



Gumbo—a thick, spicy, roux-based soup sometimes thickened with okra or filé. It can include sausage, chicken, ham, seafood, or a combination thereof, and is served over rice. It is a New Orleans specialty.

SPEAKERS AVAILABLE

The Region has speakers available to give presentations about the NLRB. Please contact Outreach Coordinator Kevin McClue at 504-589-6306 or Kevin.McClue@nlrb.gov.

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**Region 15, New Orleans
WE ARE HERE TO HELP YOU**

Kathleen McKinney Regional Director

In May 2008 Kathy McKinney officially became the new Director in Region 15. Kathy has served her entire NLRB career in Region 15, starting in 1990 as a Field Attorney. She was promoted to Deputy Regional Attorney in 2000, Regional Attorney in 2003, and Deputy Regional Director in 2006. Kathy succeeded Rodney Johnson, who retired in January 2008.

Kathy earned her B.A. degree from Jacksonville University in 1984 and her J.D. degree from Wake Forest University School of Law in 1989.

Kathy states “I am very excited to have the opportunity to serve as the Director in New Orleans.” Reflecting upon the effect of Hurricane Katrina on her Region, Kathy noted, “the events surrounding Katrina only helped to remind me of the dedication and professionalism of the staff. They have been absolutely phenomenal. Even though we could not return to the Regional Office for months, they returned to enforcing the Act, talking with the public and processing cases only weeks after the storm.” Kathy added, “As honored as I am to be the new Regional Director, I am even more awed and honored to work

CHANGE OF ADDRESS

In FY 2009, Region 15 has changed in numerous ways with the goal of improving our ability to provide the most efficient and effective service to the jurisdiction it covers. As hopefully all of you are aware, in late February 2009, the Region moved its offices to the **F. Edward Hebert Federal Building at 600 South Maestri Place, 7th Floor, New Orleans, LA 70130**. Fortunately, the Region was able to transfer all of its telephone numbers to the new building, so there is no need to update your telephone contact number for the Region or for a specific Board agent.

People visiting the Region at our new facility will notice the increase in security. Visitors are required to sign in with the guards at the door, walk through a scanner, and scan any materials they bring to the Region.

Also of note is the new court/hearing room, which includes the capability for witnesses to testify via video conferencing.



CHARGE AND PETITION STATS

CHANGES IN UNFAIR LABOR PRACTICE FILINGS

Region 15 has continued to experience an increase in the number of charges and petitions filed in fiscal year 2009. The increased filing in Region 15 is unusual. In recent years, the number of charges filed at many other Regional offices has remained stagnant or even decreased.

There are three potential reasons for the increase in charges filed at the Region. First, the increase in reconstruction as a result of the recovery of the Gulf Coast from the damage caused in 2005, by Hurricane Katrina, Hurricane Rita, and by the failure of the levees in New Orleans has generated considerable economic activity in the geographic jurisdiction covered by Region 15. This economic activity provides a basis for an increase in protected-concerted activity cases from non-union employees working on the recovery. In addition, the economic activity has provided an increased opportunity for Unions to initiate organizing campaigns, which can lend themselves to the filing of unfair labor practice charges. Third, many charges have been filed regarding the transfer of employees who sought permanent positions where they evacuated to in 2005, or who tried to regain their positions when they returned from evacuation.

In order to handle this increase in the number of charges, the NLRB has hired one new Field Examiner, four new Field Attorneys and one Co-op student in this fiscal year.

CHANGES IN ADR

In fiscal year 2009 the National Labor Relations Board permanently established an alternative dispute resolution (ADR) program. The program is designed to assist parties in settling unfair labor practice cases pending before the Board.

Participation in the Board's ADR program is voluntary, and a party who enters into settlement discussions under the program may withdraw its participation at any time. The Board will provide the parties with an experienced neutral, usually an NLRB administrative law judge, to facilitate confidential settlement discussions to explore resolution options that serve the parties' interests. Depending on the parties' preference, the settlement conferences will be held in person, telephonically, or by videoconference.

CHANGES TO THE NLRB WEBSITE

The NLRB has released two new videos on its website (www.nlr.gov). The "Introduction to the NLRB Public Website" video provides viewers with a brief guided tour of the Agency's website, highlighting many of its user-friendly features. The video explains how to use the website most effectively, while at the same time educating viewers on how to use the Agency's services in enforcing their rights under the National Labor Relations Act. The video demonstrates how to find published decisions and administrative memoranda, how to ask questions via the website or to speak to a person, as well as how to use E-Gov, the Agency's on-line services such as E-Docket, E-Filing, online forms, and E-FOIA requests. The video also describes the Agency's outreach and public information programs. The second video, "How to Use CiteNet," demonstrates how to use one of the Agency's electronic legal research databases.

WHO'S WHO AT THE REGION

Sue Crochet Deputy Director

In June 2008 Sue Crochet was named Deputy Regional Director in Region 15.

Originally from Monticello, New York, Sue received a B.S in Elementary Education in Political Science from State University of New York-New Paltz. Sue was a stay-at-home mom before becoming a New Orleans Public School teacher. She joined the Agency as a Field Examiner in 1995, and was promoted to Supervisory Examiner in 2004.

Sue states, "I am very excited to continue my career with the NLRB in New Orleans, the most unique city in the United States. It is a special time to be at the Region, and in New Orleans, because in both cases -- although we are going through a period of change -- we are working together and anticipate a very exciting and productive future."

Reflecting on her job and Region 15, Sue states, "I love the work we do, and I am looking forward to the challenges of my new position. I thoroughly enjoy working with the people at Region 15. They consistently demonstrate how exceptional they are. After Katrina, they remained committed to our work, and effectively enforced the Act despite personal hardship, while at the same time managed to maintain a sense of humor. I feel fortunate to be able to call them colleagues, and happy to count them among my friends."

Sue enjoys spending time with her husband, Bryan, and their Dogue de Bordeaux, Jacques. She added, "We are enjoying our new condo in the French Quarter, and feel lucky to be part of the renaissance in New Orleans. My thanks to everyone who has contributed to the rebirth of New Orleans. We would not be where we are today without your help."

HONORS PROGRAM

Another great change for the Region during this FY was the hire of recent law school graduates through the Agency's Honors Program -- Caitlin Bergo and Lindsay Lee.

Caitlin Bergo hails from the (sometimes) snowy northland of Illinois where she attended the University of Illinois at Urbana-Champaign and received degrees in Political Science and Sociology. While at the University of Illinois, she co-founded the university's chapter of United Students Against Sweatshops.

After college, Caitlin went straight to the George Washington University Law School in Washington, DC where she volunteered during the school year at the Employment Justice Clinic. She spent one summer in San Diego handling wage and hour claims and unemployment appeals and one summer as a Peggy Browning Fellow with the NLRB Contempt Litigation and Compliance Branch in Washington.

When she's not enforcing the Act, Caitlin enjoys learning the piano and guitar, walking her dog Rosie, scouting out houses to buy when she's a GS-14, and cooking without a recipe. She lives in the Lower Garden District of New Orleans.

Lindsay Lee grew up in California and moved to the East Coast to attend Cornell University's School of Industrial and Labor Relations. Her first experience with the NLRB was as a co-op Field Examiner for Region 3 (Buffalo) where she learned to love election work and the art of taking affidavits. After college, she worked as the Manager of Labor Relations for a hospital and a nursing home in New York City.

After working for a few years, Lindsay decided to attend law school at Northeastern University School of Law, where she founded the Northeastern Employment & Labor Law Association. As part of her legal education, she interned with the General Counsel of the American Federation of Government Employees, Commissioner Ishimaru of the U.S. Equal Employment Opportunity Commission, and labor firms in D.C. and Chicago.

Lindsay is enthused about returning to the Board as a Field Attorney in the Honors Program. She also looks forward to serving the American Bar Association in her new appointment as the Public/Neutral Co-chair of the Labor & Employment Law Section's Law School Outreach Task Force. In her free time, Lindsay enjoys horseback riding and trying to visit all fifty states—she only has eleven states left to meet her goal.

If you are not familiar with the Agency's Honors Program, please visit the NLRB.gov website and click on careers.

CHANGES IN MANNING

Subsequent to Hurricane Katrina in 2005, the Region lost a number of its professional and support staff. The loss of staff and increase in case filings caused the Region to be severely understaffed during all of fiscal year 2008 and a large portion of FY 2009. In addition to the two Honors Program hires in FY 2009, the Region also hired Co-op Jeremiah Burkhardt, Field Examiner Benjamin Jenkins and Field Attorneys Karen Brooks and Andrea Wilkes.

Karen D. Brooks is a native of Baton Rouge, Louisiana. She received her B.A. Degree in Journalism/Advertising from Louisiana State University in Baton Rouge. After graduating, she worked for the State of Louisiana for approximately five years before deciding to attend law school. She received her J.D. from Southern University Law Center.

After graduating law school, Karen worked for approximately five years as a solo practitioner throughout East Baton Rouge and Ascension Parishes. She then worked as an attorney for a non-profit organization for a few years. Finally, before obtaining her position with the NLRB, Karen worked as an attorney for the State of Louisiana.

Some of the things she enjoys outside of work are spending time with her sisters, cooking (when she sets aside the time to do it), good music, the arts, and entertainment.

Jeremiah Burkhardt has been a Co-op at the Region since approximately June 2009, and has proven to be a wonderful asset. He is a Master's student at Michigan State University's School of Labor and Industrial Relations studying Human Resources and Labor Relations. Jeremiah has experience in a wide range of hourly jobs, from retail to factory work, in both union and non-union environments. Last summer, he interned with Anheuser-Busch, Inc. at their Fairfield, CA Brewery in the HR department.

In his spare time, Jeremiah is interested in electronics and sports; is a member of MENSA; enjoys math and physics and playing with his twelve month old rat terrier puppy named Swarley. Jeremiah's Co-op ends in December 2009.

FX Benjamin Jenkins spent his childhood in Florida and his adolescence in the suburbs of Chicago. He earned a masters in Human Resources and Industrial Relations from the University of Illinois. Ben then left the country for a five-year stint in Buenos Aires, Argentina. Ben has worked in sales, collegiate athletics, computer software, and teaching. Ben began working for the Region in December 2008. In addition to working with the NLRB, Ben enjoys music, languages (he is fluent in Spanish and is taking French lessons as well), painting, talking politics, and sports.

Ben has been a wonderful asset to the office, and his language skills allow the Region to service the increasingly large Spanish speaking population in its jurisdiction.

FA Andrea Wilkes might be familiar to some of you from her tenure with the office in the early and mid-90s. After leaving the Region, Andrea worked as a labor attorney in the private sector in the New Orleans area for a number of years before returning to work for the NLRB at the Regional Office in Houston. Andrea returned to New Orleans in the early 2000s, and eventually began practicing at Tulane's Civil Clinic where she worked to train third year law students how to litigate.

During her earlier tenure with the office, Andrea was an outstanding attorney who the Region unhesitatingly trusted with the most complex and difficult investigations and trials. Since returning to work at the Region in December 2008, Andrea quickly demonstrated that she has only enhanced her knowledge of labor law and litigation.



COMPLIANCE CORNER

Changes Impacting Backpay Liability

Changes in the Board

For the first time since December 16, 2007, the Board will have its allotted five members if three labor law attorneys are confirmed to join current members Chairman Wilma B. Liebman and Member Peter C. Schaumber. Traditionally, three of the five Board seats are filled by individuals of the same political party as the President in office. Craig Becker and Gaston Pearce have been nominated for the Democratic seats and Brian Hayes has been nominated to fill the vacant Republican seat.

Since approximately, December 2008, Chairman Liebman and Member Schaumber were delegated the authority to issue decisions and orders in unfair labor practice and representation cases as a two member Board. Although there has been some controversy about the Board's delegation decision it was based on a desire to keep the Board's important work from ceasing for an indefinite period.

In 2007, the National Labor Relations Board issued several decisions that impact backpay liability and, in particular, mitigation requirements by discriminatees that could be entitled to backpay. On September 11, 2007, the Board issued its decision in *Grosvenor Properties, Ltd., d/b/a The Grosvenor Resort, and its general partners Grosvenor Properties, Ltd., Donald E. Werby and Robert K. Werbe*, 350 NLRB No. 86. In this decision, the Board found "that reasonably diligent discriminatees should at least have begun searching for interim work at some time within the initial 2-week period...." Thus, a discriminatee might lose backpay if there is more than a 2 week period after his/her termination, layoff, or refused hire in which s/he does not engage in a search for work. However, even if the discriminatee fails to search for work during this 2 week period, the backpay period does not stop. If a discriminatee unreasonably delays an initial search, the Board will toll backpay until such time as a reasonably diligent search begins.

As a result of the *Grosvenor* decision, it is important to remember that if backpay and/or other reimbursement is due as part of the remedy for an unfair labor practice, the Board requires discriminatees to mitigate (reduce) the backpay by promptly beginning to look for another job in the same or similar line of work. If a discriminatee is unable to establish that s/he actively sought to mitigate damages, s/he may face the risk of having whatever money is owed reduced.

Accordingly, discriminatees are urged to keep careful records of when and where they sought employment and records documenting interim employment. The compliance assistant sends quarterly (every three months) interim earnings reports to discriminatees that could be entitled to backpay while cases are pending hearings and decisions by an administrative law judge, the Board, or in federal district courts. This form requests, among other things, information on interim searches for work, interim employment, wages, and work-related expenses. Discriminatees should timely complete and submit copies of the quarterly reports to ensure that they meet the mitigation requirement referenced above.

Cases can remain in the legal system for years, so timely reporting of the requested information is important to ensure accurate collection of this vital information. Timely and accurate submission also enables the Region to secure the full amount of backpay that might be owed to make discriminatees whole for losses realized as a result of unfair labor practices.

During a June 2009 compliance hearing, where the underlying unfair labor practice charges originated during an organizing campaign in 2002, discriminatees were questioned about when information provided to document mitigation was provided to the Region. The intent of that line of questioning was to create doubt as to whether the information provided in 2009, about matters that occurred in prior years was accurate when not submitted during the earlier years. It is the burden of the Board to prove a Charged Party's backpay liability during a compliance proceeding. Further, any discrepancies or incomplete information provided by a discriminatee could result in reductions in backpay that might be owed to remedy unfair labor practices.

Potential discriminatees, employers, unions or the general public should direct any questions regarding potential backpay liability issues to the Region's Information Officer at 504-589-6361. Questions regarding reporting requirements for cases pending in compliance should be directed to the Compliance Officer Debra Warner at 504-589-6389, Debra.Warner@nlrb.gov or Compliance Assistant Terry Bennett at 504-589-6369, Terry.Bennett@nlrb.gov.





Organizational Chart

