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## From the Director's Chair

This is Region 18's inaugural newsletter, which stems from the Agency's nationwide emphasis on outreach to the community. We plan to issue this newsletter on a periodic basis in order to apprise our customers and the general public of recent developments in both the Region and the Agency.

Regional office staff members are available to speak to organizations, large and small, at your request. We regularly provide speakers to make presentations to colleges, high schools, technical schools, labor unions and employer associations.

Please contact the Region's Outreach Coordinator, Pamela Scott at 612-348-1788 or via email at [pamela.scott@nlrb.gov](mailto:pamela.scott@nlrb.gov) to make arrangements for a speaker. Last year we addressed several groups throughout the region and this year we plan to address many more.

Our staff is readily available through our information officer program to assist the public with any questions they have regarding issues arising under the Act. In FY 07 the Region's information officer responded to over 1500 inquiries from the general public. The information officer is

available Monday through Friday from 8:00 am to 4:30 pm at 612-348-1757. The Agency also has an award-winning website at [www.nlrb.gov](http://www.nlrb.gov), which has been recognized as one of the



**Regional Director  
Bob Chester**

five best in the Federal Government. Our website contains a great deal of useful information about the Act, Board policies and procedures and how to contact a Regional Office.

Region 18's jurisdiction covers cases arising in Minnesota, North Dakota, South Dakota, 90 counties in Iowa and 22 counties in Wisconsin. We have a resident office located in Des Moines, Iowa, which handles disputes in Iowa. The NLRB administers and enforces the National

Labor Relations Act. It conducts secret-ballot elections to determine whether employees desire union representation and investigates and remedies unfair labor practices.

The Region is very fortunate to have very talented and experienced attorneys, examiners and support staff employees. Ten staff members have worked for the agency for more than 30 years and 16 have more than 15 years agency experience. Our management staff includes Deputy Regional Director/Regional Attorney Marlin Osthus, Deputy Regional Attorney James Fox, Supervisory Attorney Pamela Scott, Resident Officer David Garza and Office Manager Bernie Grenzer.

This issue of our newsletter and those to come will discuss some recent cases and highlight some of our activities that I believe will be of interest to you. It is part of the Agency's nation-wide outreach program to provide information on events occurring both nationally and locally. If you have any suggestions for or questions about the newsletter, please let us know.

**How to file a charge:**

- Anyone may file an unfair labor practice charge with the NLRB. To do so, they must submit a charge form to any regional office. The form must be completed to identify the parties to the charge, as well as a brief statement of the basis for the charge. The charging party must also sign the charge.
- Forms are available for download from the NLRB website. They may also be obtained from an NLRB office. Information officers are available to discuss charges in person or by phone, to assist with filling out charge forms, and to mail forms.
- You must file the charge within six months of the unfair labor practice.

**When a charge is filed:**

- 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.

## A Very Brief Review of FY 2007

Fiscal year 2007 was another very busy and successful year in Region 18. The Agency's fiscal year runs from October 1 through September 30 of each year. Although ULP case intake was down slightly from previous years, we nevertheless took in 416 ULP charges during the fiscal year. Representation case intake remained about the same as last year with the Region receiving 105 new petitions during the fiscal year.

Last year the Region issued complaints in 39 cases. The majority of our complaint cases were ultimately resolved by Informal Settlement Agreements, a tribute to the efforts of the staff and the parties involved. Most of these cases involved multiple allegations and multiple cases that were consolidated for the purpose

of trial or settlement. We went to trial before an administrative law judge (ALJ) last year in cases involving Whitesell Corporation; Eichorn Motors, Inc. (two separate trials); Leiferman Enterprises LLC d/b/a Harmon Auto Glass and CMPJ Enterprises d/b/a Holiday Inn Express. We prevailed in whole or in part in each of these cases before the ALJ and are awaiting a decision on the second Eichorn trial.

We also secured favorable District Court decisions in Whitesell and Holiday Inn Express as well as a partial win in Eichorn Motors. (See article on page 3.) The Region also received favorable Board decisions in Engineered Plastic Components, Park 'N Fly, Golden Crest Health Care, Eichorn Motors, Paragon Custom Homes, Holiday Inn Ex-

press and Marshall Engineered Products. Our only loss during the fiscal year involved E & I Specialists, Inc., a case that the Region had won before an ALJ in 2002 and was appealed to the Board.

In FY07 the Region conducted 72 elections and held those elections in a median of 38 days from the filing of the petition. As a rule, the vast majority of petitions result in elections held pursuant to a stipulated election agreement, and very few go to hearing. Even taking into consideration the petitions that result in a hearing, over 96% of all elections in the Region were conducted within 56 days of the filing of the petition with the vast majority of elections conducted within 42 days of the filing of a petition.

## Insights from Iowa

by Chip Chermak, Field Examiner

In January, 2007 a bill was introduced into the Iowa legislature which threatened to change the landscape of sixty years of labor law in Iowa. During this legislative year, the Iowa legislature considered a highly contentious "Fair Share" bill (SSB 1120). This proposed legislation allows for the inclusion of a negotiated clause in any collective bargaining agreement which mandates that all employees who are represented by a union pay the requisite amount of Union dues regardless of whether or not that employee is a union member.

According to a January 30, 2007 Wall Street Journal article entitled "Iowa Emigration Act", Iowa's union community gained the momentum to chal-

lenge the state's sixty year standing as a right-to-work state due to the recent Democratic control of the Iowa Governorship and both state legislatures for the first time in forty years. However, members of Iowa's business community, along with Republican opposition, worried that approval of the bill would stifle Iowa's economy.

During this time, Region 18's Des Moines Resident Office kept a close eye out for any news of the pending legislation. Resident Officer David Garza scoured daily publications and newspapers while Field Examiners Bob Reid and Charles Chermak discussed the possibility of having to process cases with potential Beck issues (Communications

Workers of America vs. Beck, 487 U.S. 735 (1988)) associated with unfair labor practice charges filed in Iowa that would potentially come into play with the passing of this landmark bill.

However, it was not meant to be. The Cedar Rapids Gazette reported on August 1, 2007 that the measure had cleared the Iowa State Senate by a vote of 28 - 21, but only after the Fair Share bill was revised to remove private sector businesses and their employees from coverage. However, the bill then failed to clear the Iowa state legislature before the end of the 2007 session. Stay tuned — it may be considered again in 2008.

# Region 18 Obtains Injunctive Relief in Three Cases

Section 10(j) of the Act authorizes the United States District Courts to grant temporary injunctive relief in unfair labor practice cases while they are pending a final determination before the Board. Injunctive relief is reserved for cases where the Act would be frustrated unless immediate action is taken. This past year was a busy one for Region 18 in U.S. District Court. Using the injunctive authorization of Section 10(j), the Region sought and obtained temporary injunctive relief in three cases. Following are the highlights of each case.

## Whitesell Corporation

In February, 2007, The Region sought injunctive relief under Section 10(j) of the Act, against Whitesell Corporation for various bargaining violations. Whitesell was a successor employer and purchased a wire form manufacturing facility in Washington, Iowa in January, 2005. The employees of Whitesell had been represented by the Glass, Molders, Pottery, Plastics and Allied Workers International Union, Local 359 for over 40 years. While Whitesell initially assumed the collective bargaining agreement, the bargaining violations occurred the following year when the parties were bargaining for their first contract. The Region concluded that Whitesell violated Section 8(a)(5) by the following conduct: failing to provide the statutorily required 8(d)(3) notice prior to implementing its final offer; failing and refusing to provide the Union with information regarding bargaining proposals; making unilateral changes to employee terms and conditions of employment; and implementing its final offer when no impasse did, or legally could exist.

A trial on the merits was held in January 2007, in Washington, Iowa. In mid-February, the Region filed its petition for injunctive relief under Section 10(j) of the Act in the United States District Court for the Southern District of Iowa. Just prior to the hearing on the injunction, Administrative Law Judge Bruce Rosenstein, who heard the trial on the merits, issued his decision sustaining virtually all of the Complaint allegations.

A hearing was held on the injunction before the honorable Charles R. Wolle on March 9, 2007. Shortly thereafter, Judge Wolle issued a decision granting the relief requested by the Region. The case is cur-

rently pending at the Board. While Whitesell complied with the court's order in terms of rescinding the unilateral changes, restoring the previous contract and providing information to the Union, a new charge was recently filed alleging additional 8(a)(5) violations. That charge is being investigated and the Region will ultimately decide whether to recommend that Whitesell's current conduct is in contempt of the injunction.

## Holiday Inn Express

In May 2007, the Region sought injunctive relief against Holiday Inn Express for various unfair labor practices it committed as a successor employer. Holiday Inn Express purchased the Holiday Inn Express hotel in December 2006. Prior to the purchase of the hotel, the housekeeping and maintenance employees were represented by the Hotel, Hospital, Restaurant and Tavern Employees Union Local 21. Upon its purchase of the hotel, Holiday Inn Express refused to hire employees that were members of the Union and refused to recognize and bargain with the Union.

The Region issued a complaint in March 2007 alleging that Holiday Inn Express committed the following unfair labor practices: threatened employees that it did not want Union employees in violation of Section 8(a)(1); refused to hire Union employees in violation of Section 8(a)(3); and established initial terms and conditions of employment that varied from those the employees had when employed by the predecessor and refused to recognize and bargain with the Union in violation of Section 8(a)(5).

A trial was then held before Administrative Law Judge Vandeventer in April 2007. In May 2007, the Region filed a petition for interim injunctive relief under Section 10(j) in U.S. District Court, District of Minnesota. After a hearing on the petition for an injunction, Judge Davis issued an order requiring Holiday Inn Express to offer employment to all bargaining unit employees, rescind any and all unilateral changes, and to bargain in good faith with the Union. In August 2007, Administrative Law Judge Vandeventer issued a decision sustaining all of the complaint allegations. Holiday Inn Express did not appeal Judge Vandeventer's decision. Holiday Inn Express has offered employment to the unit employees, recog-

nized the Union, and commenced negotiations. However, a new charge filed by the Union alleging that Holiday Inn Express is required to adopt the predecessor employer's contract is currently under investigation.

## Eichorn Motors, Inc.

Also in May 2007, the Region sought injunctive relief against Eichorn Motors, for numerous unfair labor practice violations. Eichorn is a successor employer that purchased a General Motors automobile dealership in May 2006. The service employees at the dealership had been represented by the United Auto Workers Union for about 18 years. Despite its obligation to recognize and bargain in good faith with the Union, from May 2006 to January 2007, Eichorn engaged in an escalating pattern of conduct designed to undermine the Union. More specifically, the Region concluded that Eichorn engaged in the following unfair labor practices: threatened employees with discharge if they continued to support the Union and promised employees increased wages and benefits if they ended their support for the Union in violation of Section 8(a)(1); dealt directly with unit employees about terms and conditions of employment and made unilateral changes to employees' terms and conditions of employment in violation of Section 8(a)(5); and discharged three employees on account of their union activity and because they testified at a prior unfair labor practice hearing, in violation of Section 8(a)(3) and (4).

The Region prosecuted Eichorn both before the Board and in U.S. District Court. A trial on the merits was held before Administrative Law Judge Clark in April 2007. The Region is awaiting Judge Clark's decision. In June 2007, the Region filed for 10(j) injunctive relief in U.S. District Court, District of Minnesota and a hearing on the petition for injunction was held before Chief Judge Rosenbaum. In August 2007, Chief Judge Rosenbaum issued a decision in which he ordered the interim reinstatement of two of the three discharged employees. Eichorn complied with Judge Rosenbaum's order and immediately reinstated the two employees. In October 2007, Eichorn and the Union executed their first collective bargaining agreement.

*By Nichole Burgess-Peel, Florence Brammer and Kristyn Myers*



# Who's Who: REGION 18 STAFF



Front row, seated: Shelley Korch, Assistant GC; Ronald Meisburg, GC; Robert W. Chester, RD; Robert J. Battista, Chrmn.; Gerald Kobell, RD – Reg. 6; Richard A. Siegel, Assoc. GC. Row 2 (seated): Paulette Jamison, Justin Grgurich, Bernadette Grenzer, Roger Czaia, Pamela Scott, Deann Helget, Olga Bestilny. Row 3: Marie Simpson, Nichole Burgess-Peel, Linda McIlhon, Susan Shaughnessy, Florence Brammer, Sandra Francis. Row 4: Joseph Bornong, Paul Scipioni, Jennifer Hadsall, Kristyn Myers, Deborah Rogers, David Biggar, Robert Reid, David Garza, James Fox, Charles Chermak, Marlin Osthus, Jason Ranne, Sara Frey. (photos courtesy of Joe Bornong)

**Region 18 of the National Labor Relations Board handles Unfair Labor Practice charges and Representation petitions for North Dakota, South Dakota, Minnesota, Iowa, and Western Wisconsin. The Region is comprised of a main office in Minneapolis, Minnesota and a resident office in Des Moines, Iowa. In 2006, Robert W. Chester became the Region's Regional Director. The Regional Director is supported by an outstanding team of managers and staff, which has led the Region to timely processing of both ULP and R cases and a near 100% litigation win rate.**

## **Staff Titles and Approximate Years of Service (YOS) with the NLRB:**

**Regional Director:** Robert W. Chester has 31 YOS.

**Regional Attorney:** Marlin O. Osthus has 30 YOS.

**Marlin supervises the Compliance Officer:** Roger Czaia (19 YOS).

**Deputy Regional Attorney:** James L. Fox has 30 YOS.

**Jim supervises the Minnesota Team (Southern Minnesota and Wisconsin):**

Attorney David Biggar (33 YOS), Attorney Florence Brammer (23 YOS), Attorney Nichole Burgess-Peel (8 YOS), Field Examiner Susan Shaughnessy (31 YOS), and Attorney Marie Simpson (19 YOS).

**Supervisory Attorney:** Pamela W. Scott has 19 YOS.

**Pam supervises the Dakota Team (Northern Minnesota, North Dakota, and South Dakota):** Attorney Joseph Bornong (20 YOS), Attorney Sandra Francis (7 YOS), Field Examiner Jennifer Hadsall (4 YOS), Attorney Kristyn Myers (4 YOS), and Field Examiner Deborah Rogers (33 YOS).

**Des Moines Resident Officer:** David T. Garza has 12 YOS.

**David supervises the Iowa Team:** Field Examiner Robert Reid (30 YOS) and Field Examiner Charles Chermack (1 YOS).

**Office Manager:** Bernadette M. Grenzer has 33 YOS.

**Bernie supervises the Des Moines and Mpls Support Staff:** Secretary to the Regional Director Paulette Jamison (36 YOS), Secretary to the Regional Attorney Olga Bestilny (31 YOS), Automation Staff Assistant/Election Clerk Sara Frey (8 YOS), Compliance Assistant Deann Helget (19 YOS), Office Automation Assistant Zohreh Bourbour (2 YOS), and Des Moines Office Automation Assistant Linda McIlhon (1 YOS).