



# NLRB, Region 20 Roundup

Summer/Fall 2006

901 Market Street, San Francisco, CA 94103-1735

415-356-5130

## In This Issue

- Complaint issues against Whole Foods
- BMW to Pay \$4.4 million in NLRB Settlement
- General Counsel Seeks Attorneys Fees in SFO Good-Nite Inn
- Nearly 500 Yuba City and Marysville Health Care Workers Vote on Union Representation
- U-Haul Settles Unfair Labor Practice Allegations with NLRB
- Piner's Napa Ambulance Services and NEMSA Reach First Contract and Settle Board Charges

## COMPLAINT ISSUES AGAINST WHOLE FOODS MARKET CALIFORNIA, INC.

San Francisco, CA – Following months of investigation, the National Labor Relations Board, Region 20 found that Whole Foods Market California, Inc. retaliated against employees for selecting union representation, harassed and discharged employees because of their union activity, and changed working conditions without bargaining with the newly certified union. Recently, the NLRB, Region 20, issued a complaint against Whole Foods Market California, Inc. alleging these, and other violations of the National Labor Relations Act. The case is set for a hearing before a National Labor Relations Board Administrative Law Judge to begin October 2, 2006 in San Francisco.

On March 23, 2006, the drivers employed at Whole Foods Market's California Distribution Center in San Francisco, voted to have Teamsters Local 278 represent them. Teamsters Local 278 was certified as the collective-bargaining representative of the drivers on April 5, 2006. "We determined that Whole Foods engaged in a variety of retaliatory measures to discourage union activity," said Joseph P. Norelli, Regional Director, National Labor Relations Board, Region 20. "In taking this case before a judge, we will seek all remedies afforded employees who are the victims of unlawful discrimination and treatment."

The complaint alleges that Whole Foods violated the National Labor Relations Act by interrogating employees about their union activities, making coercive statements, threats and statements of futility. The complaint additionally alleges that Whole Foods froze employees' bi-annual job dialogues and wage increases, harassed and disciplined employees, terminated two drivers, changed the sick leave policy and delayed and refused to provide information requested by the Union and necessary for bargaining.

---

## BMW of San Francisco to Pay \$4.4 Million in NLRB Settlement

San Francisco, CA – BMW of San Francisco has made its first installment payment to current and former employees as part of a \$4.4 million settlement approved by Region 20 of the National Labor Relations Board. In an order enforced by the DC Circuit Court of Appeals on January 9, 2006, the Board found that German Motors, doing-business-as BMW of San Francisco, unlawfully implemented new terms and conditions of employment of union represented employees in 1989. The settlement amount, which includes back wages and benefit contributions, will be distributed to approximately 200 current and former German Motors employees. The settlement was reached prior to a compliance hearing, which was scheduled to be heard before an Administrative Law Judge in April 2006 in San Francisco. The case

Section 7 of the National Labor Relations Act (NLRA) gives employees the rights to:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for their benefit and protection
- Choose not to engage in any of these protected activities

#### Non-Union Protected Concerted Activity

**Q:** Does the NLRA protect activity with other employees for mutual aid or protection, even if you don't currently have a union?

**A:** Yes. For instance, employees not represented by a union, who walked off a job to protest working in the winter without a heater were held by the Supreme Court to have engaged in concerted activity that was protected by the NLRA.

arose in 1989, when the Unions, Automotive Machinists Local Lodge 1305 and Machinists Automotive Trade District Lodge No. 190 of Northern California, International Association of Machinists and Aerospace Workers, Teamsters Automotive Employees Local 665, International Brotherhood of Teamsters, and Auto, Marine and Specialty Painters Union, Local 1176, and German Motors attempted, without success, to negotiate new collective bargaining agreements to replace those that were expiring. German Motors' last offer included changes to the wage plan, reduction in the number of paid holidays, reduction in paid vacation time and rate of accrual, elimination of the Unions' pension and health and welfare plans, and the elimination of other benefits such as tool insurance and jury pay. German Motors declared impasse and implemented some of its last offer. The NLRB determined that the bargaining impasse was invalid and the implementation of German Motors' last offer was in violation of the National Labor Relations Act. The work of NLRB Region 20's Compliance Officer Karen Thompson and Field Attorneys Paula Katz and Christy Kwon was instrumental in facilitating the settlement.

"German Motors has begun to comply with the court enforced Board Order and they will be in full compliance when all of the monies are distributed," said Joseph P. Norelli, Regional Director, National Labor Relations Board, Region 20. "I am pleased to see that the employees are being compensated."

---

### General Counsel Seeks Attorneys Fees in Good-Nite Inn SFO

San Francisco, CA – An administrative law trial against Good-Nite Inn SFO, a South San Francisco hotel, closed in June 2006. The Region's complaint alleges that the Good-Nite Inn unlawfully withdrew recognition from UNITE HERE! Local 2, unlawfully terminated two employees because of their support for the union, and interrogated and threatened employees concerning their union support. Counsel for the General Counsel, Micah Berul and John Ontiveros, filed their brief on August 10, 2006. Because Respondent withdrew recognition during the life of a collective-bargaining agreement, General Counsel argues, Respondent's legal position that such conduct is lawful, is frivolous and warrants the award of attorneys' fees and costs to the General Counsel and the union.

---

### Nearly 500 Yuba City and Marysville Health Care Workers Vote on Union Representation

Yuba City and Marysville, CA – On September 6 and 7, 2006, almost 500 health care workers of Fremont Medical Center and Rideout Memorial Hospital, Home Health, Feather River Surgery Center, and Cancer Center voted on whether to be represented by the California Nurses Association. Approximately 440 employees voted in the Fremont Medical Center and Rideout Memorial Hospital unit, and there were also elections in the smaller units comprised of satellite offices, such as the Hospital's Cancer Center.

In the larger unit, which was the Fremont-Rideout facility in Yuba City and Marysville, employees selected the union to represent them, with 247 votes being cast for the union and 140 votes cast against. Two of the smaller units elected the union as their bargaining representative and one did not. There were 3 voting sessions each day, starting from 5:30 a.m. and ending at 8:30 p.m. The count was completed on 9/7 at 11:00 p.m., with approximately 40 members of the public in attendance. Board Agents Olivia

**Contact Us:**

Region20@nlrb.gov

To learn more about the National Labor Relations Board and the National Labor Relations Act, please visit the Agency's website at:

<http://www.nlrb.gov>

Vargas, John Ontiveros, Craig Wilson, Cecily Vix, and Matt Peterson conducted these elections.

---

## U-Haul Settles ULP Allegations with NLRB

San Francisco, CA – On August 16, 2006, the Region settled complaint allegations against U-Haul Co., wherein U-Haul agreed to offer reinstatement and full backpay to 24 employees, who had been discharged in July 2004. The Region alleged that these employees were terminated because of their support for Machinists Lodge 190. The General Counsel had sought a *Gissel* bargaining order, but settlement became possible when the union indicated its willingness to forgo such a remedy. U-Haul does not admit it violated the Act. Counsel for the General Counsel were David Reeves and John Ontiveros.

---

## Salting Cases

Sacramento, CA – The Region has recently handled a number of cases involving the issue of salting, where individuals seek employment with a non-union company in order to organize that company's employees, or to engage in other conduct protected by the NLRA. The Region has alleged that Horizon Contract Glazing, a Sacramento company, refused to recall an employee because he also worked for the District Council No. 16 of the Glaziers, Architectural, Metal and Glassworkers Local Union No. 767. Counsel for the General Counsel, Cecily Vix and Micah Berul, submitted their brief in that case on August 29, 2006, following an administrative law trial.

San Francisco, CA – In IFE Leasing Inc., d/b/a International Fire Equipment Co., the Region issued complaint alleging that the employer unlawfully terminated two employees, because they were engaged in salting activity. The employer settled the case prior to the closing of the administrative law trial, agreeing to reinstate the terminated employees and pay over \$18,000 in backpay. International Fire Equipment does not admit it violated the Act.

---

## Piner's Napa Ambulance Services and NEMSA Reach First Contract and Settle Board Charges

San Francisco, CA – From August 14 through 18, 2006, an administrative law hearing was held concerning the termination of a union leader, the disciplines of other union leaders, and several unilateral changes, including the withholding of the annual wage increase. The events of the case began in early 2005, when a group of Piner's employees (paramedics, EMTs, and dispatchers) joined together to form a union, and invited the National Emergency Medical Services Association (NEMSA) to represent them. By February 28, 2005, enough union authorization cards were collected in order for NEMSA to file an RC petition with the NLRB; a Board election took place on April 15, 2005 and NEMSA was certified. Shortly thereafter, four union leaders were disciplined for various infractions, and an employee was terminated, the Region alleges, because of her support for the union. Averting a strike scheduled to commence on the final day of the hearing, August 18, 2006, on August 17, the union and Piner's negotiated a first contract. In settlement of the cases, Piner's does not admit that it violated the Act, and the union withdrew all of its charges, except for the alleged discriminatory discharge, which will be decided by the Judge.

