkers, supervisors, and managers. I’ll miss my colleagues and friends in Atlanta but I look forward to establishing new relationships with the staffs in St. Louis and Peoria.”

Chip and his wife, Margy, are saddened to have to pull up the roots they have in Atlanta, but are excited about putting down new ones in St. Louis. They have two sons: Nathan, a University of Chicago graduate, works for Deerfield Capital in Chicago; and Stephen, a Vanderbilt University graduate, is an Area Planner for Kimberly Clark in Atlanta. Chip’s official start date is Monday, June 7, 2010.

The staffs of Region 14 and Subregion 33 welcome Chip and his wife, Margy!

Region 14 ALJ/Board Decisions Issued

- In [*Eagle Ray Electric Company*, 354 NLRB No. 109 \(2009\)](#), the Board granted the General Counsel’s Motion for Summary Judgment and ordered Respondent to bargain over the effects of the cessation of its operations and layoff of employees.
- In [*ABB, Inc.*, 355 NLRB No 2 \(2010\)](#), the Board affirmed Judge William Cates’ ruling that the Respondent unilaterally changed a job description without bargaining with the Union in violation of Section 8(a)(1) and (5) of the Act.

Region 14 Representation Case Decisions/Complaints Issued

In [*Catholic Services, Diocese of Belleville, Case 14-RC-12769*](#), the Regional Director was faced with deciding whether to assert jurisdiction over the Employer. The Employer, a non-profit corporation engaged in the operation of St. John Bosco Children’s Center (Center), a residential treatment facility for abused and neglected wards of the State of Illinois, maintained that it was a religious organization outside of the Board’s jurisdiction. The petitioning Union sought to represent a unit of employees engaged in direct patient care. The Regional Director concluded that because the Center is not an employer which is itself a religious institution and does not hold itself out to be a religious school, the Board should assert jurisdiction. Thereafter, the Employer filed a Request for Review of the Regional Director’s decision. An election was held on December 3, 2009, and all ballots were impounded. As of this publication, the Board has not ruled on the Request for Review.

Continued on page 5

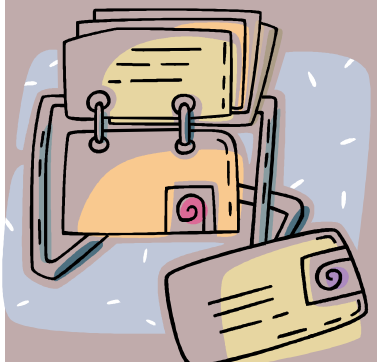
Region 14 Wrap-Up

This section will highlight topics related to Region 14



**National Labor
Relations Board,
Region 14
1222 Spruce Street
Room 8.302
St. Louis, MO 63103
Phone:
(314) 539-7770
Fax:
(314) 539-7794**

**Hours:
Monday through Friday
8:00 a.m. to
4:30 p.m.**



continued from page 4, Region 14 Complaints Issued

September 30, 2009 In *Schneider Service Co., Inc.*, Case 14-CA-29843, the Respondent is alleged to have interrogated employees about support for the Union recognized as the collective-bargaining representative, threatened and impliedly threatened to withdraw recognition from the Union, announced the Respondent was going non-union, impliedly threatened employees with discharge if employees remained loyal to the Union, promised wage increases and benefits to encourage employees to withdraw support for the Union in violation of Section 8(a)(1) of the Act; discharged or caused the discharge of employees to discourage their support for the Union in violation of Section 8(a)(1) and (3) of the Act; and failed to abide by certain provisions of a collective-bargaining agreement, repudiated its collective-bargaining agreement with the Union, dealt directly with employees about their wages and benefits, and withdrew recognition from the Union in violation of Section 8(a)(1) and (5) of the Act. Subsequent to issuing Complaint, the parties entered into a non-Board resolution and the charge was withdrawn.

November 30, 2009 In *Durham School Services, L.P.*, Case 14-CA-29901, the Respondent is alleged to have violated a past practice by allowing an employee who was transferred from one job classification to another to retain his seniority, laid off employees and eliminated a job classification and reassigned employees from casual status to a regular job position without providing prior notice to the Union certified as the collective-bargaining representative of its employees or affording the Union an opportunity to bargain over the conduct in violation of Section 8(a)(1) and (5) of the Act. Subsequent to issuing Complaint, the parties entered into a non-Board resolution and the charge was withdrawn.

December 31, 2009

- In *Kohler & Sons, Inc.*, Case 14-CA-29932, the Respondent is alleged to have failed to pay vacation pay and make benefit fund contributions and ceased operating its business and laid off its employees without providing prior notice to the Union certified as the collective-bargaining representative of its employees or without affording the Union an opportunity to bargain over the conduct in violation of Section 8(a)(1) and (5) of the Act.
- In *McCoy Drywall, Inc. and Greenway Drywall LLC, Alter Egos*, Case 14-CA-29874, the Respondent is alleged to have told employees that it is going non-union in violation of Section 8(a)(1) of the Act; caused the termination of an employee in violation of Section 8(a)(1) and (3) of the Act; withdrew recognition of the Union recognized as the exclusive bargaining representative of its employees, repudiated the collective-bargaining agreement by discontinuing its operations in the name of McCoy Drywall, Inc., transferring bargaining unit work to Greenway Drywall LLC and refusing to apply the collective-bargaining agreement to unit work at Greenway; dealt directly with employees, and failed to provide information requested by the Union, which is necessary for, and relevant to, the Union's performance of its representational duties in violation of Section 8(a)(1) and (5) of the Act.
- In *Saint-Gobain Containers, Inc.*, Case 14-CA-29913, the Respondent is alleged to have delayed in providing the Union recognized as the exclusive bargaining representative of its employees with information it requested, which is necessary for, and relevant to, the Union's performance of its representational duties in violation of Section 8(a)(1) and (5) of the Act.

January 29, 2010

- In *American Red Cross Missouri-Illinois Blood Services Region, An Unincorporated Chartered Unit of the American Red Cross, A Federally Chartered Organization*, Case 14-CA-29751, the Respondent is alleged to have suspended matching pension benefit contributions without providing prior notice to the Union certified as the collective-bargaining representative of its employees or without affording the union an opportunity to bargain over the conduct in violation of Section 8(a)(1) and (5) of the Act.
- In *Casino One Corporation d/b/a Lumiere Place Casino & Hotels*, Case 14-CA-29753, the Respondent is alleged to have advised employees that it withdrew recognition from the Union recognized as the exclusive bargaining representative of its employees; could deal directly with employees about and looked forward to dealing directly with employees over terms and conditions of employment; and that it threatened employees with termination in violation of Section 8(a)(1) of the Act; disciplined employees in violation of Section 8(a)(1) and (3) of the Act; withdrew recognition from the Union recognized as the exclusive bargaining representative, refused to meet and bargain with the Union, and issued discretionary discipline to employees without affording the Union an opportunity to bargain over the conduct in violation of Section 8(a)(1) and (5) of the Act.
- In *President Riverboat Casino-Missouri, Inc.*, Case 14-CA-29765, the Respondent is alleged to have told employees that it withdrew recognition from the Union recognized as the exclusive bargaining representative of its employees, increased employee wages and benefits and would no longer deduct union dues from their wages because it withdrew recognition, told an employee that supervisory training would be provided and/or promoted an employee because it withdrew recognition from the Union in violation of Section 8(a)(1) of the Act; escrowed checked-off Union dues, failed to withhold Union dues, failed to remit dues to the Union, refunded Union dues to employees without the Union's consent, withdrew recognition from the Union, terminated the collective-bargaining agreement and refused to recognize and bargain with the Union in violation of Section 8(a)(1) and (5) of the Act.

Subregion 33 ALJ/Board Decisions Issued

- In [*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC and Local Union 193-G \(PPG Industries, Inc.\)*, Case 33-CB-4317/JD-58-09 \(November 18, 2009\)](#), the Respondent was alleged to have violated Section 8(b)(3) of the Act by announcing that it was not required to bargain with the Employer over economic matters because its existing collective-bargaining agreement required that all proposed changes be presented no later than the first day of negotiations. The Respondent stated that it would bargain with the Employer “provisionally”. Judge Arthur J. Amchan dismissed the Complaint and ruled that the Respondent did not violate Section 8(b)(3) of the Act because the Respondent did not refuse to meet and bargain with the Employer. The General Counsel and the Charging Party filed Exceptions to the Judge’s decision.
- In [*Art’s-Way Vessels, Inc.*, Case 33-CA-15771/JD-63-09 \(December 23, 2009\)](#), Administrative Law Judge Paul Bogas ruled that the Respondent violated Section 8(a)(1) and (5) of the Act by withdrawing recognition from the union recognized as the exclusive bargaining representative of its employees; failing and refusing to recognize and bargain with the Union; repudiating, and failing to continue in effect terms of the collective bargaining agreement during the term of that agreement; unilaterally changing employees’ contractual wages and quarterly wage increases; unilaterally changing employees’ contractual health and dental insurance; unilaterally changing employees’ contractual 401(k) plan contributions and benefits; and unilaterally changing employees’ contractual vacation and holiday benefits. The Respondent filed Exceptions to the Judge’s decision.
- In consolidated cases involving *Camelot Terrace* and *Galesburg Terrace*, Administrative Law Judge John H. West decided on December 31, 2009 that the Respondents violated Section 8(a)(1) and (5) of the Act by restricting the dates and lengths of bargaining sessions with the Union recognized as the exclusive bargaining representative of its employees; canceling or shortening bargaining sessions; reneging on or withdrawing from tentative agreements; refusing to bargain over economic subjects; refusing to make economic proposals; refusing to provide the Union with requested information; making unilateral changes to terms and conditions of employees’ employment; discharging an employee based on unilateral changes made to terms and conditions of employment; and directly dealing with employees about their terms and conditions of employment. **Note: The Judge awarded extraordinary remedies, such as requiring the Respondent to reimburse the Union for its costs of bargaining, and reimburse the Union and the NLRB for its costs and expenses incurred in the investigation, preparation and conduct of the cases before the Board and the Courts.** The Respondent filed Exceptions to the Judge’s decision. Click [JD\(ATL\)-35-09](#) to read the 100+ page decision.

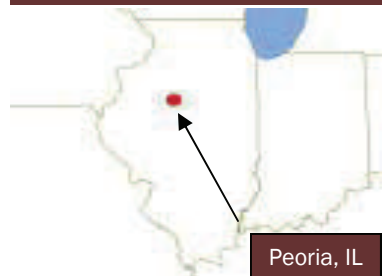
Subregion 33 Representation Case Decisions/Complaints Issued

In [*Springfield Terrace LTD*, Case 33-RC-5132](#), the petitioner sought to represent a unit of LPNs, psychiatric rehabilitation services coordinators, the social services director, activity director, and the care plan coordinator. The issues were whether the petitioner had waived its rights to represent the LPNs based on contract language covering another unit of employees employed by the Employer and the supervisory status of all petitioned-for employees. Having found that the petitioner did not waive its rights to represent the LPNs and that none of the employees were supervisory, the Regional Director directed an election in the petitioned-for unit. Thereafter, the Employer filed a Request for Review of the Regional Director’s decision. An election was held on November 12, 2009, and all ballots were impounded. As of this publication, the Board has not ruled on the Request for Review.

Continued on page 7

How did it Play in Peoria?

In a “play” on words of the city’s motto dating back to Vaudevillian days, this section will highlight topics related to Subregion 33



National Labor Relations Board, Subregion 33

300 Hamilton Blvd.,
Suite 200

Peoria, IL 61602

Phone: (309) 671-7080

Fax: (309) 671-7095

Hours:

Monday through Friday

8:30 a.m. to 5:00 p.m.



continued from page 6, Subregion 33 Complaints Issued

October 30, 2009 and December 30, 2009 In *Compass Group, USA, d/b/a Eurest Dining Services*, Cases 33-CA-15853, 33-CA-15858, 33-CA-15878, 33-CA-15879, 33-CA-15880, 33-CA-15881, 33-CA-15882, and 33-CA-15906, the Respondent is alleged to have failed to bargain with the Union recognized as the collective-bargaining representative of eight different bargaining units of its employees and changed all eight bargaining unit employees' working conditions by failing to forward dues to the Union, refusing to abide by the contractual grievance procedure, and not allowing Union representatives to ascertain whether the terms of the collective-bargaining agreement were being observed without notice to or affording the Union an opportunity to bargain over the conduct in violation of Section 8(a)(1) and (5) of the Act.

January 29, 2010

- In *Local 150, International Union of Operating Engineers (Daily Express, Inc.)*, Case 33-CC-1408, the Respondent is alleged to have engaged in picketing to induce or encourage individuals employed by persons engaged in commerce or in an industry affecting commerce, to refuse to perform services; and has threatened, coerced and restrained persons engaged in commerce or an industry affecting commerce where an object of the picketing has been to force or require other persons engaged in commerce or an industry affecting commerce to cease doing business with the entity with whom it had a labor dispute in violation of Sections 8(b)(4)(i)(ii)(B) of the Act.
- In *Demex Group, Inc.*, Case 33-CA-15956, the Respondent is alleged to have denied that it entered into a collective-bargaining agreement with the Union recognized as the collective-bargaining representative of its employees, and failed and refused to adhere to the terms of the collective-bargaining agreement without the Union's consent in violation of Section 8(a)(1) and (5) of the Act.

February 25, 2010 In *Pantagraph Publishing Company*, Case 33-CA-15945, the Respondent is alleged to have unilaterally announced and implemented changes to past practices concerning employee benefits without providing the Union recognized as the exclusive bargaining representative of its employees an opportunity to bargain over changes in violation of Section 8(a)(1) and (5) of the Act.

February 26, 2010

- In *Galaxy I Marketing, Inc. and HD Connection LLC, Joint Employers and/or A Single Integrated Enterprise*, Case 33-CA-15948, the Respondent is alleged to have discharged employees in retaliation for them concertedly complaining about wages, benefits, and working conditions in violation of Section 8(a)(1) of the Act.
 - In *Superior Plumbing, Inc. and its Alter Ego, K&L Enterprises, Inc. d/b/a Mr. Rooter of the Quad Cities*, Cases 33-CA-15920 and 33-CA-15974, the Respondent is alleged to have failed to honor and/or repudiated the collective-bargaining agreement in force with the Union recognized as the exclusive bargaining representative of its employees, withdrew recognition from the Union, and failed to apply contractual terms to employees of K&L Enterprises, Inc. d/b/a Mr. Rooter of the Quad Cities in violation of Section 8(a)(1) and (5) of the Act.
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*National Labor Relations Board
Region 14 St. Louis, MO
and
Subregion 33 Peoria, IL
Quarterly Outreach Newsletter*

"The purpose of the [National Labor Relations Act] is to define an environment within which labor and management can resolve their differences."

Former NLRB Chairman

Robert J. Battista

May 20, 2005

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 Basics

The National Labor Relations Board (NLRB), charged with enforcing the NLRA, has two principal functions: 1) to determine through secret ballot elections whether employees wish to be represented by a union in dealing with their employers, called representation cases, and 2) to prevent and remedy unlawful acts by either employers or unions, called unfair labor practice cases. The Agency does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections that are filed with the NLRB in one of its 51 Regional, Subregional, or Resident Offices. Region 14 covers the geographical area of Eastern Missouri and Southern Illinois. Subregion 33 covers the Northern half of Illinois (except for the Chicago area) and some of Iowa. If you have questions about a workplace problem, please call an NLRB Information Officer in the Office that covers the area where your employer is located. Information Officers are available by phone or by walking into Regional Offices during business hours. Our [website](#) is extensive and user-friendly, and it can give you additional information about filing charges and petitions with the NLRB and other workplace questions.

