



RIGHTS-MINDED

A publication to educate, inform, and assist the public about the National Labor Relations Act

*Issued by Region 19, Seattle, of the National Labor Relations Board
Including Subregion 36, Portland, and the Anchorage Resident Office*

www.nlr.gov

<p style="text-align: center;">Summer 2008 <i>Edition</i></p>	<p><u>NLRB Region 19</u> Jackson Federal Building, Room 2948 915 Second Avenue Seattle, WA 98174 Tel: 206-220-6300 Fax: 206-220-6305</p>	<p><u>NLRB Subregion 36</u> 601 SW Second Avenue, Suite 1910 Portland, OR 97204 Tel: 503-326-3085 Fax: 503-326-5387</p>	<p><u>NLRB Anchorage Resident Office</u> 1007 W. Third Avenue, Suite 206 Anchorage, AK 99501 Tel: 907-271-5015 Fax: 907-271-3055</p>
<p>IN THIS ISSUE ...</p> <ul style="list-style-type: none"> • <u>MEET REGION 19'S NEW REGIONAL ATTORNEY AND OUR PORTLAND OFFICER-IN-CHARGE</u> (Pages 3 and 5) • <u>DID YOU KNOW?</u> (Page 2) • <u>THE ACT'S PROTECTION</u> (Page 4) • <u>THE PACIFIC COAST LABOR & EMPLOYMENT LAW CONFERENCE</u> (Page 1) • <u>A REPORT ON LERA</u> (Pages 2) • <u>HOW TO FILE A CHARGE</u> Filing and investigating an unfair labor practice charge in Region 19 (Page 3) • <u>TO LEARN MORE</u> NLRB professionals are available to come to you! (Page 5) 	<p style="text-align: center;"><u>THE 41ST ANNUAL PACIFIC COAST LABOR & EMPLOYMENT CONFERENCE</u></p> <p>Region 19 continued its active role in the local labor and employment law community by attending and participating in the King County (Washington) Bar Association's 41st Annual Pacific Coast Labor and Employment Law Conference. This year's conference covered a wide range of practice-related topics and emerging issues in labor and employment law, presented by experts from all over the country. Highlights of the conference included a humorous and engaging panel discussion of generational differences at work, a candid assessment of "trends, hot topics, and practical tips," a theatrical presentation of a union organizing campaign and an NLRB-supervised election, and an extended, thought-provoking debate regarding labor law practice in the wake of the Board's decision in <i>Dana Corp.</i>, 351 NLRB No. 28, slip op. (September 29, 2007). In <i>Dana Corp.</i>, the Board modified its recognition-bar doctrine and held that an employer's voluntary recognition of a labor organization does not bar a decertification or rival union petition that is filed within 45 days of unit employees receiving notice of the voluntary recognition.</p> <p>With so many sessions dedicated to traditional labor law issues, Regional Director Richard Ahearn was particularly involved in this year's conference, co-chairing the planning committee, presenting a paper highlighting significant recent Board decisions (which he collaboratively prepared with Regional Attorney Anne Pomerantz and others from the NLRB's Region 1 (Boston) office), moderating a well-attended panel discussion ("The Post-<i>Dana</i> World: Voluntary Recognition and Other Emerging Issues and Strategies"), and playing a role in the election vignette.</p> <p>At the "Post-<i>Dana</i>" session, Regional Director Ahearn gave the standing-room only crowd a brief overview of the Region's many accomplishments over the last year (Region 19 has, for</p> <p style="text-align: center;"><i>Continued on p. 2</i></p>		

Did You Know?

**Workplace Rights under the
National Labor Relations
Act**

Many people know that the National Labor Relations Board protects employee rights to join and support unions where they work. **But many are not aware that the NLRA protects other employee rights as well.** Under the NLRA, employees have the right to act together to raise workplace issues with their employer or to press for changes in wages or conditions. Such employee actions are known as protected, concerted activities. Unlawful employer actions that are prohibited by the Act include:

- **Threatening, disciplining, terminating, or otherwise retaliating against an employee for having engaged in union or protected concerted activities.**
- **Prohibiting employees from discussing or sharing information about their wages or working conditions.**
- **Prohibiting employees from talking about workplace issues on their own time.**

Did you also know that the National Labor Relations Act protects an employee's right to not participate in union activities or in other actions with employees. Finally, the Act does not require an Employer to grant any specific employee or union demand.

example, issued 17 "*Dana* notices" since the Board issued its decision) and explained the important role the Region's representation case team plays in ensuring expeditious and professional processing. He also explained the Board's decision and rationale in *Dana* and moderated an engaging debate about *Dana Corp.*'s application between former Board member Sarah M. Fox, who provided a Union-side analysis, and attorney Joseph J. Torres of Winston & Strawn LLP in Chicago, who shared management's perspective. The panel closed with a discussion of some of the potential costs and benefits a post-*Dana* world might still hold for unions, employers, and individuals.

Later, the Board's unique and important role in representation elections were literally on stage for conference attendees in a presentation entitled "Tea for Two: Union Organizing Campaigns for the Uninitiated." In what has become a tradition, professional actors depicted realistic scenarios well-known to labor and employment practitioners. This year, the actors, along with Rich Ahearn, took attendees through the twists and turns of a contentious organizing campaign and an election. Former Member Fox and Mr. Torres addressed some of the many issues raised by the vignettes, including potentially objectionable conduct and the Board's processes in representation cases before taking questions from conference attendees. Unfortunately, because of an unresolved determinative challenge, the results of the "election" were not announced before the conference ended!

LERA

The 31st Annual Collective Bargaining and Arbitration Conference was held this year on April 10th and 11th in Seattle. This annual event, which incorporates a variety of workshops and plenary presentations, is sponsored by Region 19 and several other agencies, including FMCS, the NW Chapter of the Labor and Employment Relations Association (LERA) and the Washington State Public Employment Relations Commission (PERC). Region 19's Field Examiner Daniel Hickey and Supervisory Examiner Karen Rooker are key members of the planning committee.

The conference is designed to appeal to those with all levels of experience in labor relations, including new stewards and business agents, managers and human resource administrators, and employees from governmental agencies. The program offers a variety of workshops, including perspectives relating to the basics of collective bargaining as well as more advanced courses on that subject, and on workplace issues, mediation concerns and arbitration seminars. A total of 373 participants attended the conference, including Region 19's hosts/monitors Field Examiners Sara Dunn, Janet Little, and Dianne Todd as well as Field Attorneys Daniel Apoloni, Angelie Kim, Ann Marie Cummins Skov, Daniel Sanders, and Deputy Regional Attorneys Brian Sweeney and Martin Eskenazi.

continued on p. 5

HOW TO FILE A CHARGE:

Anyone may file an unfair labor practice charge with the NLRB by submitting a charge form to any local NLRB Office. The form must be complete. It must identify the parties to the charge and provide 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 (www.nlr.gov) or from an NLRB office. Our offices have Information Officers available to discuss charges in person or by phone, and to assist you with your charge forms.

WHEN A CHARGE IS FILED:

Once a charge is filed, it is docketed in the NLRB Regional Office and assigned to a Board Agent for investigation. The charging party is responsible for presenting evidence promptly in support of the charge. Evidence usually includes meeting with the Board Agent to provide a sworn statement of key events.

The Region then asks the charged party to present its response to the allegations raised during the investigation. We will do any needed further investigation to establish all facts.

After a full investigation, the Region will determine whether or not the charge has merit.

(continued on next page)

Geographic areas serviced by Region 19

NLRB cases are filed based upon the location of the involved employer. A specific NLRB office investigates and process cases once filed.

- **Region 19, Seattle** services all of Washington (with the exception of Clark County), as well as northern Idaho and the western part of Montana.
- **Subregion 36, Portland** services the entire state of Oregon, as well as Clark County in southwest Washington.
- **The Anchorage Resident Office** serves all of Alaska.

**MEET PORTLAND’S NEW OFFICER-IN-CHARGE,
LINDA DAVIDSON**

As I write I am enjoying the 29th anniversary of my first day on the job with Subregion 36 in Portland. Reflecting back is a kaleidoscope of people, places, and adventures. When I started with the Board, I was one of those who had never heard of the NLRB, did not know employee rights – didn’t know much about unions or labor law at all. Fortunately, I had some wonderful teachers, including many of you who were willing to help educate me along the way.

I started with the Board as a clerk-typist fresh out of high school. I had no intention of staying with the Board at the time, but after several interim positions, now find myself as Officer-in-Charge of the Portland Subregional office, following Cathy Callahan’s retirement in the fall of 2006.

After approximately nine months, I find the job and I are starting to get to know each other, just a bit. I am truly grateful for the warm support I have received from the labor management community working with the Portland office, it has made my transition so much easier. Please continue to call or visit when you get the chance, have a question or want to give me a piece of your mind. While we may not always agree, I’ll do my best to hear you out and give you my honest answer.

(continued from prior page)

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 – we will dismiss the charge, unless the charging party requests withdrawal. 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 – we will attempt to settle the case. If there is no settlement, we will issue a complaint to obtain a finding of a violation and an order directing the charged party to remedy the violations. The charged party has appeal rights, including a right to a hearing, 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 remedial corrections for the violations and their effects.

NLRB remedies require cessation of the violations, informing employees that their rights will be respected, reinstatement of employees unlawfully fired, and payment of compensation for lost earnings.

(continued on next page)

Careful! There are limits to the Act's protections

The National Labor Relations Act protects employees who act together to raise workplace issues. Employees are **not protected** by the Act when they make complaints or demands for themselves alone.

The Act does **not protect** employees who engage in misconduct, even when the misconduct is intended to support concerted employee action. Threats, violence, or occupation of the employer's premises are among actions generally considered to be misconduct warranting discipline.

The Act provides for backpay to compensate employees for losses resulting from unlawful conduct, but the Act does **not provide** for fines, punitive damages, or losses not directly resulting from lost employment.

The Act **does not require** an employer to grant employee demands.

Some other protections and restrictions under the Act

- ✓ **The Act** also protects an employee's right to join or support a union.
- ✓ **The Act** has procedures for determining by secret-ballot election whether a majority of employees in a workplace want a union to represent them in dealing with their employer over wages, hours, and working conditions.
- ✓ **The Act** requires an employer to recognize and bargain with the union where a majority of employees vote by secret ballot for union representation,
- ✓ **The Act** requires both unions and employers to bargain in good faith.
- ✓ **The Act** requires unions to represent all unit members fairly.
- ✓ **The Act** prohibits unions from picketing neutral employers in order to get them to cease doing business with other employers with whom the union has a labor dispute.



Back (from left): FA Dan Sanders, FA Peter Finch, FA Irene Botero, RA Anne Pomerantz, FA Angelie Kim, FX Dianne Todd, and FA Ann-Marie Cummins-Skov. Front: Farah Qureshi and Leslie Rossen (DC), FA John Fawley, Joe Torres and former Board Member Sarah Fox, RD Rich Ahearn, and DRA Marty Eskenazi.

(continued from last page)

LEARN MORE:

The NLRB's internet 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 office.

CONTACTING US:

There is always an Information Officer available at each of our offices 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.

Information Officers contact numbers:

- **SEATTLE: 206/220-6300**
- **PORTLAND: 503/326-3085**
- **ANCHORAGE: 907/271-5015**

The NLRB also has a toll free number:
1-866-667-6572.

Hablamos Español

MEET ANNE POMERANTZ, REGION 19'S NEW REGIONAL ATTORNEY

I joined Region 19 in Seattle as the Regional Attorney just in time for the flood in early December 2007. The leak in my ceiling and flooded basement gave me a moment's pause as to why I had left Region 31 in Los Angeles, where I had been the Deputy Regional Attorney since 2004. That moment quickly passed and I gladly traded in my assortment of sandals for waterproof shoes, my beach bag for some Timbuk2 bags, and my sunglasses for rain hats.

I went to law school to become a labor/employment attorney after several years working in the field of human resources in St. Louis and Dallas upon graduation from Washington University. Law school took me back to the New York metropolitan area, where I had grown up. I went to work for Epstein Becker & Green in New York City after receiving my J.D. in 1990 from the Benjamin N. Cardozo School of Law at Yeshiva University in New York City.

Two years later, having seen the light, I joined the NLRB in 1992 as an attorney in the Special Litigation Branch in Washington, DC. I came west and joined the west Los Angeles office as a Field Attorney three years later, in 1995. In 2001 I became a Supervisory Attorney.

My son, a very spirited first grader, and I are thrilled to be a part of this dynamic city and have the opportunity to call it home. Please feel free to call me at 206-220-6311. I look forward to working with you.

LERA, continued from p.2

Regional Director Richard L. Ahearn presented an update on recent Board developments and procedures. Rich later joined Cathleen Callahan, the former Officer in Charge in the Region's Portland Subregional office, who now serves as the Executive Director of PERC, to discuss bargaining unit determination issues. In addition, the Region's new Regional Attorney, Anne Pomerantz, was introduced to the labor community. All found the conference interesting and instructive.

Regional Speakers Available

Region 19's professionals are available to make presentations before any group, such as legal services clinic or a service agency staffs, as well as the members of the public served, to describe what the Act covers, how we investigate and resolve unfair labor practice charges, or any NLRB topic of interest.

To arrange for a speaker and to discuss possible topics, please don't hesitate to telephone Regional Attorney Anne Pomerantz at 206/220-6311 in Seattle. You can also request a speaker through a link on the NLRB's Web site: www.nlr.gov.

*Richard L. Ahearn
Regional Director*

