

NLRB issues complaint over Boeing's move to S. Carolina

SEATTLE — A complaint April 20 by the National Labor Relations Board (NLRB) against the Boeing Co. is a victory for all American workers — particularly aerospace workers in Puget Sound and South Carolina, officials with the International Association of Machinists (IAM) said.

NLRB Acting General Counsel Lafe Solomon issued the complaint, which asserts that Boeing's decision in 2009 to locate a Dreamliner 787 final assembly line in right-to-work North Charleston, S.C., represented illegal retaliation against IAM members who work for the company. The NLRB is seeking a court order requiring Boeing to operate the second 787 line, including supply lines, with union workers in the Puget Sound.

"Boeing's decision to build a 787 assembly line in South Carolina sent a message that Boeing workers would suffer financial harm for exercising their

collective bargaining rights," said IAM Vice President Rich Michalski. "Federal labor law is clear: It's illegal to threaten or penalize workers who engage in concerted activity."

The decision by Boeing to locate the assembly line in South Carolina followed years of 787 production delays and an extraordinary round of mid-contract talks in which the IAM proposed an 11-year agreement to provide Boeing with the labor stability it claimed was necessary to keep 787 production in the Puget Sound area.

The board's action reinforces the fact that "workers have a right to join a union, and companies don't have a right to punish them for engaging in legal union activities," said Tom Wroblewski, president of Machinists District Lodge 751 in Seattle, which represents Boeing workers.

"Taking work away from workers because they exercise their union rights

is against the law, and it's against the law in all 50 states," Wroblewski said.

The Board's complaint comes in response to an unfair labor practice charge filed in March 2010 by District 751. Portland-based Machinists Lodge 63, which represents 1,000 employees at Boeing's parts plant in Gresham, also was party to the complaint.

As a remedy, the NLRB's Solomon demanded that Boeing bring the Dreamliner's second assembly line and the sourcing back to the plants in the Pacific Northwest.

Boeing "made coercive statements to its employees that it would remove or had removed work from the (bargaining) unit because employees had struck and (Boeing) threatened or impliedly threatened the unit would lose additional work in the event of future strikes," the NLRB said.

The labor agency counted five such public statements by Boeing brass.

Leading the parade was Boeing CEO James McNerney on Oct. 21, 2009. "In a quarterly earnings conference call that was posted on Boeing's intranet website for all employees and reported in the Seattle Post Intelligencer Aerospace News and quoted in the Seattle Times," McNerney "made an extended statement regarding 'diversifying Boeing's labor pool and labor relationship,' and moving the 787 Dreamliner work to South Carolina due to 'strikes happening every three to four years in Puget Sound,'" the NLRB reported.

The statements and the move of production and sourcing for the Dreamliner to North Charleston was "because the unit employees assisted and/or supported the union by engaging in the protected, concerted activity of lawful strikes and to discourage these and/or other employees from engaging in these or other union and/or protected, con-

certed activities," the NLRB said.

"Had we allowed Boeing to break the law and go unchecked in their actions, it would have given the green light for corporate America to discriminate against union members and would have become management's new strategic template to attack employees," Wroblewski added.

The NLRB's Solomon said "a worker's right to strike is a fundamental right guaranteed by the National Labor Relations Act. We also recognize the rights of employers to make business decisions based on their economic interests, but they must do so within the law."

An NLRB administrative law judge in Seattle will hold a formal hearing on June 14 on Solomon's charge against Boeing.

(Editor's Note: The AFL-CIO Now News Blog and Press Associates Inc. contributed to this report.)

NLRB investigates rash of worker firings for Facebook posts

By DON McINTOSH
Associate Editor

In an online post to her friends on Facebook, Rebecca Forbes vented about her job.

It came to the attention of her employer, Rock Creek Veterinary Hospital in Aloha, Oregon, and Forbes was fired April 1. Two of her co-workers — Kathy Erickson and Amanda Meyers — also were disciplined, for sympathetic comments they made on Facebook in response to Forbes' post.

Such incidents are becoming increasingly common, says Sarah Drescher, a labor lawyer at Tedesco Law Group in Lake Oswego. Drescher has represented workers in similar cases, and spoke on a panel at an April 20-21 conference on "Discipline in the Age of Social Media" organized by the Oregon chapter of the Labor and Employment Relations Association (LERA).

"More and more people are using social media on a daily basis," Drescher said. "It's become a means of commu-

nication just like the phone used to be."

Except that, unlike telephone remarks, statements posted on Facebook can remain out there for anyone to see.

Forbes has taken down the Facebook post that got her fired. But she also filed a complaint with the National Labor Relations Board (NLRB), arguing that Rock Creek Veterinary Hospital violated federal labor law when it disciplined her and her co-workers for what they said on Facebook.

Such Facebook posts could be considered "protected concerted activity" under the National Labor Relations Act, the law that the NLRB enforces. That law makes it a federally protected right for two or more employees to discuss pay or other work-related issues with each other — whether they're in a union or not.

NLRB currently has six such cases before its Seattle regional director

alone.

"It's an emerging issue," says NLRB Seattle Regional Director Rich Ahearn. "But from our perspective, it's really no different than if these comments were made at the water cooler."

Last October the NLRB took the position — for the first time — that a worker's Facebook posting was protected activity. American Medical Response of Connecticut had fired paramedic Dawnmarie Souza, a member of the Teamsters, after she complained on Facebook about a supervisor. Souza used impolite language, calling him a "17" — paramedic code for a psychiatric patient. Co-workers, and even a supervisor, joined in and commented approvingly, and Souza responded to their comments.

AMR reached a settlement with Souza and the NLRB in February 2011. In the settlement, the company

pledged to revise its over-broad rules about blogging, Internet posting, and communications between employees, and promised not to discipline or discharge employees for discussing work issues when not on the job.

"Whatever protection exists in the workplace also exists in cyberspace," Ahearn said.

Of course, that means union workers may have better protection than nonunion workers. In Oregon and most states, nonunion workers (like the fired veterinary hospital worker) are considered "at will" employees, which means employers don't have to give a reason for terminating their employment. By contrast, union contracts almost always require employers to have "just cause" before they discipline a worker.

Ahearn said the law doesn't give workers a license to make unfounded accusations, but simply complaining about work is likely to be considered protected activity.

For her part, Drescher advises workers to be cautious.

"To avoid problems and make your life easier, don't put your co-workers and supervisors on as your friends on Facebook," Drescher says. "I had a case last year that if the employee had taken that advice, she'd still have her job. People have different sensibilities of what's inappropriate and what's not, and you take some risks if you put things on Facebook — pictures or statements — that co-workers may find offensive morally and will complain about to an employer."

UFCW's Witt explores possible congressional race against Wu

ASTORIA — Union member Brad Witt will form an exploratory committee as he considers a possible primary challenge to Congressman David Wu in Oregon's 1st District.

A union representative for United Food and Commercial Workers Local 555 and a Democratic state rep in House District 31, Witt made the announcement April 30 at the Oregon Machinists Council's (OMC) meeting.

Wu also spoke at the meeting. "I've had some encouragement to run," Witt said. "I want to take a good solid look at what the prospects are."


Wu has been under media scrutiny since his re-election last November for erratic behavior prior to the election that led several key staff members to quit. Witt served as secretary-treasurer of the Oregon AFL-CIO for 14 years. He also was on staff at the Western Council of Industrial Workers (now the Carpenters Industrial Council).

"The 1st Congressional District deserves decent representation, solid representation. I don't think that is happening right now," Witt told OMC delegates.

Witt emphasized that his immediate priority is representing constituents in District 31, which stretches 90 miles along the Columbia River from Sauvie Island to Astoria. "But if polling shows a green light, I'll have to lay some groundwork," he said.

Witt said to have any chance he will need most of labor's support. "This union (Machinists) has backed me in every single race I've been in, including secretary-treasurer of the AFL-CIO. If I don't have your support, there is no reason for me to even think about it."

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Telephone: (503) 288-3311

Editor: Michael Gutwig
Staff: Don McIntosh, Cheryl Rice




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