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How to File a Charge:

Anyone may file an unfair labor practice charge with the NLRB by submitting a charge form to any Regional Office. The form must identify the parties to the charge as well as include a brief statement of the basis for the charge. The charging party must also sign the charge. In order to be timely filed, charges must be filed within 6 months from the date of the alleged violation.



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NLRB REGION 11 OUTREACH

October, 2007

Greetings From The Director

Willie L. Clark, Jr.

This is the Region's first newsletter which stems from the Agency's nationwide emphasis on outreach. The Region intends to issue this newsletter periodically in order to apprise the public of recent developments in both the Region and the Agency.

Region 11's jurisdiction covers all of North Carolina and South Carolina, and Southwestern Virginia, Southern West Virginia, as well as Bristol, TN. Currently, the Region is staffed by seven trial attorneys— Jasper Brown,

Shelly Chattopadhyay, Rosetta Lane, Shannon Meares, Ronald Morgan, Valerie Queen and Lisa Shearin. Additionally, we have six field examiners— Jennifer Corbin, Jodi Cunningham, Kathleen Donahue, Ingrid Jenkins, Jenny Swiatek and Anthony Scott, who is the Region's Compliance Officer. The Region's management includes Howard Neidig, Assistant Regional Director; Patricia Timmins, Regional Attorney; Jane North, Deputy Regional Attorney; Nancy Wilson, Supervisory Field Examiner, and Lisa

Davis, Office Manager. Our staff is always readily available to assist the public with any questions they have regarding issues arising under the National Labor Relations Act.

Speakers Available:

Regional staff members are available to speak to organizations. Contact the Region's Outreach Coordinator, Nancy Wilson at (336) 631-5230 or via email at nancy.wilson@nlrb.gov to make the arrangements.

Representation Case News

During the past five fiscal years, the Region has seen a steady decline in the number of representation petitions filed. There have been a total of 244 petitions filed from October, 2002 until September,

2007, with a high of 61 petitions filed in FY 2003 and a low of 46 in FY 2006. Currently, 41 petitions have been filed in FY 2007. Approximately 25% of the petitions filed in the past five years were decertifica-

tion petitions. In FY 2007, unions won 15 of the 22 elections that were conducted in Region 11. In this regard, unions won 50% of elections that involved voting units of 300 or more employees.

Forms are available for download from the NLRB website at www.nlr.gov.

Forms may also be obtained from any NLRB office. NLRB offices have information officers available to discuss charges in person or by phone and to assist with filling out charge forms.

When a Charge is Filed:

The NLRB Regional Office will investigate. The charging party is responsible for promptly presenting evidence in support of the charge. Usually evidence will consist of a sworn statement and documentation of key events.

The Region will ask the charged party to present a response to the charge, and will further investigate the charge to establish all the facts.

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

GENERAL COUNSEL ANNOUNCES THAT REGIONS WILL SEEK COMPOUND INTEREST

On May 2, 2007, General Counsel Ronald Meisberg issued Memo 07-07 stating that Regions in all cases in which a monetary award is being sought should seek quarterly compound interest. Thus, Regions will now plead this remedy in their complaints. Previously, only simple interest was sought on back-

pay and other monetary awards. GC Meisberg stated, "I have taken a fresh look at Board remedies and considered whether they remain appropriate in the contemporary workplace." He observed, "I have concluded that the Board should also adopt a policy of compounding interest on all monetary

awards. Such a policy is necessary to ensure that employees are properly compensated for the lost use of their money; since the common practice in private markets today is to assess compound interest on loaned funds." We will anxiously await to see what the Board decides on this issue.

NLRB TO HOLD ORAL ARGUMENT ON WHETHER EMPLOYEES OF LESSEE RESTAURANT MAY DISTRIBUTE HANDBILLS ON PROPERTY OF LESSOR HOTEL

On September 4, 2007, the Board announced that it will hear oral argument on November 9, 2007, in *New York New York Hotel, LLC, d/b/a New York New York Hotel and Casino*, Case 28-CA-14519. The issues presented in the case include whether employees

of Ark Las Vegas Restaurant who are employed by Ark on the premises of New York New York Hotel and Casino, have a statutory right to distribute handbills on hotel property during the employees' off-duty hours. The handbills were directed towards guests

and customers and protested Ark's nonunion status and wages. Argument will be heard by the full Board consisting of Chairman Robert J. Battista and Members Wilma B. Liebman, Peter C. Schaumber, Peter N. Kirsanow, and Dennis P. Walsh.

BOARD HEARD ORAL ARGUMENT ON EMPLOYEE USE OF E-MAIL

On March 27, 2007, in *The Guard Publishing Company d/b/a the Register Guard*, the Board heard oral argument on whether an employer can ban the nonbusiness related use of its e-mail system. In the underlying

decision, ALJ McCarick found that the employer's policy was facially lawful, but it was discriminatorily applied to employees using the e-mail system for union-related messages. Both the Union and the Em-

ployer made presentations at the oral argument, as did the Human Resources Policy Association the U.S. Chamber of Commerce.

SUMMARY OF RECENT BOARD DECISIONS ARISING OUT OF REGION 11

The Board recently issued the following four decisions which were investigated and tried by Region 11:

1. ***3-V, Inc., (350 NLRB No. 24), Georgetown, SC July 5, 2007.*** The Board majority of Chairman Battista and Member Liebman reversed the administrative law judge's finding that the Respondent violated Section 8(a)(1) and (5) of the Act by unilaterally discontinuing its employees' annual wage increases and by failing to pay its employees a semi-annual safety bonus. In October, 2004, prior to the Union's selection as the employees' bargaining representative, the Respondent informed the employees that it was withholding its annual wage increase until it resolved a problem it encountered with one of its suppliers that had substantially impaired production. The majority found that the Respondent was privileged to effectuate the change in its established past practice because it did so prior to the Union's selection as the employees' bargaining representative.
2. ***Bridgestone Firestone South Carolina (350 NLRB No. 52) Graniteville, SC August 8, 2007.*** A Board panel unanimously adopted the administrative law judge's finding that the Respondent did not violate Section 8(a)(1) and (3) by discharging employee Jeffrey Cockrell. But the Board reversed the judge's findings that the Respondent violated Section 8(a)(1) by creating an impression of surveillance or by unlawfully interrogating and threatening Cockrell. Finally, the Board reversed the judge's finding that the Respondent violated Section 8(a)(1) and (3) by issuing Cockrell a written disciplinary action.
3. ***Datwyler Rubber and Plastics, Inc. (350 NLRB No. 58) Marion, SC August 13, 2007.*** The Board majority of Chairman Battista and Members Schaumber and Walsh, unanimously adopted the judge's finding that the Respondent violated Section 8(a)(1) by discharging employee Mononga Moore for engaging in protected concerted activity. The Board agreed with the judge that Moore's outburst and complaints at a staff meeting, which concerned employee complaints about Respondent requiring employees to work a 7-day work week, did not lose the protection of the Act under the factors set forth in *Atlantic Steel Co.*, 245 NLRB 814 (1979).
4. ***B.A. Mullican Lumber & Manufacturing Co. (350 NLRB No. 45) Norton, VA July 31, 2007.*** The Board adopted the judge's finding that the Respondent did not violate Section 8(a)(1) and (5) of the Act by refusing to execute a collective-bargaining agreement because the parties had not agreed upon a substantive term of the agreement, i.e. the effective date. The Board further found that the Respondent violated Section 8(a)(1) and (5) by withdrawing recognition from the Union because, under the test set forth in *Levitz Furniture Co.*, 333 NLRB 717 (2001), the Respondent did not prove that the Union had lost the support of a majority of unit employees.

**These cases and others are posted on the NLRB website ,
<http://www.nlr.gov/research/decisions/index.aspx>.**

PAST RECOLLECTION RECORDED

The history of labor relations within the geographic confines of Region 11 is replete with significant and far-reaching events. From the early 1950's on, the course of the Southern American labor movement was charted, in important respects, in the textile and furniture industries of the Carolinas, and in the coalfields of Virginia and West Virginia. This article will briefly set out some of the landmark struggles that have taken place in the historical corner of the Southern labor movement that Region 11 has occupied.

With our editorial version of the "past recollection recorded" exception to the hearsay rule, we will rely on documents to the extent possible. We may also, however, find ourselves consulting the collective memory bank of those participants, both union and management, who helped shape this history. We will welcome any oral history you may be able to add. In that event, we suppose that the only challenge will be figuring out how the parol evidence rule does, or does not, apply, and if so, what that does, or does not, mean.

J.P. Stevens and Norma Rae

In the spring of 1963, then-Textile Workers Union of America (TWUA) began what would turn into a 17-year organizing campaign at J.P. Stevens textile plants in North and South Carolina. The campaign later spread to other locations in the South. As many know, part of this campaign became the inspiration for the 1979 film Norma Rae, which told the story of a union campaign in a small southern town through the eyes of the chief employee organizer, a young woman, who was subsequently fired. In actuality, as in the movie, the woman was ultimately awarded her job and backpay through the enforcement of a Board order.

The events of the J.P. Stevens campaign played out, in large measure, through cases filed with Region 11. The first charge was filed by the TWUA in August 1963, and the first Board decision on the first consolidated complaint issued in 1966. *J.P. Stevens and Co.*, 157 NLRB 869 (1966). A deluge of charges followed and numerous Board and Court Orders issued over the years. The Court of Appeals for the D.C. Circuit characterized the dispute in 1973 by stating, "We are called upon to review the twelfth in a series of orders of the National Labor Relations Board issued in what by now seems a quixotic attempt to convince J.P. Stevens and Company to respect the rights conferred on its employees by Section 7 of the National Labor Relations Act." After years of litigation, contempt adjudications, and the imposition of extraordinary Board remedies, in 1980 the Union and Company negotiated a collective bargaining agreement covering over 3,000 workers in the Carolinas and in Alabama.

Sol Stetin, who was President of the TWUA at the time, passed away in 2005 at the age of 95 and was credited in the NY Times obituary with "spearheading one of the most ambitious unionization campaigns in the anti-union South and one of the most publicized unionization drives since World War II." Bruce Raynor, current president of TWUA's successor union UNITE HERE, played a major role in the long-term organizing campaign. The woman who was the inspiration for the main character in Norma Rae is Crystal Lee Sutton and she donated her union organizing papers and memorabilia to the Alamance Community College in June 2007. The law firm that represented J.P. Stevens from 1963 until October, 1976 was Blakeney Alexander, a Charlotte, NC firm that merged with McGuire Woods in 1998. Thereafter, J.P. Stevens was represented by the law firm of Thompson, Ogletree, and Deakins, which later reorganized as Ogletree, Deakins, Nash, Smoak and Stewart.