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NLRB Region 3

Outreach



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Fifth Edition

Niagara Center Building (716) 551-4931
Suite 630, 130 S. Elmwood Avenue
Buffalo, NY 14202-2465

Albany Resident Office (518) 431-4155
Leo W. O'Brien Federal Bldg, Rm. 342
Clinton Avenue and N. Pearl Street
Albany, NY 12207

Email: Region3@nlrb.gov

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Did You Know?

Workplace rights under the National Labor Relations Act

The National Labor Relations Board protects employee rights to join and support unions where they work.

The NLRB protects other employee rights as well.

Employees have the right to act together to raise workplace issues with their employer or to press for changes in wages or working conditions. Such employee actions are known as protected concerted activities.

Unlawful employer actions that are prohibited by the Act include:

- Threatening, disciplining, terminating, or otherwise retaliating against an employee for having engaged in protected concerted activities.
- Prohibiting employees from discussing or sharing information about their wages or working conditions.
- Prohibiting employees from talking about workplace issues on their own time.

Employers who violate the Act generally must cease their unlawful actions, assure employees of their rights, and pay backpay to make employees whole for losses suffered as a result of unlawful actions.

The National Labor Relations Act also protects an employee's right not to participate in unions or in other actions with employees. The Act does not require an employer to grant any specific employee or union demands.

Careful!

• **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 or, they may file electronically through the Board's website at www.nlr.gov. 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. NLRB offices have information officers available to discuss charges in person or by phone, to assist filling out charge forms, and to mail forms.
- You must file the charge within 6 months of the unfair labor practice.

• **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.

- Please do not file a charge and then fail to promptly present your evidence
- The Region will ask the charged party to present a response to the charge, and will further investigate the charge to establish all facts.
- After a full investigation, the Region will determine whether or not the charge has merit.

There are limits to the Act's protections.

The National Labor Relations Act protects employees who act together to raise workplace issues. Employees are *not* protected by the Act when they make complaints or demands for themselves alone.

The Act does *not* protect employees who engage in misconduct, even when the misconduct is intended to support concerted employee action. Threats, violence, or occupation of the employer's premises are among actions generally considered to be misconduct warranting discipline.

Although the right to strike is protected by the Act, an employer may permanently replace employees who are engaged in an economic strike. An employer may not permanently replace employees who are engaged in an unfair labor practice strike. When permanently replaced as a result of an economic strike, a striking employee is entitled to return to work only when a new position becomes available.

The Act provides for backpay to compensate employees for losses resulting from unlawful conduct, but the Act does *not* provide for fines, punitive damages, or, generally, for losses not directly resulting from lost employment.

The Act does *not* require an employer to grant employee demands.

The Act offers other protections and restrictions

The Act also protects an employee's right to join or support a union or to refrain from engaging in these activities.

The Act has procedures for determining by secret-ballot election whether a majority of employees in a workplace want a union to represent them in dealing with their employer over wages, hours, and working conditions.

Where a majority of employees show that they want union representation, the Act requires an employer to recognize and bargain with the union.

The Act requires both unions and employers to bargain in good faith.

The Act requires unions to represent their members fairly.

The Act prohibits unions from picketing neutral employers in order to get them to cease doing business with other employers with whom the union has a labor dispute.

After the Region Makes a Determination

If the Region determines that a charge has no merit—that the charged party has not violated the Act—it will dismiss the charge. The charging party has the right to appeal a dismissal.

If the Region determines that a charge has merit—that the charged party has violated the Act—it will attempt to settle the case. Unless there is a settlement, the Region will proceed to trial to obtain a finding of a violation and an order directing the charged party to undertake remedial actions. The charged party has appeal rights, including a right to a hearing, with a final decision subject to appeal to a federal court.

Remedies for Violations

When there has been a violation, the Act does not impose fines or other direct penalties. Rather, it requires a make whole remedy to correct the violation and its effects.

NLRB remedies require those who have violated the Act to cease the violation, to inform employees that they will respect their rights, to reinstate employees who have been unlawfully fired, and to pay compensation for lost earnings.

Regional Director's Corner



Change is in the air, not only with the fall season, but at the Board as well. In this our 75th Anniversary year, our current Board now has a complement of 4 Board members including newly appointed Mark Pearce, Craig Becker, and Brian Hayes. There is also a newly appointed Acting General Counsel, Lafe Solomon, who may be new to his current position, but is a career employee who was in the Office of Representation Appeals for many years. With these changes in personnel, there are bound to be changes in procedures and priorities. One such change we anticipate will be renewed emphasis on remedies, and a dedication to pursuing them as effectively and efficiently as possible. What that will entail, in part, is a focus on Section 10(j) relief in cases involving organizing drives. Stay tuned for updates.

Additionally, the new Board has been busy deciding cases, including the two member Board decisions impacted by the New Process Steel decision by the Supreme Court. Additionally, the Board has ruled that bannering is lawful, and a divided Board found lawful a requirement that Beck objectors annually renew their objections to paying full membership dues. The Board has indicated they will be reviewing the decision in MV Transportation regarding successor bar issues in a “perfectly clear” successor situation and has invited interested parties to file briefs on this subject as well as on the issue of whether the ruling in Dana regarding voluntary recognition should be modified or overruled.

There are exciting times ahead at the Board and Region 3 will be actively working on outreach activities to discuss new Board decisions and procedures.

Please consider attending our 75th anniversary celebration in Albany on October 5th and our Coffee With the Board Open House on November 9th. If you would like to arrange for a speaker at one of your events, feel free to contact me. I look forward to meeting with you.

Rhonda P. Ley, Regional Director

NLRA Turns 75!

The National Labor Relations Board recently celebrated its 75 year history of enforcing the National Labor Relations Act (NLRA), the primary law governing labor relations between employers and employees in the private sector. On July 5, 1935, President Franklin Roosevelt signed the Act into the law. Since that time the NLRB has remained committed to upholding its responsibility guaranteeing its rights to employees to bargain collectively, if they choose to do so.



How to File a Representation Petition

Filing NLRB representation petitions can be simple and convenient. An NLRB Information Officer can assist you in completing a petition form. Our contact information is on page one of this newsletter. If you complete the petition yourself, keep in mind these helpful tips:

- Know which Regional office will handle your petition. Region 3 covers all of New York except New York City.
- Long Island, Orange, Putnam, Rockland and Westchester Counties. Persons may also obtain service at Region 3's Resident Office located in Albany, New York.
- Prepare your petition on our website at: www.nlr.gov (filing instructions detailed).
- Know the job titles used by the Employer and the employee shift schedules.
- Provide the Region with authorization/membership cards (or other proof of interest) signed and dated by at least 30 percent of the employees in the petitioned-for unit.
- Although 91% of elections are conducted pursuant to election agreements, be prepared for a hearing by knowing: (1) the employer's operations; (2) the community of interests of various employee job categories; and (3) who the "supervisors" are. Hearings are typically held 10-14 days from date the petition was filed.
- Be prepared for the election to be conducted within 42 days from the date the petition was filed.
- Always call the assigned Board agent with questions or concerns.

You are Invited to Join in Celebrating the 75th Anniversary

Tuesday, October 5, 2010

Dean Alexander Moot Court Room, Albany Law School

3:00 p.m. to 5 p.m.

Refreshments to follow in the East Foyer

The Labor and Employment Law Society of Albany Law School,

Region 3, of the National Labor Relations Board, and The Labor and Employment Relations Association, Capital District Chapter cordially invite you to join in recognizing and celebrating 75 years of enforcement of the National Labor Relations Act.

Keynote Speaker: Board Member Mark Pearce, Reflecting on the History of the Act from a Board Member's Perspective

RSVP by October 1 to Albany Resident Officer Barney Horowitz,
518-431-4156

or barney.horowitz@nlrb.gov

SAVE THE DATE!

Attend Our November 9, 2010 Coffee with the Board

Region 3 cordially invites you to meet with the Regional Office Staff on Tuesday, November 9, 2010, in the hearing room at 130 South Elmwood Avenue, Suite 630, Buffalo, New York, from 2:00 p.m. until 5:00 p.m., for an informal meeting with staff to discuss the following topics:

- ❖ Impact of the New Process Steel decision
- ❖ Case processing issues
- ❖ Interesting new Board decisions
- ❖ Recent Region 3 litigation

Please join us for the discussion and refreshments and bring your questions and ideas to share with the Board Staff and your colleagues.

RSVP to Vallana Harris at (716)551-4933 by: November 2, 2010.

Speakers Available

Members of the Region's staff are available to make presentations before any community group, including labor practitioners and unions, classroom groups, the staff of a legal services clinic or a community service agency, as well as those members of the public that they serve, to describe the Act's protections, how the Region investigates and resolves unfair labor practice charges, or any NLRB topic of interest.

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

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

Non-Union Protected Concerted Activity

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

A: Yes. For instance, employees not represented by a union, who walked off a job to protest working in the winter without a heater were held by the Supreme Court to have engaged in concerted activity that was protected by the NLRA and that they could not be lawfully discharged for such action.



(Speakers Available Continued)

To arrange for a speaker and to discuss possible topics, please don't hesitate to telephone Regional Director Rhonda Ley at (716) 551-4934; Regional Attorney Michael Israel (716) 551-4947; Assistant Regional Director Paul Murphy (716) 551-4935; or, in the Albany area, Resident Officer Barney Horowitz (518) 431-4156.

Two-Member Board

From January 2008 to March 2010, the Board operated with three of its five seats vacant. The two remaining members – Chairman Wilma Liebman and Member Peter Schaumber -- issued nearly 600 decisions in cases on which they could agree, setting aside deadlocked or potentially precedent-setting cases for additional Board members. Dozens of the decisions were appealed to federal courts on the grounds that the two-member Board did not have authority to act.

On June 17, 2010, a divided Supreme Court ruled in *New Process Steel vs. the NLRB* that the two-member Board lacked the authority to decide cases. At the time, about 100 of the two-member decisions were pending on appeal before the federal courts; all such cases have been or will be returned to the Board for reconsideration by at least three members. Most of the remaining decided cases have either been closed under the Board's processes or are in some stage of compliance proceedings. For further information and a list of cases that issued between January 1, 2008 and April 5, 2010 while the Board had only two members go to www.NLRB.gov. More detail about the NLRB's plan for considering 2-member cases in wake of the Supreme Court ruling is available on the Board's website under "press releases."

Litigation News

Region 3 is in the process of litigating before a NLRB administrative law judge, a multi-allegation, unfair labor practice case that arises out of an initial union organizing campaign. The unfair labor practice cases involve charges filed against **Deb-El Food Products, Inc.** by the United Food and Commercial Workers, Local 342. The complaint alleges that Deb-El committed numerous violations of Section 8(a)(1) and (3) of the Act including threats and interrogations, and the terminations of five pro-union employees who assisted the union in the organizing campaign. The union has obtained a card majority, and the complaint pleads that the unfair labor practices are sufficiently egregious to preclude the holding of a fair election and thus warrants the imposition of a remedial bargaining order which would require Deb-El to recognize and bargain with the Union. The administrative hearing began on March 16, 2010, and is still in progress. In addition to the administrative hearing, the Region filed a Petition for Injunction in the United States District Court for the Southern District of New York, seeking an order enjoining and restraining Deb-El from

Don't Tell Me I Can't Talk About My Wages!

The National Labor Relations Act (NLRA) protects the rights of both unionized and non-unionized employees. The NLRA protects employee rights to join and support unions where they work, to participate in protected concerted activities with other employees, and to refrain from participating in such activities. Under the NLRA, two or more employees have the right to act together to raise workplace issues with their employer or to press for changes in wages or other working conditions. Such employees actions are known as protected concerted activities.

Employer rules which have a tendency to chill employees in the exercise of these rights violate the NLRA. In this regard, the Board has held, among other things, that employers may not prohibit employees from discussing their own wages or attempting to determine what other employees are paid. The mere maintenance and announcing of these rules is a violation, even if these rules are not enforced. Juniper Medical Center Pavilion, 346 NLRB 650 (2006).

(Litigation News Continued)

engaging in the unlawful conduct alleged in the complaint, and requiring it to reinstate the five discriminatees, and to recognize and bargain with the union. That proceeding is currently being held in abeyance pending the completion of the administrative hearing, at which time the NLRB intends to pursue injunctive relief. Field attorneys Aaron Sukert and Gregory Lehmann are litigating the case.

Region 3 received a favorable decision from an administrative law judge in Times Union, Capital Newspapers, Division of the Hearst Corp.. The complaint alleged that Times Union violated Section 8(a)(1) and (5) of the Act by unilaterally selecting and placing 11 employees on paid administrative leave and then permanently laying them off without first bargaining to a good faith impasse with the union. The ALJ found that Times Union presented the union with a "fait accompli" concerning the layoff because it gave the union insufficient notice and opportunity to bargain about the lay off criteria it had developed. The ALJ ordered that Times Union bargain in good faith with the union upon request about the decision to layoff the employees and also ordered that it offer the 11 employees immediate and full reinstatement to their jobs and a make whole backpay remedy. The case was successfully litigated by Alfred Norek from the Albany Resident Office.

The Board recently upheld an administrative law judge's decision in Rochester Gas & Electric, finding that RG & E violated Section 8(a)(1) and (5) of the Act by refusing to provide the union with certain information and by refusing to bargain over the effects of its decision to discontinue its practice of allowing employees to drive company vehicles to and from work. In affirming the ALJ, the Board rejected RG & E's argument that the union never requested effects bargaining over the decision and noted that the union's references to the monetary impact of the decision and to making employees whole showed that the union was seeking to negotiate over the effects of the decision. The Board ordered RG & E upon request, to bargain over the effects of the decision to discontinue the benefit of allowing certain employees to take their vehicles home after work and to pay each employee the monetary value of his or her benefit, with interest.

Region 3 was involved in obtaining a significant settlement in Momentive Performance Materials, Inc. a case that involved whether an employer was privileged, after reaching an impasse in local negotiations, to implement wholesale changes to the parties' wage structure and job classifications, during the term of a national collective-bargaining agreement, without the union's consent. The Region issued a complaint alleging that Momentive violated Section 8(a)(5) and (d) of the Act by modifying the collective- bargaining agreement regarding the parties' wage scale, wage rates, and wage-step progression system, and that its insistence to impasse on making such modifications precluded a valid impasse in bargaining. The complaint also alleged that Momentive failed to bargain over changes it implemented in job classifications and job descriptions. Ultimately, the parties reached a nonBoard settlement where they agreed on

REGION 3 STAFF

All staff can be contacted via email using the following format: firstname.lastname@nlrb.gov

Buffalo Office

Edward Bantle, Field Examiner
Christina Bryan, Field Examiner
Johanna Buchholz, Co-Op Field Examiner
Jesse Feuerstein, Field Attorney
Doren Goldstone, Field Attorney
Renee Hutt, Field Examiner
Michael Israel, Regional Attorney
Kevin Kitchen, Field Attorney
Chari-Lynn Koppel, Field Attorney
Sandra Larkin, Compliance Officer
Linda Leslie, Field Attorney
Rhonda Ley, Regional Director
Mary Mattimore, Deputy Regional Attorney
Paul Murphy, Assistant to the Regional Director
Marjorie Murray, Office Manager
Patricia Petock, Field Examiner
Lillian Richter, Supervisory Field Attorney
Nicole Roberts, Field Attorney
Ron Scott, Field Attorney
Aaron Sukert, Field Attorney
John Sullivan, Field Examiner
Patricia Wideman, Field Examiner

Albany Resident Office

Barnett Horowitz, Resident Officer
Brie Kluytenaar, Field Attorney
Gregory Lehmann, Field Attorney
Kelly Moore, Field Examiner
Alfred Norek, Field Attorney
David Turner, Field Examiner

(Litigation News Continued)

a new national collective-bargaining agreement with higher wages as well as COLAs. The settlement provided for a substantial backpay settlement to employees.

In **Carr Finishing Specialties, Inc. and G.P.C. Construction, Inc.**, an administrative law judge found that the employers involved violated Section 8(a)(1) and (5) of the Act by their failure to apply the terms of a collective-bargaining agreement to employees performing bargaining unit work. The Region alleged that Carr and GPC were alter egos and/or a single employer under the Act. The ALJ found that GPC was established by Carr as a disguised continuance because they shared common supervision, common labor relations, and financial and operational interrelations. The administrative law judge further found that Carr never told the union that it had established GPC, a factor that indicates an unlawful motivation. The case was successfully litigated by Field Attorney Linda Leslie from the Buffalo office.

Region 3 also received a favorable ALJ decision in **Plant Protection Association National and Plant Protection Association, Local 104 and Guardsmark, LLC**. The complaint which alleged violations of Section 8(b)(1)(A), 8(b)(2) and 8(a)(3) of the Act, involved a union official's threat to an employee because he filed a grievance, and the parties' exercise of an unlawful superseniority clause to deprive the charging party of his bidding rights by natural seniority in connection with shift selection. The ALJ found that the parties were jointly responsible for the violation and ordered a make whole remedy. The ALJ also ordered that Guardsmark offer the charging party the shifts he bid on but was denied because of the superseniority clause. The case was successfully litigated by Field Attorney Aaron Sukert from the Buffalo office.

Representation Case Issues and Developments before the NLRB

By: Paul J. Murphy, Assistant to the Regional Director

It may come as a surprise to many, but the NLRB also investigates and processes WH petitions. The WH petition is a rarely utilized procedure under Section 7(b) of the Fair Labor Standards Act, pursuant to which the National Labor Relations Board will certify that a union is a "bona fide" representative of employees in a given bargaining unit. Once a union is certified as a "bona fide" representative, an employer and union may negotiate limited variances to the overtime provisions of the Fair Labor Standards Act. What makes this procedure especially unique is that it is applicable to public sector employers. In fact, the vast majority of these petitions are filed by public sector parties, where the union can not otherwise be certified as the bargaining representative by the NLRB.

Under this process, petition form NLRB-1026 is filed in the appropriate Regional Office and is given a WH case number. The petition is accompanied by some evidence, normally the parties' collective-

Learn More: Visit Us Online!

The NLRB's website was recently recognized by the National Security Archive as one of the five best in the federal government. Most case-related documents may now be filed through the website with the field offices, as well as the Division of Judges, General Counsel's Office of Appeals, and the Board's Executive Secretary's Office. The redesigned website also provides several options for conducting legal research.

The NLRB website, www.nlr.gov, contains a great deal of additional information about the protections of the Act, Board policies and procedures, and how to contact the nearest Regional Office.



(Representation Case Issues Continued)

bargaining agreement, that the labor organization represents the employees in the bargaining unit. At that point, the Regional Director issues an order to show cause as to why the certification of "bona fide" representative should not issue. A copy of the order is posted on the employer's premises for 14 days, and anyone wanting to respond to the show cause order is directed to do so within the 14 day period. At the end of the period, if no response is submitted, as is usually the case, the Region forwards the case to the Board with a recommendation that the certification issue. If a response is submitted that raises significant issues, a Regional Director may direct a hearing to be held before the matter is forwarded to the Board.

Prior to 2008, no WH petitions had ever been filed in Region 3. Since that time four such petitions have been filed, all involving public sector employers over whom the NLRB would normally not have jurisdiction. In each instance, the 14 day notice period elapsed, and no one responded to the Order to Show Cause. As a result, the Board pro-forma issued the Certification of Bona Fide Representative. Anyone who is interested in examining how the Board treats a WH case when an intervening party objects to the issuance of such a certification is invited to look at the decision in **County of Alameda**, 322 NLRB 614 (1996).

In other news related to representation case processing, on August 27, 2010, the Board, by 3 to 2 votes, granted requests for review in two pairs of cases that raise significant representation case issues. In **Rite Aid Store #6473**, 355 NLRB No. 157 (2010), the Board consolidated two cases that it believed raised significant issues under **Dana**, 351 NLRB 434 (2007), and granted requests for review. In **Dana**, the Board modified the recognition bar doctrine to provide for a 45 day window period following voluntary recognition of a union by an employer during which employees and rival unions could file petitions for an NLRB election. In addition to seeking briefs from the parties in the cases, the Board invited amici briefs from interested parties and asked for information on everyone's experience with **Dana**.

In **UGL-UNICCO Serv. Co.**, 355 NLRB No. 153 (2010), the Board consolidated two cases, and granted requests for review because both matters raised questions as to whether the Board should overrule or modify its decision in **MV Transportation**, 337 NLRB 770 (2002). In **MV Transportation**, the Board reversed a 1999 decision and eliminated the successor bar doctrine. Under the successor bar doctrine, once a bargaining obligation attached for a successor employer, the union was given a reasonable period for bargaining during which it enjoyed an irrebuttable presumption of majority status, and no challenge to its standing as the employees' bargaining representative could be entertained. In **MV Transportation**, the Board eliminated that doctrine and held that when a successor employer inherits a bargaining obligation, the union enjoys only a rebuttable presumption of majority support, and there is no bar to the filing of an otherwise valid petition challenging the union's status.

In granting review in these cases, the Board as it did in **Rite Aid**,

Contact the Region:

There is always an information officer available at an NLRB Regional Office to answer general inquiries or to discuss a specific workplace problem or question. The information officer can offer information about the Act and advice as to whether it appears to be appropriate to file an unfair labor practice charge. If filing a charge does appear to be appropriate, the information officer can assist in completing the charge form.

The information officer at Region 3 may be reached by telephone at:

1-866-667-6572
(Toll free)

or

716-551-4931 (Buffalo)
518-431-4155 (Albany)

Para información en Español llame al:

1-866-667-6572
(Toll free)

TOLL FREE NUMBER:

The Agency also has a toll free telephone number that offers a general description of the Agency's mission, referrals to other related agencies and access to an Information Officer based upon the caller's telephone number. A Spanish language option is also available. Toll free access is available by dialing:

(TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.

(Representation Case Issues Continued)

afforded the parties and interested amici the opportunity to file briefs. Of particular interest to those who appear before Region 3, the second case with which UGL-UNNICO was consolidated was Grocery Haulers, Inc., a Region 3 case, which the Board noted was complicated by a claim from one of the parties that under any circumstance MV Transportation should not apply in a "perfectly clear" successor situation.

Region 3 Co-Sponsored May Labor Law Conference

On May 14, 2010, Cornell University, ILR School presented a well-attended and informative labor and employment law program cosponsored by Region 3 and the New York State Bar Association entitled "The 75th Anniversary of the National Labor Relations Act." Over 120 people attended the program which covered recent developments on critical labor relations issues before the NLRB. Newly appointed Board member Mark Pearce made an appearance and Steve Greenhouse, labor reporter for The New York Times, was the luncheon speaker. Region 3 presenters were ARD Paul Murphy, Supervisory Attorney Lillian Kleingardner and Field Attorney Jesse Feuerstein. Ellen Farrell, Deputy Associate General Counsel, NLRB Division of Advice, Lori Ketcham, Special Ethics Counsel, and John Higgins Jr., Deputy General Counsel, NLRB, all from Washington, DC also gave presentations. Deputy General Counsel Higgins's presentation on the history of the NLRB was accompanied by another historical perspective by Professor James Gross from the Cornell University ILR School.

E-Filing with the NLRB

The National Labor Relations Board strongly encourages you to use the Agency's E-Filing System to file documents electronically in unfair labor practice and representation cases.

To file documents electronically with the NLRB, go to the Agency's website at www.nlr.gov. The website has a list of documents that may be filed electronically with Regional Offices, the General Counsel's Office of Appeals, the Administrative Law Judges, and the Executive Secretary of the Board. The e-filing policy and conditions, as well as instructions can be found on the Board's website. Meanwhile, we encourage you to browse the website and review the following links which are excellent resource tools:

- ❖ **Casehandling Manuals:** an excellent place to begin any research project as they contain the Board's policies and procedures for unfair labor practice, representation, and compliance cases.
- ❖ **Rules and Regulations:** provide the procedural guidelines for the Board's processes, including various deadlines and how different documents may be submitted and served on other parties, including which documents may be filed or served by fax.
- ❖ **Decisions by the Board, ALJs, and Regional Directors:** the most recent legal precedents and how they are being applied. Several

NLRB Releases Videos on Website

In its continuing effort to enhance the public's ability to transact business with the Agency, the NLRB now features the following videos on our site at www.nlr.gov:

“Introduction to the NLRB Public Website, which provides viewers with a guided tour of the Agency's website; How to use CiteNet, which explains how to use the Agency's electronic legal research database of Board and court decisions dating from 1002; and the “Representation Case” video, which is designed to inform the public about the role of the Agency in conducting elections.

(E-Filing Continued)

options for conducting legal research are available.

- ❖ **General Counsel Memos:** the GC's position on novel issues and legal issues of particular interest dating back to 1973. Find insight into what the GC looks for in a quality investigation, for example, see GC 08-06 which includes checklists for the investigation of different types of ULP allegations.
- ❖ **Operations Management Memos:** updates to the Agency's policies in memos dating back to 1985. See, for example, OM 08-54, a discussion of *Grosvenor Orlando Associates, LTD*, 350 NLRB 1197 (2007) which describes a discriminatee's obligation to search for work after a discharge.
- ❖ **Advice Memos:** information on the General Counsel's position on issues for which there is no clear legal precedent.

Changes at the NLRB

Board Member Peter C. Schaumber Departs

Board Member Peter Schaumber recently departed the NLRB. Nominated by President George W. Bush, Member Schaumber left office August 27, 2010, after having served two terms. After his first confirmation by the United States Senate, he took his seat on the Board in December 2002. He was named the Board's Chairman in April 2008, a position he held until January 20, 2009.

As for his plans for the immediate future, Member Schaumber said, “I look forward to taking time off to spend with family, then returning to work in traditional labor law, government affairs and the legislative arena.”

General Counsel Meisburg departs NLRB

The Agency's top investigative and prosecutorial position, the General Counsel has supervisory authority over all Regional Offices and guides policy on issuing complaints, seeking injunctions, and enforcing the Board's decisions.

NLRB General Counsel Ronald Meisburg announced his resignation from the National Labor Relations Board effective June 20, 2010. He will join the law firm of Proskauer Rose LLP.

Mr. Meisburg received a recess appointment to his position from President George W. Bush in January 2006. He was later confirmed by the Senate for a term that was to expire in early August of this year. Previously, he served as a member of the NLRB Board from January to December 2004 under a recess appointment.

Lafe Solomon Named Acting General Counsel

President Obama has named veteran NLRB attorney Lafe Solomon to serve as Acting General Counsel, the top investigative and prosecutorial Position in the agency. The designation was effective Monday, June 21,

Our Service Standards

- We will attempt to answer your questions about the case, consistent with the confidentiality rights of the other persons and the Privacy Act.
- If necessary we will provide bilingual services if we are given sufficient notice of that need.
- We will provide the same treatment to all persons regardless of race, sex, religion, national origin, age, political affiliation, sexual orientation or disability.
- Our facilities are accessible to persons with disabilities. Please let us know if you will need an accommodation.

If you wish, you may be represented by an attorney or other representative of your choice.

(Changes at the NLRB Continued)

2010.

Mr. Solomon, who began his agency career as a filed examiner in Seattle in 1972, directed the NLRB’s Office of Representation Appeals for the past decade. Previously he served in various positions on the General Counsel and Board side of the Agency, including as staff attorney to 10 Board members. He earned a B.A. degree in Economics from Brown University and a J.D. from Tulane University.

Welcome Aboard!

Region 3 Extends a Warm Welcome to the Following New Employees



Edward Bantle – Edward “Ted” Bantle will be joining the Agency as a full-time Field Examiner in January 2011. Ted worked in the Buffalo office as a co-op field examiner over the summer. He has also worked as an intern with the New York State Public Employee Relations Board. Ted will graduate from Cornell University School of Industrial and Labor

Relations in December and join the Buffalo office thereafter.

Johanna Buchholtz – Johanna Buchholz joined Region 3 in July as a co-op field examiner. She will be working in the Buffalo office until the end of the year. Johanna will graduate from Indiana University of Pennsylvania this December with a concentration in employment and labor relations.



Brie Kluytenaar – Brie Kluytenaar joined Region 3 in August as a field attorney. She is a graduate of the University of Connecticut Law School. Prior to coming to the Agency, Brie worked for Greater Hartford Legal Aid and was a hearing officer for the City of Hartford.

Brie, who is fluent in Spanish, will be working in the Albany Resident Office.

Region 3 is always seeking to develop a diverse pool of applicants for consideration for field examiner and field attorney positions both in Region 3 and nationwide.

Rhonda P. Ley, Regional Director
National Labor Relations Board, Region 3

To receive this newsletter electronically send an email including:

- ❖ Name
- ❖ Agency
- ❖ Email address(es) to receive newsletter

to: Katy.Domagala@nlrb.gov.