

BrucePac union campaign becomes test case for legal battle over captive audience meetings

By **DON McINTOSH**
Associate Editor

Two business groups, Associated Oregon Industries (AOI) and the U.S. Chamber of Commerce, have chosen a union campaign at Silverton, Oregon, headquartered BrucePac as the test case in their lawsuit against a new worker freedom of conscience law in Oregon. But from a union perspective, the BrucePac campaign is a poster child for

why the law is needed in the first place. BrucePac is a privately-held cooked meat and poultry processor with a largely immigrant workforce of about 350 employees at two plants in Silverton and Woodburn, Oregon. According to charges filed with the National Labor Relations Board, after employees met in June 2009 with representatives of Laborers Local 296 to talk about unionizing, BrucePac fired 17 union supporters.

It would be illegal to fire workers for supporting a union, so BrucePac covered its tracks, union reps say, by laying off at least 25 other workers. The NLRB issued complaints in two of the charges, which were the subject of a week-long trial in mid-February before an administrative law judge. A decision in that consolidated case is still pending.

BrucePac hired Jackson Lewis, the nation's pre-eminent union-busting law firm, and held several mandatory meetings in the last half of 2009. Workers attending the meetings were reportedly told that signing a union card could put their jobs at risk.

But to hear CEO Glen Golomski, BrucePac was the victim in all this. Golomski, in a document filed in support of the AOI/Chamber lawsuit, complains that BrucePac and its employees have been "subjected" to hand-billing, picketing, and "the display of large inflatable animals," as well as "the dissemination of buttons, T-shirts, and other pro-union paraphernalia."

Local 296 filed 20 unfair labor practice charges on behalf of fired employees. Golomski thinks Local 296 is responsible for the company's other legal troubles as well, including up to six discrimination complaints under investigation by the Oregon Bureau of Labor and Industries, an audit by the Office of Federal Contract Compliance, and a targeted audit of the personnel documents of 27 employees, conducted by U.S. Im-

migration and Customs Enforcement.

But more to the point of the lawsuit, before the Worker Freedom Act took effect, BrucePac's "mandatory group meetings" to provide employees "the company's perspective on the ongoing organizing," were part of its "communication structure," Golomski wrote. To ensure that employees get information about the company's stance toward unionization, BrucePac developed several communication pieces, at a significant cost, including speeches intended to be delivered to large employee groups. Now, Golomski lamented, in order to comply with the mandates of the new state law, "we would be forced to abandon a central tenet of our communication process about the union."

Under the Worker Freedom Act, employers can hold such meetings, but can't punish workers for not taking part; in effect, attendance at the meetings must be voluntary.

"I remain very concerned," Golomski wrote, "that continuing to hold mandatory meetings after Jan. 1, 2010, would expose the company to public ridicule and legal actions." Consequently, he said, BrucePac has refrained from holding mandatory communica-

tions since the law took effect.

AOI found two other business members willing to become test cases by committing civil disobedience in defiance of the law. In legal declarations submitted in support of the lawsuit, Donald Adler, president of Care Medical Equipment, and Robert Freres of Freres Lumber, declared their intent not to post notices about the Worker Freedom Act, as the law requires. But it's not clear the posting requirement is that central to the case. BrucePac is central, because its experience gives AOI and the Chamber a target to sue.

...Worker Freedom Act

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Also in question is whether AOI and the Chamber have legal standing to challenge the law: No workers have yet sued any employers under the new law, so it could be hard to show that any employer has been affected.

Secunda said it's unlikely that there will be a conventional trial in the case, because there's no serious disagreement about the facts. Instead, lawyers for both sides get several opportunities to make written and oral arguments to the judge. Plaintiffs are asking for the judge to issue a quick ruling striking down the law, while defendants are asking the case be dismissed.

Whichever way it goes, the case will have national ramifications, said law

professors in the amicus brief: "The decision in this case will have wide-ranging consequences for tens of millions of American workers and their ability to exercise a free choice concerning whether or not they wish to join a labor union." Signers include William Gould, a former chair of the National Labor Relations Board, and local labor law professor Henry Drummonds of Lewis & Clark Law School.

The AFL-CIO has sought to pass versions of the law in several states, but so far, Oregon is the only state to pass it. It was the top priority of the Oregon AFL-CIO in the 2007 and 2009 legislative sessions. Broken promises to support a similar bill caused a rift between the Washington State Labor Council, AFL-CIO, and some of that state's top Democrats.



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