



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 06  
1000 Liberty Ave Rm 904  
Pittsburgh, PA 15222-4111

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (412)395-4400  
Fax: (412)395-5986

October 30, 2018

Re: United Steel, Paper & Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial  
and Service Workers International Union,  
AFL-CIO, CLC (ATI-Midland)  
Case 06-CB-223116

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

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

We have carefully investigated and considered your charge that United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, 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.

In your charge, you allege that the Union violated Section 8(b)(1)(A) of the Act, by failing in its duty of fair representation regarding employees' recall rights to ATI-Midland, where you formerly worked. More specifically, you base your allegation on the fact that although certain areas of the plant have resumed operations, some former employees have not been recalled to positions in those areas. You allege that the Union's role in bargaining concerning recall rights, and/or the Union's failure to take action to ensure former employees were recalled to work at the plant, violated the Act.

The investigation revealed that after being shut down for more than a year, the former ATI-Midland facility partially reopened under new ownership of ATI and Tsingshan (the Joint Venture). The Union negotiated with the Joint Venture over the terms by which former employees would be offered employment. In November 2017, you and other former employees were informed in writing of the negotiated offer for work with the Joint Venture. At that time, you were made aware of the terms of the Joint Venture offer, including that following the initial offer of employment former Midland employees would not be given hiring preference. You did not accept the offer of employment with the Joint Venture, nor did you file a timely unfair labor practice charge alleging the Union violated the Act through its negotiations of recall rights with the Joint Venture.

Under Board law, unions are provided a wide range of reasonableness and discretion in serving a bargaining unit that it represents, and a union must not conduct in a manner that is arbitrary, discriminatory, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171 (1967). Thus, as the Board has stated, "it is not every act of disparate treatment or negligent conduct which is conduct that may be proscribed by Section 8(b)(1)(A) of the Act, but only those which, because motivated by

hostile, invidious, irrelevant, or unfair considerations, may be characterized as ‘arbitrary conduct.’” *Steelworkers Local Union No. 2869*, 239 NLRB 982 (1978) (internal citations omitted). Conduct is arbitrary “only if, in light of the factual and legal landscape at the time of the union’s actions, the union’s behavior is so far outside a ‘wide range of reasonableness’ as to be irrational.” *Air Line Pilots Assn. v. O’Neill*, 499 U.S. 65, 67 (1991) (quoting *Ford Motor Co. v. Huffman*, 345 U.S. 330, 338 (1953)).

In addition, the Board is bound by statute to bar prosecution of an unfair labor practice charge which is not raised within six months of an alleged violation. Specifically, under Section 10(b) of the Act, “no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board . . . .”

Your allegations and the evidence adduced during the investigation do not support any conclusion of arbitrary, discriminatory, or bad faith conduct by the Union. Moreover, you did not ask the Union to take any action concerning what you perceived to be violations of your rights and the rights of other former ATI-Midland employees in gaining employment with the Joint Venture, nor did you file a timely ULP charge. In these circumstances, the evidence does not support a violation of the Act and I am therefore refusing to issue a complaint 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:

- 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.

**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,



Nancy Wilson  
Regional Director

Enclosure

United Steel, Paper & Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial  
and Service Workers International Union,  
AFL-CIO, CLC (ATI-Midland)  
Case 06-CB-223116

- 4 -

cc: Wayne Donato, Staff Representative  
United Steel, Paper & Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial  
and Service Workers International Union,  
AFL-CIO, CLC  
60 Blvd of the Allies  
Five Gateway Center Room 807  
Pittsburgh, PA 15222

ATI - Midland  
950 10th St  
Midland, PA 15059-1532

bb

Nathan Kilbert, Esquire  
United Steel, Paper & Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial  
and Service Workers International Union,  
AFL-CIO, CLC  
60 Boulevard of the Allies,  
Five Gateway Center, Room 807  
Pittsburgh, PA 15222-1209



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 06  
1000 Liberty Ave Rm 904  
Pittsburgh, PA 15222-4111

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (412)395-4400  
Fax: (412)395-5986

October 17, 2018

Re: National Association of Letter Carriers,  
Branch 500 (United States Postal Service)  
Case 06-CB-223401

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

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

We have carefully investigated and considered your charge that National Association of Letter Carriers, Branch 500 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.

Although your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by refusing to process your grievance over the Employer's failure to pay you "the correct amount," during the investigation of your charge your only assertion related to grievance-processing was that the Union failed to process grievances over your suspension and (b) (6), (b) (7)(C) 2017 discharge. This issue was fully investigated in Case 06-CB-208363, and was determined to be without merit. Further processing of this issue is unwarranted, as the allegation is outside of the statute of limitations period set forth in Section 10(b) of the Act; the allegation was dismissed on January 25, 2018; and any appeal period has expired. To the extent you assert that the Union breached its duty of fair representation by failing to respond to one or more phone calls you made in 2018, regarding grievances that were the subject of the charge in Case 06-CB-208363, the investigation failed to adduce evidence in support of this allegation. Even if true, according to Board precedent, the assertion does not rise to the level of a violation of the Act. Thus, a violation of Section 8(b)(1)(A) of the Act cannot be established.

**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 **October 31, 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 30, 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 31, 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 31, 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,

/s/ Tara N. Yoest

Tara N. Yoest  
Acting Regional Director

Enclosure

National Association of Letter Carriers,  
Branch 500 (United States Postal Service)  
Case 06-CB-223401

- 3 -

cc:

**(b) (6), (b) (7)(C)**  
National Association of Letter Carriers,  
Branch 500  
224 S Progress Ave  
Harrisburg, PA 17109

Rick Sheetz, Postmaster  
United States Postal Service  
29 North Front Street  
Milton, PA 17847

Kate M. Swearengen, Esquire  
Cohen, Weiss and Simon, LLP  
900 Third Avenue  
21st Flr  
New York, NY 10022-4869

Roderick D. Eves, Deputy Managing  
Counsel  
United States Postal Service  
1720 Market Street  
Rm 2400  
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bb





UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 6  
1000 Liberty Ave. Room 904  
Pittsburgh, PA 15222-4111

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Telephone: (412)395-4400  
Fax: (412)395-5986



Download  
NLRB  
Mobile App

October 26, 2018

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

Re: United Food and Commercial Workers  
International Union, Local 1776, AFL-  
CIO,CLC (Maple Winds Healthcare and  
Rehabilitation Center)  
Case 06-CB-228159

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

We have carefully considered your charge that United Food and Commercial Workers International Union, Local 1776, 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.

On October 1, 2018, the agent assigned to investigate your charge began taking an affidavit from you. Subsequently, on October 12, the agent called you, and you agreed to speak to the agent via phone, on October 15, at 10:00 AM, to complete your affidavit. On October 15, the agent called you as agreed, but was unable to reach you. Also on October 15, the agent sent you an email, at the email address you provided, informing you that failure to complete your affidavit could result in dismissal of your charge for failure to cooperate. The agent provided times he could be reached and included contact information for the supervisor assigned to your case. You have not responded to the agent's attempts to reach you, and you have not provided the information necessary to complete your affidavit. Due to your lack of cooperation in the investigation further processing is unwarranted, and I am dismissing your 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.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 (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.

United Food and Commercial Workers  
International Union, Local 1776, AFL-  
CIO,CLC (Maple Winds Healthcare and  
Rehabilitation Center)  
Case 06-CB-228159

- 3 - October 26, 2018

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 dark ink, appearing to read "Nancy Wilson". The signature is fluid and cursive, with the first name "Nancy" and last name "Wilson" clearly distinguishable.

Nancy Wilson  
Regional Director

Enclosure

cc: Anthony Helfer, President  
United Food and Commercial Workers  
International Union, Local 1776  
AFL-CIO, CLC  
345 Southpointe Blvd., Suite 300  
Canonsburg, PA 15317-8571

Maple Winds Healthcare and  
Rehabilitation Center  
4112 Springhill Rd Apt 2  
Portage, PA 15946-7402

nm