



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 7  
Patrick V. McNamara Federal Building  
477 Michigan Avenue, Room 300  
Detroit, MI 48226

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (313)226-3200  
Fax: (313)226-2090

October 11, 2018

(b) (6), (b) (7)(C)

Re: Meijer Store  
Case 07-CA-226219  
and  
Local 951, United Food and Commercial  
Workers International Union (UFCW),  
AFL-CIO, CLC  
Cases 07-CB-226245  
07-CB-226248

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges alleging that Meijer Store and Local 951, United Food and Commercial Workers International Union (UFCW), AFL-CIO have violated the National Labor Relations Act. Based on that investigation, I have decided to dismiss your charges for the reasons discussed below.

**Decision to Dismiss Case 07-CA-226219:**

You allege that your supervisor discharged you because he/she wanted to help a union (b) (6), (b) (7)(C) harass you into joining the Union. You further allege that the same supervisor had been harassing you since your (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) when he/she yelled at you and degraded you in front of your peers.

The investigation disclosed that you were hired by the Employer on about (b) (6), (b) (7)(C) and that you were a (b) (6), (b) (7)(C) employee. On about July 20, you complained to the Employer that the Union was soliciting you to become a member during working hours and in a working area. On about August 6, you made a complaint with the Employer's corporate department that the supervisor in question was verbally abusive and disrespectful to you. On about (b) (6), (b) (7)(C) the supervisor in question had a discussion with you about returning from your breaks in a timely manner. You allege that he/she discharged you at the conclusion of this meeting, while the Employer contends that you voluntarily resigned.

There is insufficient evidence to establish that the Employer was harassing you in retaliation for your complaints about the Union trying to solicit your membership during working hours. There is also insufficient evidence linking your discharge with any union or protected concerted activity. Based on the above, further proceedings are unwarranted and charge 07-CA-226219 is dismissed.

**Decision to Dismiss Case 07-CB-226248:**

You allege that a Union representative lied to you when he/she said that the Union could not file a grievance for you because you were in (b) (6), (b) (7)(C). You further allege another Union representative refused to work with you because you complained to the Employer that he/she was harassing you, and talking to you when you were on company time.

The investigation disclosed that on (b) (6), (b) (7)(C) 2018, you asked the Union to file a grievance over your discharge. Although you contend that the Union informed you that it would not file a grievance for you, this does not amount to a violation. The collective bargaining agreement clearly states that it does not cover (b) (6), (b) (7)(C) employees who seek to grieve their discharge (b) (6), (b) (7)(C)). Despite this, the Union filed a discharge grievance on your behalf on (b) (6), (b) (7)(C). It was denied by the Employer on (b) (6), (b) (7)(C), citing (b) (6), (b) (7)(C).

A union is allowed a wide range of reasonable discretion in its representation of employees and handling of grievances under the Act. A union does not breach its duty of fair representation as long as its actions are not arbitrary, discriminatory, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171, 177 (1967). There is insufficient evidence to establish that the Union's representation of you or processing of your grievance was based on any such unlawful considerations. Based on the above, further proceedings are unwarranted and charge 07-CB-226248 is dismissed.

**Decision to Partially Dismiss Case 07-CB-226245:**

You allege, in part, that since about (b) (6), (b) (7)(C) 2018, the Union caused the Employer to discharge you and to short your check in retaliation for you not joining the Union.

The investigation disclosed that on about August 10, your pay check was short by about 5 hours. The Employer contends that this was caused by an electronic error in the time recording/payroll system and that it affected about ten employees. The Employer corrected your pay the following week without any Union involvement. There was also insufficient evidence to show that the Union caused or attempted to cause your discharge. Based on the above, further proceedings are unwarranted and the above allegations are dismissed. All other portions of the charge remain outstanding.

**Conditional Decision to Partially Dismiss Case 07-CB-226245:**

You allege, in part, that since about July 17, 2018, the Union harassed you. Based on the investigation, it appears that this allegation of your charge may have merit with regard to asserted statements made by the Union on about July 14, whereby (b) (6), (b) (7)(C) employees, including you, were informed during (b) (6), (b) (7)(C) that if they don't join the Union, the Union still has to represent them, but that they might not get as much attention or as quick of a response; and on about July 18, whereby you were told that you should join the Union so that if anything bad happens to you, the Union would be able to help. However, I have conditionally decided to dismiss these allegations six (6) months from today because there have not been any meritorious

charges against Local 951, United Food and Commercial Workers International Union (UFCW), AFL-CIO, CLC within the past several years, the alleged harassment was isolated to two incidents, there is no ongoing unlawful effect on any employee's terms and conditions of employment, there is no other accompanying violations which require a Board remedy, and the conduct is of limited duration.

Regarding the allegations contained in the conditional decision to dismiss portion of the dismissal, if a meritorious charge involving other unfair labor practices is filed against the Charged Party during that period, I will reconsider whether further proceedings on these allegations are warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 25, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 24, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 25, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to

(202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 25, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Terry Morgan  
Regional Director

RR:kar

Enclosure

cc: Mary Orr, CS Manager  
Meijer Store  
3210 Market Place Drive  
Rochester Hills, MI 48309

Joseph C. Torres, Esq.  
The Karmel Law Firm  
221 North La Salle Street  
Suite 1550  
Chicago, IL 60601-1224

Rachel Urquhart, Senior Counsel, Labor  
& Employment  
Meijer Legal Department  
2929 Walker, N.W.  
Grand Rapids, MI 49544

(b) (6), (b) (7)(C)  
Local 951, United Food and Commercial  
Workers International Union (UFCW),  
AFL-CIO, CLC  
3270 Evergreen Drive  
Grand Rapids, MI 49525

Lamont Williams  
Local 951, United Food and Commercial  
Workers International Union (UFCW),  
AFL-CIO, CLC  
3270 Evergreen Drive  
Grand Rapids, MI 49525



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October 31, 2018

(b) (6), (b) (7)(C)

Re: Local 948, International Brotherhood of  
Electrical Workers (IBEW), AFL-CIO  
(Conti Corporation)  
Case 07-CB-218832

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Local 948, International Brotherhood of Electrical Workers (IBEW), AFL-CIO has violated the National Labor Relations Act.

**Conditional Decision to Dismiss:** Based on that investigation, it appears that your charge may have merit regarding the Union's alleged refusal to communicate with you regarding the status of your grievance. However, I have conditionally decided to dismiss this allegation 6 months from today because there have not been any meritorious charges against Local 948, International Brotherhood of Electrical Workers (IBEW), AFL-CIO within the past several years, and because the conduct is isolated in nature. I have decided to dismiss your remaining allegations because there is insufficient evidence to establish a violation of the Act.

If a meritorious charge involving other unfair labor practices is filed against the Charged Party during that period, I will reconsider whether further proceedings on this charge are warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlrb.gov](http://www.nlrb.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations**

**Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001.** Unless filed electronically, a copy of the appeal should also be sent to me.

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**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Local 948, International Brotherhood of  
Electrical Workers (IBEW), AFL-CIO  
(Conti Corporation)  
Case 07-CB-218832

- 3 - October 31, 2018

a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan  
Regional Director

NR:kar

Enclosure

cc: Brent Burkeholder, Superintendent  
Conti Corporation  
6417 Center Drive  
Sterling Heights, MI 48312

John Bond, Business Manager  
Local 948, International Brotherhood of  
Electrical Workers (IBEW), AFL-CIO  
1251 West Hill Road  
Flint, MI 48507-4789

George H. Kruszewski, Esq.  
Sachs Waldman, P.C.  
1423 E. 12 Mile Road  
Madison Heights, MI 48071



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October 31, 2018

(b) (6), (b) (7)(C)

Re: Local 600, International Union, United Automobile,  
Aerospace and Agricultural Implement Workers of  
America (UAW), AFL-CIO  
(The Ford Motor Company)  
Case 07-CB-219502

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Local 600, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO, has violated the National Labor Relations Act.

**Conditional Decision to Dismiss:** You allege that the Union unduly delayed in responding to you about the status of your grievances. The investigation disclosed that from about (b) (6), (b) (7)(C) 2017 to (b) (6), (b) (7)(C) 2018, the Union failed to respond to your written and verbal inquiries and did not do so until after you filed an unfair labor practice charge. Based on that investigation, it appears that your charge may have merit. However, I have conditionally decided to dismiss your charge six (6) months from today because there have not been any meritorious charges against the Union within recent years and because there is no ongoing unlawful effect on an employee's terms and conditions of employment, there are no other accompanying violations which require a Board remedy, and the conduct is of limited duration.

If a meritorious charge involving other like or related unfair labor practices is filed against the Union during that period, I will reconsider whether further proceedings on this charge are warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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Very truly yours,

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Terry Morgan  
Regional Director

BPM/jm

Enclosure

cc:

(b) (6), (b) (7)(C)

Local 600, International Union, United Automobile,  
Aerospace and Agricultural Implement Workers of  
America (UAW), AFL-CIO  
10550 Dix Avenue  
Dearborn, MI 48120

James R. Andary, Esq.  
Andary, Andary, Davis & Andary  
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Mt. Clemens, MI 48043-7910

Stephen M. Kulp, Esq.  
Ford Motor Company  
One American Road Suite 404-A5  
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Ron Jenkins  
The Ford Motor Company  
Dearborn Truck Plant  
3001 Miller Road  
Dearborn, MI 48120



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October 31, 2018

(b) (6), (b) (7)(C)

Re: Local 4004, Communications Workers  
of America, AFL-CIO  
(AT&T Services, Inc.)  
Case 07-CB-221606

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Local 4004, Communications Workers of America, AFL-CIO has violated the National Labor Relations Act.

**Conditional Decision to Dismiss:** You allege, in relevant part, that the Union failed and refused to provide you a copy of the "all employee grievance" it filed challenging the Employer's refusal to allow employees who had codes of conduct in their personnel file to re-test for retention with AT&T during a surplus/closing of its Bethune-Detroit facility. The investigation disclosed that you requested a copy of the all employee grievance #2018-951 from the Union in March 2018 and that the Union failed to produce such. Accordingly, it appears that your charge may have merit. However, I have conditionally decided to dismiss your charge for six (6) months from today because there have not been any meritorious charges against the Union within recent years and because there is no ongoing unlawful effect on an employee's terms and conditions of employment, there are no other accompanying violations which require a Board remedy, and the conduct is of limited duration.

If a meritorious charge involving other like or related unfair labor practices is filed against the Union during that period, I will reconsider whether further proceedings on this charge are warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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October 31, 2018

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan  
Regional Director

BPM/jm

Enclosure

cc: Merle Milton, President  
Local 4004, Communications Workers of  
America, AFL-CIO  
11000 West McNichols, Suite 208  
Detroit, MI 48221

(b) (6), (b) (7)(C)

AT&T Services, Inc.  
105 East Bethune  
Detroit, MI 48202

John M. Phelan  
AT&T Services, Inc.  
225 West Randolph Street, 25th Floor  
Chicago, IL 60606



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October 31, 2018

(b) (6), (b) (7)(C)

Re: General Motors LLC  
Case 07-CA-223018

and

Local 22, International Union, United  
Automobile, Aerospace and Agricultural  
Implement Workers of America (UAW),  
AFL-CIO (General Motors LLC)  
Case 07-CB-223020

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges that General Motors LLC and Local 22, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charges for the reasons discussed below.

You allege in Case 07-CA-223018 that the Employer threatened to issue a discipline, and disciplined you in retaliation for your protected concerted and union activity, in violation of Sections 8(a)(1) and (3) of the National Labor Relations Act. In Case 07-CB-223020, you allege that your Union has failed to fairly represent you, told you that you would not be represented, and would not file grievances on your behalf, in violation of Section 8(b)(1)(A).

In Case 07-CA-223018, the investigation establishes that on about (b) (6), (b) (7)(C) 2018, your supervisor prohibited you from visiting your Employer's Labor Relations Department. Also, you maintain that the same supervisor put you on notice and threatened to issue a discipline to you because you went to the Labor Relations Department. Shortly thereafter, the same supervisor told you that you were no longer on notice, and the Employer had decided not to issue a discipline to you. Thus, while the Employer's conduct might constitute an unlawful threat under the Act, the same supervisor subsequently corrected such conduct within a timely manner. Also, the Employer did not, in fact, subsequently issue discipline to you. As a result, the investigation did not disclose evidence that the Employer discriminated against you in violation of Section 8(a)(3) of the Act. Accordingly, it would not effectuate the purposes and policies of the Act for this office to issue complaint against the Employer, and further proceedings are not warranted.

In Case 07-CB-223020, you assert that the Union would not represent you with respect to your job assignment and alleged harassment from your supervisor. The investigation revealed that on (b) (6), (b) (7)(C) 2018, the Union filed your job assignment Grievances (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). Also, on (b) (6), (b) (7)(C) the Union filed your Grievance (b) (6), (b) (7)(C) about alleged harassment from your supervisor. Subsequently, after processing those grievances, in about late (b) (6), (b) (7)(C) and late (b) (6), (b) (7)(C) 2018, the Union notified you about its decisions to refrain from taking your grievances to arbitration. Also, although the Union did not respond to all of your inquiries, its representatives intervened with the Employer on your behalf, and maintained consistent communication with you about the issues that you raised. Moreover, the investigation did not disclose evidence to establish that the Union's handling of your grievances or its conduct toward you was motivated by unlawful considerations. Accordingly, no further proceedings are warranted in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an

extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Terry Morgan  
Regional Director

ESC/sr

Enclosure

cc: Mike Radigon, Labor Representative  
General Motors LLC  
5300 East Grand Boulevard  
Detroit, MI 48211

Kellen T. Myers, Counsel  
General Motors LLC  
Legal Staff, 300 Renaissance Center  
Mail Code: 482-C25-A68  
Detroit, MI 48265

**(b) (6), (b) (7)(C)**  
Local 22, Int'l Union, UAW, AFL-CIO  
4300 Michigan Avenue  
Detroit, MI 48210

Philip Mayor, Assistant General Counsel  
Int'l Union, UAW, AFL-CIO  
8000 East Jefferson Avenue  
Detroit, MI 48214



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

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Patrick V. McNamara Federal Building  
477 Michigan Avenue, Room 300  
Detroit, MI 48226

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (313)226-3200  
Fax: (313)226-2090

October 31, 2018

(b) (6), (b) (7)(C)

Re: FCA US LLC  
Case 07-CA-225610  
and  
Local 7, International Union, United  
Automobile, Aerospace and Agricultural  
Implement Workers of America (UAW),  
AFL-CIO  
Case 07-CB-225632

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges that FCA US LLC and Local 7, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charges because there is insufficient evidence to establish a violation of the Act.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

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**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan", with a stylized, flowing script.

Terry Morgan  
Regional Director

RD:kar

Enclosure

cc: Darlene Haas Awada, Esq.  
FCA US LLC  
1000 Chrysler Drive  
CIMS: 485-07-92  
Auburn Hills, MI 48326-2766

FCA US LLC  
2101 Conner Street  
Detroit, MI 48215

Stuart Shoup, Esq.  
International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America, UAW  
8000 East Jefferson Avenue  
UAW Legal Department  
Detroit, MI 48214

Local 7, International Union, United  
Automobile, Aerospace and Agricultural  
Implement Workers of America (UAW),  
AFL-CIO  
2600 Conner Street  
Detroit, MI 48215



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Fax: (313)226-2090

October 30, 2018

(b) (6), (b) (7)(C)

Re: Goyette Mechanical Co.  
Case 07-CA-227165

Local 58, International Brotherhood of  
Electrical Workers (IBEW), AFL-CIO  
(Goyette Mechanical Co.)  
Case 07-CB-227711

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges that Goyette Mechanical Co. and Local 58, International Brotherhood of Electrical Workers (IBEW), AFL-CIO have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charges for the reasons discussed below.

You allege in Case 07-CA-227165 that the Employer laid you off on about (b) (6), (b) (7)(C) 2018,<sup>1</sup> in retaliation for your union activities, including asking to become the (b) (6), (b) (7)(C). You allege in Case 07-CB-227711 that the Union failed to properly file a grievance contesting your (b) (6), (b) (7)(C) layoff by the Employer, and retaliated against you for speaking out regarding contract violations.

The investigation established that in about (b) (6), (b) (7)(C) you were hired through the Union's hiring hall for a specific job call to work for the Employer on a specific job. While on that job, you inquired about the issue of a (b) (6), (b) (7)(C) being on the job. On about (b) (6), (b) (7)(C) you were laid off by the Employer for asserted lack of work. The evidence was insufficient to establish that the Employer laid you off in retaliation for asking about or seeking to be a (b) (6), (b) (7)(C).

The investigation also established that after you were laid off on (b) (6), (b) (7)(C) you requested that the Union file a grievance on your behalf contesting your layoff and contending that the Employer laid you off for asking to become the (b) (6), (b) (7)(C). However, the evidence established that you had limited recall rights to return to work for the Employer per the Sound and Communication Limited-Energy Agreement, and the evidence was insufficient to establish any unlawful motivation in the Union's actions in refusing to file a grievance to contest your layoff and allege that it was in retaliation for you asking to become the (b) (6), (b) (7)(C). Further,

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<sup>1</sup> All dates are in 2018.

there was insufficient evidence that the Union otherwise retaliated against you for speaking out regarding any contract violations while you were on the Employer's job.

Accordingly, further proceedings on your charges are unwarranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 12, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 13, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 13, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan  
Regional Director

Enclosure

cc: Mike Woodworth  
Goyette Mechanical Co.  
3842 Gorey Avenue  
Flint, MI 48506

Paul J Goyette, Esq.  
5111 W Bristol Road, Suite A  
Flint, MI 48507-2957

Bill Green, Business Agent  
Local 58, International Brotherhood of  
Electrical Workers (IBEW), AFL-CIO  
1358 Abbott Street  
Detroit, MI 48226

Bruce A. Miller, Esq.  
Miller Cohen, P.L.C.  
600 West Lafayette Boulevard  
Fourth Floor  
Detroit, MI 48226



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Telephone: (313) 226-3200  
Fax: (313) 226-2090

October 29, 2018

(b) (6), (b) (7)(C)

Re:     Pepsico, Inc.  
          Case 07-CA-227797  
          and  
          Local 337, International Brotherhood of  
          Teamsters (IBT) (Pepsico, Inc.)  
          Case 07-CB-227798

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges that Pepsico, Inc. and Local 337, International Brotherhood of Teamsters (IBT) have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You allege in Case 07-CA-227797 that the Employer interfered with, restrained and coerced employees in the exercise of their rights guaranteed by Section 7 of the Act by, among other things, changing your terms and conditions of employment pursuant to a request by the Union. You allege in Case 07-CB-227798 that the Union restrained and coerced employees in the exercise of rights under Section 7 of the Act by, among other acts, refusing to arbitrate your (b) (6), (b) (7)(C) 2018, grievance alleging that the Employer changed your pay contrary to past practice and based on arbitrary (b) (6), (b) (7)(C) considerations and by causing the Employer to discriminate against you in violation of Section 8(a)(3).

The investigation established that about in June and on about October 29, 2015, you requested that the Employer transfer you from the non-union sales department to the Union-represented warehouse, but were rebuffed due to asserted performance issues and staffing considerations. Both the sales and warehouse departments are located within the Employer's Detroit facility. You applied for a transfer to the warehouse on January 29, 2016, by which time a new collective-bargaining agreement had taken effect that provided that transfers from any other location, including Detroit, occurring after February 1, 2009, would be paid at the Tier 2 rate rather than the higher Tier 1 rate.

The investigation also established that you were paid at the Tier 2 rate within the warehouse department from (b) (6), (b) (7)(C) 2016, until September 3, 2017, at which time a

management official dealt with you directly and bypassed the Union to adjust your rate to the higher Tier 1 level. Although you allege that it was a past practice to automatically adjust employee wages to the Tier 1 level upon their transfer to the warehouse, the evidence is insufficient to establish your assertion. Although it appears the Employer changed your terms and conditions on about September 3, 2017, to alter your wage tier, such conduct occurred more than six months prior to the filing and service of the instant charge. Section 10(b) of the Act provides that no complaint shall issue based on conduct occurring more than six months prior to the filing and service of a charge.

The investigation established that several co-workers, who were (b) (6), (b) (7)(C) thereafter brought your unilaterally-granted wage increase to the attention of the Union steward, who filed a class action grievance on (b) (6), (b) (7)(C), 2018. The grievance sought to have all similarly-situated employees' wages increased to Tier 1—or to have your wages reduced to the contractual Tier 2 level and the difference between Tier 1 and Tier 2 paid to affected employees, whom you admit were not all (b) (6), (b) (7)(C). The Union and the Employer settled the grievance by reducing your wages to the contractual Tier 2 level and the difference between Tier 1 and Tier 2 were paid to affected employees. No monies were deducted from your pay to compensate the affected employees.

You further assert that the Union settled a similar pay grievance from March 2015, on behalf of a (b) (6), (b) (7)(C) employee and cite this settlement as an example of (b) (6), (b) (7)(C) bias against you by the Union. The investigation established that this settlement occurred under the prior contractual language, which did not apply the Tier 2 rate to transfers within the Detroit facility.

On your behalf, the Union filed grievance (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2018, alleging a change in past practice as described above. On (b) (6), (b) (7)(C) 2018, you were afforded the opportunity to present your case and make arguments at a Union grievance panel. In addition, a Union representative argued in your favor before the panel. However, on (b) (6), (b) (7)(C) 2018, the Union panel denied your grievance on the ground that the collective-bargaining agreement did not support your grievance.

The evidence adduced in the investigation was insufficient to establish that the Union filed the (b) (6), (b) (7)(C), 2018, class action grievance or refused to proceed to arbitration on your (b) (6), (b) (7)(C) 2018, grievance for unlawful reasons, including for any arbitrary (b) (6), (b) (7) related considerations. Rather, the evidence established that the Union made a good-faith evaluation of the merits of your grievance and decided not to proceed on the basis of that evaluation. Nor did the evidence support your contention that the Employer's reduction of your pay rate was based on any protected concerted or union activity. Rather, the evidence established that the Employer's reduction of your pay rate was due to the class-action grievance settlement reached with the Union on (b) (6), (b) (7)(C) 2018. The Union played a role in your wage reduction inasmuch as the reduction was a result of a grievance settlement, but under these circumstances, the Union and Employer's conduct did not constitute unlawful discrimination against you.

Accordingly, no further proceedings are warranted in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

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**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 13, 2018**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 13, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan  
Regional Director

RM/jm

Enclosure

cc: Chelsea Turner, Human Resources Manager  
Pepsi Beverages Company  
1555 Mack Ave  
Detroit, MI 48207-4719

John B. Kavanagh, Senior Director/Labor Counsel  
Pepsi Beverages Company, an Operating Unit  
of Pepsi Co., Inc.  
1475 East Woodfield Rd, Suite 1300  
Schaumburg, IL 60173

Tony Reisdorf, Trustee  
Local 337, International Brotherhood of Teamsters (IBT)  
2801 Trumbull Ave  
Detroit, MI 48216

Kevin J. O'Neill, Esq.  
22720 Michigan Ave, Suite 300  
Dearborn, MI 48124-2035

Tony Reisdorf, Trustee  
Local 337, International Brotherhood of Teamsters (IBT)  
2801 Trumbull Ave  
Detroit, MI 48216



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Telephone: (313)226-3200  
Fax: (313)226-2090

October 24, 2018

(b) (6), (b) (7)(C)

Re: Local 1700, International Union, United  
Automobile, Aerospace and Agricultural  
Implement Workers of America (UAW),  
AFL-CIO  
(FCA US LLC)  
Case 07-CB-220631

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that LOCAL 1700, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlrb.gov](http://www.nlrb.gov) and:

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- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlrb.gov](http://www.nlrb.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 7, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by

delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 6, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 7, 2018.** The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 7, 2018, **even if it is postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with a large initial "T" and "M".

Terry Morgan  
Regional Director

Enclosure

Local 1700, International Union, United  
Automobile, Aerospace and Agricultural  
Implement Workers of America (UAW),  
AFL-CIO (FCA US LLC)  
Case 07-CB-220631

- 3 -    October 24, 2018

cc:     Charles Bell, President  
         Local 1700, International Union,  
         United Automobile, Aerospace and  
         Agricultural Implement Workers of  
         America (UAW), AFL-CIO  
         8230 East 8 Mile Road  
         Detroit, MI 48234

James A. Britton  
Assistant General Counsel  
International Union, United  
Automobile, Aerospace and  
Agricultural Implement Workers  
of America (UAW), AFL-CIO  
8000 East Jefferson Avenue  
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Sue Tyndall  
FCA US LLC  
35777 Van Dyke Avenue  
Sterling Heights, MI 48312

Darlene Haas Awada, Esq.  
FCA US LLC  
1000 Chrysler Drive  
CIMS: 485-07-92  
Auburn Hills, MI 48326-2766



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477 Michigan Avenue, Room 300  
Detroit, MI 48226

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Telephone: (313)226-3200  
Fax: (313)226-2090

October 15, 2018

(b) (6), (b) (7)(C)

Re: Local 480-481, American Postal Workers  
Union (APWU), AFL-CIO  
(United States Postal Service)  
Case 07-CB-223684

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Local 480-481, American Postal Workers Union (APWU), AFL-CIO has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge because the charge was filed outside the period set forth in Section 10(b) of the Act.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 29, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 28, 2018. **If an appeal is postmarked or given to a**

**delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 29, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 29, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan  
Regional Director

RR:kar

Enclosure

cc: Alyse Q. Wharry, Labor Relations  
Specialist  
United States Postal Service  
1401 West Fort Street, Room 801  
Detroit, MI 48233

Local 480-481, American Postal Workers      - 3 -      October 15, 2018  
Union (APWU), AFL-CIO  
(United States Postal Service)  
Case 07-CB-223684

Roderick D. Eves, Deputy Managing  
Counsel  
United States Postal Service  
1720 Market Street, Room 2400  
St. Louis, MO 63155-9948

Roscoe Woods, President  
Local 480-481, American Postal Workers  
Union (APWU), AFL-CIO  
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Fourth Floor  
Detroit, MI 48226

Richard G. Mack, Esq  
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UNITED STATES GOVERNMENT  
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Detroit, MI 48226

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Fax: (313)226-2090

October 23, 2018

(b) (6), (b) (7)(C)

Re: Local 2-585, United Steel, Paper and  
Forestry, Rubber, Manufacturing, Energy,  
Allied-Industrial and Service Workers  
International Union (USW), AFL-CIO/CLC  
(The Delfield Company, LLC)  
Case 07-CB-223797

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Local 2-585, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union (USW), AFL-CIO, CLC has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You allege that Union has restrained and coerced employees in the exercise of their rights protected by Section 7 of the Act by refusing to process your grievance regarding a promotion denied to you due to (b) (6), (b) (7)(C) for arbitrary or discriminatory reasons or in bad faith.

On about May 7, 2018, the Employer promoted an employee to the (b) (6), (b) (7)(C) position in the Employer's shipping and receiving department. On about (b) (6), (b) (7)(C) 2018, you asked a union steward to file a grievance because you were not selected for said (b) (6), (b) (7)(C) position, but the union steward declined and informed you that the grievance lacked merit. Article 5, Section 5.014 of the collective bargaining agreement between the Employer and the Union provides that "...the selection or assignment of supervisory employees or lead men is vested solely in the Company and shall not be a subject of a grievance." You assert that the contractual provision is not dispositive and that that you were denied the promotion in retaliation for taking leave under the (b) (6), (b) (7)(C), which is prohibited by Article 16, Section 16.031 of the collective bargaining agreement and, therefore, the Union should have filed the grievance upon your request.

A union is accorded wide discretion under the National Labor Relations Act regarding the handling of grievances, as long as its decisions are not based upon arbitrary, discriminatory, capricious or invidious considerations, or otherwise unlawfully motivated. Here, it cannot be established that the Union declined to file a grievance on your behalf based on any arbitrary or discriminatory reasons, or in bad faith, or for any otherwise unlawful motivations. The Union's

decision not to file a grievance on your behalf was based on its reasonable interpretation of the terms of the collective bargaining agreement. Accordingly, further proceedings of your charge are unwarranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 6, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 5, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 6, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 6, 2018, **even if it is**

Local 2-585, United Steel, Paper and  
Forestry, Rubber, Manufacturing, Energy,  
Allied-Industrial and Service Workers  
International Union (USW), AFL-CIO/CLC  
(The Delfield Company, LLC)  
Case 07-CB-223797

- 3 - October 23, 2018

**postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



TERRY MORGAN  
Regional Director

Enclosure

cc: William L. Laney, Staff Rep  
District 2, USW, AFL-CIO-CLC  
503 N Euclid Ave Ste 10  
Bay City, MI 48706-2965

Joel S. Aziere, Attorney  
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Waukesha, WI 53186-1873

Amanda M. Fisher, Esq.  
United Steelworkers, AFL-CIO, CLC  
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Amy Sherbino, Director of Human  
Resources  
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Mount Pleasant, MI 48858-9200



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Fax: (313)226-2090

October 26, 2018

(b) (6), (b) (7)(C)

Re: Local 851, International Association of  
Bridge, Structural, Ornamental and  
Reinforcing Iron Workers, AFL-CIO, CLC  
(Mooney Exchange LLC)  
Case 07-CB-223861

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Local 851, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers (BSORIW), AFL-CIO has violated the National Labor Relations Act.

**Decision to Partially Dismiss:** Based on the investigation, I have decided to partially dismiss your charge for the reasons discussed below:

You allege, in part, that the Union failed to represent you with respect to your discharge by refusing to process your grievance for arbitrary or discriminatory reasons or in bad faith, that the Union restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by issuing unlawful fines and/or internal charges, and that the Union failed and refused to bargain in good faith with the Employer.

The investigation disclosed that on (b) (6), (b) (7)(C) 2018, you were discharged by the Employer for purportedly indicating your intention to refuse to obey a new rule related to cell phones. The Union intervened, and the discipline was assertedly reduced to a suspension. However, you were subsequently discharged when you again indicated your intention to refuse to follow the rule. You then filed a grievance, which the Union withdrew on (b) (6), (b) (7)(C) 2018, and notified you in writing that it had done so.

A union is accorded broad discretion under the Act in the handling of employee grievances, so long as a union does not base its decision on arbitrary, discriminatory, or otherwise unlawful considerations. The investigation adduced insufficient evidence to establish that the Union's actions regarding the processing of your grievance were arbitrary, capricious, or in bad faith, or otherwise unlawfully motivated.

In addition, no evidence was presented to support the allegations that the Union issued unlawful fines or internal charges or failed and refused to bargain in good faith with the Employer.

Based on the above, further proceedings on these allegations are unwarranted. Other aspects of the charge remain in full force and effect.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlrb.gov](http://www.nlrb.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlrb.gov](http://www.nlrb.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 9, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 8, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 9, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlrb.gov](http://www.nlrb.gov), by fax to

October 26, 2018

(202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 9, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Dennis R. Boren  
Regional Director

DMN/jm

Enclosure

cc: James P. Faul, Esq.  
Hartnett, Gladney, Hetterman, LLC  
4399 Laclede Ave  
Saint Louis, MO 63108-2248

Local 851, International Association of Bridge,  
Structural, Ornamental and Reinforcing Iron  
Workers, AFL-CIO, CLC  
1564 East 23rd St  
Cleveland, OH 44114

Local 851, International Association of  
Bridge, Structural, Ornamental and  
Reinforcing Iron Workers, AFL-CIO, CLC  
(Mooney Exchange LLC)  
Case 07-CB-223861

- 4 -

October 26, 2018

Randy Barker, General Manager  
Mooney Exchange LLC  
14201 Prospect St  
Dearborn, MI 48126-3687

Harrison C. Kuntz, Attorney  
Ogletree Deakins Nash Smoak & Stewart, PC  
7700 Bonhomme Ave, Suite 650  
St. Louis, MO 63105-0030



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Fax: (212)264-2450

October 31, 2018

(b) (6), (b) (7)(C)

**Re:** International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America (UAW), AFL-CIO and  
its Local 7  
(FCA US LLC)  
Case No. 07-CB-224411

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO (herein the International Union) and Local 7, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO (herein Local 7) have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You have alleged that the International Union and its Local 7 refused to process a grievance to arbitration in violation of Section 8(b)(1)(A) of the Act. Specifically, you contend that the International Union and its Local 7 refused to process a grievance in connection with your discharge from FCA US, LLC (herein the Employer). The investigation showed that you were employed by the Employer as an (b) (6), (b) (7)(C) for (b) (6), (b) (7)(C) years and until your discharge on about (b) (6), (b) (7)(C) 2017 for violation of Employer policy and procedure. Local 7 filed a grievance on your behalf and investigated the grievance. The Union then concluded that the grievance lacked merit based on evidence from its investigation showing that you had violated the Employer policy. There is no evidence the Union processed the grievance in an arbitrary manner and no evidence that the decision was unlawfully motivated. The evidence therefore indicates that the Union investigated your grievance and made a good faith assessment of the merits prior to deciding it would be unable to prevail at arbitration in the matter. After Local 7 concluded that your grievance lacked merit, you filed an appeal over this action with the International Union pursuant to the UAW International Constitution, which the International Union has not yet decided. There is no indication that the International Union harbors hostility towards you or that it is processing your grievance in an arbitrary or discriminatory manner. In these circumstances, it cannot be established that the UAW and its Local 7 are unlawfully refusing to process your grievance in violation of the Act as alleged and I am dismissing the charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

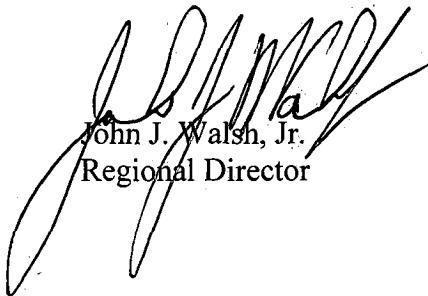
**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by

International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America (UAW), AFL-CIO and  
its Local 7 (FCA US LLC)  
Case 07-CB-224411

- 3 -

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Very truly yours,



John J. Walsh, Jr.  
Regional Director

Enclosure

cc: Niraj Ganatra, General Counsel  
International Union, United Automobile, Aerospace  
and Agricultural Implement Workers of America  
(UAW), AFL-CIO  
Law Department  
8000 East Jefferson Avenue  
Detroit, MI 48214

Local 7, International Union, United Automobile,  
Aerospace and Agricultural Implement Workers of  
America (UAW), AFL-CIO  
Attn: Mark Taylor  
2600 Conner Street  
Detroit, MI 48215

Darlene Haas Awada, Esq.  
FCA US LLC  
1000 Chrysler Drive  
CIMS: 485-07-92  
Auburn Hills, MI 48326-2766

FCA US LLC  
2101 Conner Street  
Detroit, MI 48215



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Detroit, MI 48226

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (313)226-3200  
Fax: (313)226-2090

October 31, 2018

Frank D. Garrison, Esq.  
National Right to Work Legal Defense Foundation, Inc.  
8001 Braddock Road, Suite 600  
Springfield, VA 22160

Amanda K. Freeman, Staff Attorney  
National Right to Work Legal Defense Foundation, Inc.  
8001 Braddock Road, Suite 600  
Springfield, VA 22160

Re: Local 332, International Brotherhood of  
Teamsters (IBT)  
(Genesys Regional Medical Center)  
Case 07-CB-225413

Dear Mr. Garrison and Ms. Freeman:

We have carefully investigated and considered your charge that Local 332, International Brotherhood of Teamsters (IBT), AFL-CIO has violated the National Labor Relations Act.

**Decision to Partially Dismiss:** Based on that investigation, I have decided to dismiss portions of the charge for the following reasons:

You filed a charge alleging, inter alia, that the Union refused to stop the deduction of dues and refused to provide a copy of the collective bargaining agreements governing your employment.

The investigation disclosed that you signed a dues deduction form on March 12, 2007. On about February 15, 2018, you sent a letter to the Union seeking to have your dues deduction authorization revoked. The dues deduction authorization states that it will automatically renew each year, and that to be timely, dues revocation notifications must occur between 60 and 75 days before the annual renewal date, which for you is March 12 of each year; hence the window period in which your dues revocation notification would be considered timely is from about December 27 through about January 11 of each year. The evidence shows that you requested that the deduction of dues cease outside of the window period described above; thus, the revocation notification was not timely.

The investigation further disclosed that on about July 20, 2018, you requested copies of the collective bargaining agreements that were in effect during the course of your employment. You received the requested collective bargaining agreements on about August 4, 2018. You received the documents about two weeks after you requested them and received these documents via U.S. mail, which I find to be a reasonable period of time to respond to your request.

Accordingly, further proceedings regarding these allegations are unwarranted. The remaining allegations remain subject to further processing.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

October 31, 2018

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with a large, sweeping "T" and "M".

Terry Morgan  
Regional Director


PF:kar

Enclosure

cc: Nina Bugbee, President  
Local 332, International Brotherhood of  
Teamsters (IBT), AFL-CIO  
1502 S. Dort Hwy.  
Flint, MI 48503-2839

David R. Radtke, Esq.  
McKnight, Canzano, Smith, Radtke &  
Brault, P.C.  
423 North Main Street, Suite 200  
Royal Oak, MI 48067

(b) (6), (b) (7)(C)

A large black rectangular redaction box covering several lines of text.

Local 332, International Brotherhood of  
Teamsters (IBT)  
(Genesys Regional Medical Center)  
Case 07-CB-225413

- 4 -

October 31, 2018

Paula Coffee, Manager of Labor Relations  
Genesys Health System  
8481 North Holly Road  
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Bruce M. Bagdady, Esq.  
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Bradley M. Taormina, Esq.  
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Detroit, MI 48226

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (313)226-3200  
Fax: (313)226-2090

October 15, 2018

(b) (6), (b) (7)(C)

Re: International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America (UAW), AFL-CIO and  
Local 3000  
(The Ford Motor Company)  
Case 07-CB-227020

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and Local 3000, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You allege that the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and its Local 3000 (Union) failed to represent you by engaging in bad faith surface bargaining including not bargaining for a local contract since 2015, in violation of 8(b)(1) and 8(a)(5) of the Act.

A union is afforded wide discretion under the Act in representing employees in the bargaining unit as long as its decisions are not unlawfully motivated. The investigation revealed that the Union last had a local contract with the Employer which expired in 2015. You have asked the Union on several occasions about negotiating for a local contract, with your last attempt to contact the Union about bargaining for a local contract in November 2016. From February to May 2017, you attempted to post an image on the International Union's social media page, but the Union refused to allow you to post the image. You have attempted to contact the Union about a Beck objector letter, but the last time that you tried to contact the International Union or Local Union was in September or October 2017. In the last six months preceding the filing of this charge, other than posting on the Union's social media, you have not attempted to contact the Local or International Union.

The investigation found no evidence of hostility toward you on the part of the Union, nor is there evidence that discriminatory or unfair considerations influenced the Union's actions. Moreover, Section 10(b) of the Act precludes the issuance of a complaint based upon any unfair

labor practice occurring more than six months prior to the filing and service of the charge. Your charge also alleges that the Union has violated Section 8(a)(5) of the Act. Section 8(a) of the Act applies to employers and is inapplicable to labor organizations. Accordingly, further proceedings on your charge against the Union are not warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 29, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 28, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 29, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 29, 2018, **even if it is**

International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America (UAW), AFL-CIO and  
Local 3000  
(The Ford Motor Company)  
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**postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Terry Morgan  
Regional Director

LAS:kar

Enclosure

cc: International Union, United Automobile,  
Aerospace and Agricultural Implement  
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Natalie Grysko, Labor Relations  
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UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 7  
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Telephone: (313)226-3200  
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October 10, 2018

Stuart Buttrick, Counsel  
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Rebekah Ramirez, Esq.  
Faegre Baker Daniels LLP  
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Re: Local 324, International Union of  
Operating Engineers (IUOE), AFL-CIO  
(Michigan Infrastructure & Transportation  
Association, Inc.)  
Case 07-CC-228255

Dear Mr. Buttrick, Mr. Funk and Ms. Ramirez:

We have carefully investigated and considered your charge that Local 324, International Union of Operating Engineers (IUOE), AFL-CIO has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

The Charging Party alleges that Local 324, International Union of Operating Engineers (IUOE), AFL-CIO ("the Union") violated Section 8(b)(4)(i) and 8(b)(4)(ii)(B) of the Act by threatening, coercing, and restraining Michigan Infrastructure and Transportation Association, Inc. (MITA) member contractors, and inducing and encouraging their employees to refuse to perform services, with an object to force or require MITA member contractors to cease doing business with MITA.

Specifically, the Charging Party alleges that about March 26, 2018, at a conference in Kentwood, Michigan, Union (b) (6), (b) (7)(C) stated that (b) (6) hated associations, (b) (6) didn't want to deal with associations, and that all associations wanted to do was drive a wedge between contractors and the Union. This statement is a lawful expression of opinion. Further, the statement does not support the Charging Party's contention that MITA is the primary target for the Union's actions since withdrawing from association-wide bargaining.

The Charging Party alleges that about April 2018, by Union (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the Union threatened employees with the cessation of their fringe benefits. The hearsay evidence produced by the Charging Party did not describe threats. In addition, the Region has already considered the issue of the Union informing employees that it could not accept fringe benefit payments without a contract with their employer in Case 07-CC-226994 and found the conduct non-violative of the Act.

The Charging Party alleges that about April 2018, by Union (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the Union informed a Macomb Underground Engineering, Incorporated (MUE) Gas Operations (b) (6), (b) (7)(C) that the Union would not sign a contract with MUE and Kaltz Excavating Co., but if those companies withdrew their power of attorney (POA) from MITA, the Union might talk to those companies. In Case 07-CC-226994, the Region already considered a general allegation regarding a Union demand that contractors pull their POAs in order to bargain with the Union on an individual contractor basis and determined that this was not coercive pressure. Specifically, pulling the POA for purposes of collective bargaining with the Union does not amount to ceasing doing business. MITA membership is not co-extensive with MITA having a contractor's POA. First, not every MITA member has granted MITA its POA for bargaining with the Union and, second, MITA offers services to its members (such as industry lobbying, networking, and business development) that have no relationship to collective-bargaining negotiations. The investigation did not establish that the Union has ever requested that a contractor refrain from MITA membership.

The Charging Party alleges that since May 1, 2018, Local 324 has not accepted or credited MITA-member fringe benefit payments under the Utility Distribution collective-bargaining agreement and, since June 1, 2018, under the Road Agreement. As a preliminary matter, it is the various Union funds that accept or do not accept fringe benefit payments—not the Union. Here, although the contractors wished to enter into an agreement to allow the funds to accept their fringe benefits payments, the Union declined to enter such an agreement. Further, this issue has already been considered in Case 07-CC-226994 and determined by the Region to lack merit. The Charging Party has not established that the Union was legally obliged to enter into such an agreement.

The Charging Party alleged that since June 1, 2018, the Union has not accepted or credited contractor Reith-Riley Construction Co. fringe benefit payments. The investigation established that Reith-Riley Construction Co. and the Union entered into an alleged 9(a) recognition agreement on November 2, 1993 for the following unit of employees:

All employees employed by the Employer as Operating Engineers, within the State of Michigan, in building construction, underground construction, and/or heavy, highway and airport construction, at the site of construction, repair, assembly and erection, including equipment operators, field mechanics, oilers, apprentices, and on the job trainees; but, excluding employees represented by

other labor organizations, and professional, office and clerical employees, guards and supervisors as defined under the Act.

Again, it is the Union funds that accept or do not accept fringe benefit contributions, not the Union. The evidence is insufficient to establish that this action is a violation of Section 8(b)(4)(i) or 8(b)(4)I(ii)(B) of the Act as alleged.

The Charging Party alleges that, about June 26, 2018, the Union picketed a Payne & Dolan, Inc. job site at US 2-41 in Delta County, Michigan with signs that targeted a subcontractor working on site, Northeast Asphalt, Inc. The investigation established that the picket signs truthfully stated that the Union does not have a contract with Northeast Asphalt, Inc. and that Northeast Asphalt, Inc. was present and working at the Payne & Dolan, Inc. site. The picketing, therefore, appears to satisfy the requirements of *Moore Dry Dock*, 92 NLRB 547 (1950).

The Charging Party alleges that about June 26-27, 2018, by Local 324 (b) (6), (b) (7)(C), the Union forbade IUOE Local 139 Operators from working at the Payne & Dolan, Inc. job site located at US 2-41 project in Delta County, Michigan. There is insufficient evidence to establish that the Union forbade IUOE Local 139 Operators from working.

The Charging Party alleges that about June 26, 2018, by Local 324 (b) (6), (b) (7)(C), the Union threatened IUOE Local 139 employees with internal Union charges if they continued to work for Payne & Dolan Inc. at the job site located at US 41/M-28 in Ishpeming, Michigan. There is insufficient evidence to establish that the Union threatened IUOE Local 139 employees with internal Union charges.

The Charging Party alleges that on June 26, 2018, Union (b) (6), (b) (7)(C) informed Payne & Dolan, Inc. (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) did not have any Local 324 Operators to send to the US 41/M-28 in Ishpeming, Michigan job site and that (b) (6), (b) (7)(C) kicked out the Local 139 Operators because Local 324 did not have a contract with Northeast Asphalt, Inc. The Region previously considered general allegations regarding clearing-in of travelers in Case 07-CC-226994. The evidence is insufficient to establish that the Union was not following its internal policies in this instance.

The Charging Party alleges that about July 2018, Union (b) (6), (b) (7)(C) informed R.L. Coolsaet Construction Company (b) (6), (b) (7)(C) that Local 324 had apprentices but (b) (6), (b) (7)(C) could not give them to Coolsaet because Coolsaet no longer had a contract and MITA had Coolsaet's power of attorney. The Charging Party alleges that (b) (6), (b) (7)(C) told Coolsaet to come in and sign their new agreement and (b) (6), (b) (7)(C) would send Coolsaet apprentices. The evidence is insufficient to establish that (b) (6), (b) (7)(C) statements were unlawful—or that the Union was not following its internal policies.

The Charging Party alleges that (1) about August 25, 2018, the Union picketed the Ajax Paving Industries, Inc. yard located at Davison and I-96 with signs targeting Team Elmer's, LLC [sic] and Lois Kay Contracting Co., Ajax subcontractors who were not located at the yard site; (2) about August 25, 2018, about 10:30 AM, Union picketers blocked ingress to the Ajax Paving yard located at Davison and I-96; (3) about August 25, 2018, in the morning at the Ajax Paving job site located on eastbound I-96 near the Schaefer exit, the Union picketed with signs targeting Elmer's and Lois Kay, who were on site performing milling work. Local 324 (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were present; and about August 25, 2018, at the Ajax Paving job site located on eastbound I-96 near the Schaefer exit, Local 324 picketed with signs targeting Ajax.

The investigation established that contractor Ajax Paving was running a job site on I-96 between Joy Road and Schaefer Highway—approximately a one mile stretch. Ajax and its subcontractors' Elmer's and Lois Kay's equipment was stored in a "yard" off of the Joy Road exit. The yard was not gated for use by primary and neutral employers. The Union picketed the yard and on the freeway in the morning with Elmer's and Lois Kay signs for about three hours; broke for lunch; and returned about 4:30 p.m. to picket with Lois Kay and Elmer's signs at the yard, but seeing that there was no equipment present, moved down to the freeway with Ajax signs.

During the morning picketing at the yard, two Ajax Paving managers reported that they were blocked from entering by picketers. However, finding themselves unable to enter, they immediately backed up. The interaction apparently lasted for less than a minute. In addition, an employee of an Ajax subcontractor stated that when (b) (6) tried to enter the yard to get equipment, one of the picketers yelled you are not moving anything and four (b) (6), (b) (7) circled around him holding signs.

The Ajax picketing lasted for about two hours in the afternoon. The evidence was insufficient to establish that Union representatives told employees not to work during the afternoon picketing. Further, the investigation established that, told by a Union representation that the Union representative could not tell them not to work, Ajax employees consulted one another and continued to work; they were not disciplined by the Union. The picket signs in the morning and the afternoon stated the name of the Union, that there was no contract, and the name of the contractors.

The investigation established that the work occurring on I-96 was one job site and that there was no evidence of a secondary object—the contractors' names on the picketers' signs actually were present at the site. There was no contract with these employers. Therefore, the contractors, including subcontractors Lois Kay and Elmer's—not MITA—were the primary targets of the picketing. This picketing satisfied the standards of *Moore Dry Dock*, 92 NLRB 547 (1950).

Further, e-mail correspondence between Union (b) (6), (b) (7)(C) and Ajax Paving (b) (6), (b) (7)(C) from August 23, 2018 established that, although (b) (6), (b) (7)(C) expressed a desire to meet and contract with the Union, (b) (6), (b) (7)(C) response indicates that (b) (6), (b) (7)(C) suspected that Ajax Paving was still trying to bargain on an association-wide basis—or even bargain under the aegis of MITA. Therefore, (b) (6), (b) (7)(C) expressed (b) (6), (b) (7)(C) unwillingness to bargain under those circumstances. Given that there was no 8(f) contract in effect, the Union could lawfully refuse to bargain with Ajax Paving and other contractors.

With regard to the momentary blocking of ingress at the Ajax Paving yard on August 25, 2018, it would not effectuate the purposes of the Act to issue a merit determination here when the conduct was more than six weeks ago, very limited in time, isolated, and has not recurred.

Accordingly, further proceedings on this matter are unwarranted.

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The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 24, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 23, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the

Local 324, International Union of Operating Engineers (IUOE), AFL-CIO  
(Michigan Infrastructure & Transportation Association, Inc.)  
Case 07-CC-228255

appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 24, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 24, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with a large initial "T" and "M".

Terry Morgan  
Regional Director

RM:kar

Enclosure

cc: Douglas Stockwell, Business Manager  
Local 324, International Union of  
Operating Engineers (IUOE), AFL-CIO  
500 Hulet Drive  
Bloomfield Township, MI 48302

Local 324, International Union of Operating    - 7 -    October 10, 2018  
Engineers (IUOE), AFL-CIO  
(Michigan Infrastructure & Transportation  
Association, Inc.)  
Case 07-CC-228255

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