



NATIONAL LABOR RELATIONS BOARD

Newsletter for Regions 20, 32, and Subregion 37



R20 - San Francisco

R32 - Oakland

SR37 - Honolulu

March 2019

Region 20 Attorney Marta Novoa Likened to "My Cousin Vinny" for Exemplary Cross Examination

Washington D.C. - On March 5, 2019, the Circuit Court denied Novato Healthcare Center's petition for review and granted the Board's cross-application for enforcement in [*Novato Healthcare Center*](#), 916 F.3d 1095 (D.C. Cir. 2019). In doing so, Chief Judge Garland noted that the Board was not unreasonable in concluding, based on the Administrative Law Judge's reasonable credibility findings, that Novato Healthcare Center (the Employer) failed to meet its burden of showing it would have fired four employees notwithstanding its anti-union animus. Readers will recall that in April 2017, the ALJ's decision issued in which the Employer, a skilled-nursing facility, accused four prominent Union supporters and another employee of sleeping during a night shift the week before a representation election. The Employer suspended the employees and then discharged them a mere two days before the election. In reviewing the ALJ's credibility findings, the Chief Judge drew parallels between the famous cross examination scene in the movie, "My Cousin Vinny" to the cross examination conducted by Counsel for the General Counsel Marta Novoa and Union counsel which set forth a determinative unbelievable timeline testified to by the Employer's witness. In commending Counsel for the General Counsel and Charging Party Union's Counsel, the Chief Judge noted "[i]n 1992, Vincent Gambini taught a master class in cross-examination. Trial counsel for the National Labor Relations Board and the National Union of Healthcare Workers apparently paid attention." [footnote omitted] Well done Marta!

Board Grants Motion for Default Judgment in Foodland

Washington D.C. – On February 21, 2019, the Board granted Counsel for the General Counsel's Motion for Default Judgement in *Foodland Super Market, Ltd.*, Case [20-CA-209925](#). In this case, Foodland Supermarket failed and refused to furnish its employees' bargaining representative, International Longshore & Warehouse Union Local 142 with information necessary and relevant to bargaining. After the Union failed to file an answer to the Region's complaint or a response

Dates of interest

- **April 12**

On this day in 1937 the Supreme Court held the National Labor Relations Act (or the Wagner Act as it was known then) constitutional in the seminal case *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).

Speaker Requests

The Regions are available to provide speakers for your organization.

To inquire about a speaker, please contact
Kathleen Schneider at
415-356-5130 or
Christy Kwon at
510-637-3300

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to the Board's Notice to show cause, the Board granted the General Counsel's motion taking all of the allegations pled as admissions.

This case was investigated and litigated before the Board by Subregion 37 Field Attorney Scott Hovey.

Board Affirms ALJD in "Cellar Lives Matter" Case

Washington D.C. – On January 31, 2019, the Board affirmed the Administrative Law Judge Decision in *Constellation Brands, U.S. Operations, Inc. D/B/A Woodbridge Winery*, [32-CA-186238 & 186265](#), finding that Woodbridge Winery violated Section 8(a)(1) of the National Labor Relations Act by directing an employee not to wear a "Cellar Lives Matter" slogan to bring attention to then-current bargaining conditions.

Region 32 Field Attorney Lelia M. Gomez litigated the case before the Board.

ALJ Finds Nob Hill General Stores Violated the Act

San Francisco, CA - on January 31, 2019, Administrative Law Judge Amita Baman Tracy issued her decision in *Nob Hill General Stores, Inc.*, [20-CA-209431](#), finding that the Employer violated Section 8(a)(5) of the National Labor Relations Act by failing to furnish, and unlawfully delaying, information requested by United Food and Commercial Workers Union, Local 5 concerning the opening of a new store. In determining that the Employer violated the Act, the ALJ found that the information the Union requested was relevant for the Union to fulfill its duty representing bargaining unit employees who sought a transfer to the store, to enforce contractual provisions regarding the composition of staff in the new store, and to determine the effects of the new store on the unit.

Region 20 Field Attorney Shelley Brenner investigated the charge and the matter was litigated by Region 20 Field Attorney Min-Kuk Song. The case is now pending before the Board.



COMPLIANCE CORNER

San Francisco, CA - On February 11, 2019, Region 20 closed out *Mission Organic Center*, 20-CA-225470, in compliance following a settlement agreement resulting in backpay to six employees, an

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Practical Tips

For recent cases out of our Regions, please go to our Regional Webpages

For San Francisco and Honolulu:
<https://www.nlr.gov/region/san-francisco>

For Oakland:
<https://www.nlr.gov/region/oakland>

Questions to the Editor

If you have questions or content you would like addressed in upcoming issues of the newsletter, please email those questions to carmen.leon@nlrb.gov

NLRB notice reading, and mandatory training for managers. The settlement stems from a complaint that issued against the local marijuana dispensary alleging violations of Sections 8(a)(1), (3), and (5) of the National Labor Relations Act including coercive statements, discriminatory layoffs, and failing and refusing to bargain with employees' bargaining representative United Food and Commercial Workers Local 5.

Region 20 Field Attorney Tracy Clark investigated the case and Compliance Office Karen Thompson handled all compliance matters.

Regional Director Jill Coffman Participates in the Radio Show Your Legal Rights

San Mateo, CA - On January 9, 2019, Region 20 Regional Director Jill Coffman participated in the Bay Area radio program Your Legal Rights on KALW. The radio program, hosted by Bay Area attorney Jeff Hayden, welcomed RD Coffman and Attorney Tom Lenz to discuss the National Labor Relations Act.



Left to right: Attorney Tom Lenz, RD Jill Coffman, and Host Jeff Hayden.

The [NLRB](#) is an independent federal agency that protects the rights of most employees to engage in concerted activity, union activity or to refrain from engaging in these activities. Additional information can be found on the [San Francisco Regional page](#).



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