

Supreme Court drops union neutrality case

Employer neutrality toward unions could be considered illegal in Florida, Georgia, and Alabama

The U.S. Supreme Court has decided *not* to rule on whether it's illegal for a nonunion employer to let union organizers talk to employees, or for a union to ask for that. The very question may seem bizarre to those familiar with U.S. labor law, but it stems from a novel legal argument by the anti-union National Right To Work Legal Defense Foundation. In the case *UNITE HERE Local 355 v. Martin Mulhall*, the group argued that certain elements of what have come to be standard "union neutrality agreements" are in fact illegal. Letting union organizers on the property, giving them a list of employees, and agreeing not to disparage the union, the group argued, amount to giving a "thing of value" to the union, and thus violate an anti-bribery provision in the labor law. That provision makes it a crime for an employer "to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value" to a labor union that represents or seeks to represent its employees.

Incredibly, the 11th U.S. Circuit Court of Appeals agreed with the group's argument, ruling in effect that it would be a criminal offense for an employer to agree to let union organizers on their property. The 11th Circuit Court of Appeals decides federal cases in Alabama, Georgia and Florida. But its ruling contradicted previous rulings by other Circuit Courts of Appeals. So earlier this year, the Supreme Court agreed to hear an appeal of the 11th Circuit's decision, and the two sides presented oral arguments on Nov. 13.

The case originated from an agreement between UNITE HERE Local 355 and Mardi Gras Gaming. Under the agreement UNITE HERE promised to spend \$100,000 to support a Florida ballot measure legalizing slot

machines at racetracks. In return, casino owners, including Mardi Gras, promised to adhere to the union neutrality provisions. Such "neutrality agreements" are a way to sidestep the traditional union election process, which union organizers say can be cumbersome and conflict-ridden. UNITE HERE made good on its pledge, and the ballot measure passed narrowly. But Mardi Gras reneged on its promise of neutrality. The union sued to enforce the agreement. Then the National Right To Work Legal Defense Foundation sued on behalf of anti-union Mardi Gras employee Martin Mulhall, arguing that the agreement itself was illegal.

But on Dec. 10, the Supreme Court changed its mind about whether the Court should rule on the case. The Court didn't explain why it's dropping the case, but Supreme Court Justice Stephen Breyer disagreed with that decision, and so did justices Sonia Sotomayor and Elena Kagan. In his written dissent, Breyer suggests that the case was dropped for technical grounds—that Mulhall may not have proper legal standing to sue (anti-bribery provisions are enforced by the federal government, not by private lawsuits), and also that the agreement in question may be moot because it was set to expire at the end of 2011.

The decision to drop the case means that for now, the 11th Circuit Court ruling stands — for Alabama, Georgia, and Florida.

Breyer wrote that unless the Supreme Court resolves the issue, the differences among the Courts of Appeals could negatively affect the collective-bargaining process. "The Eleventh Circuit's decision raises the specter that an employer or union official could be found guilty of a crime that carries a five-year maximum sentence," Breyer wrote, "if the employer or union official is found to have made certain commonplace organizing assistance agreements with the intent to 'corrupt' or 'extort.'"



In attendance to receive service pins and gold cards are, from left to right: Jim Lang, Nick Lytle, Jerry (Smookey) Westover, Jim Bullinger, Mike Rognerud, Bill Buie and Steve Hall. Handing out the awards were Local 555 Business Manager Brett Hinsley and International Vice President Roger Bettermann.

Cement Masons, Plasterers locals honor longtime members, welcome new journeymen and women

Cement Masons Local 555 and Plasterers Local 82 held their annual Christmas Party, pin presentation and apprenticeship graduation ceremony together Dec. 3 in Portland.

Fifty-year Gold Cards were awarded to Thomas Estey and Terry Kenniston of Local 555 and Larry Bergland, Dominic Criscenti and John Delaittre of Local 82.

Forty-year cards were presented to Bill Blue, James Bullinger, Steven Hall, Steve Meyer, Michael Rognerud and Jerry Westover of Local 555, and Mike Coughman and Donald Davis of Local 82.

Thirty-year awards went to Eric Von Ladau and Billy Wells of Local 555 and to Delbert Bussey, Thomas Roshak, James Russ and Harold Strain of Local 82.

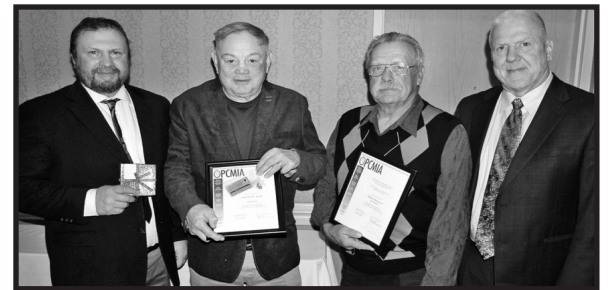
Twenty-five year pins went to D. J. Bauley, Matt Bickford, Roberto Chavez, David Kindt, James Lang, Nick Lytle, Ken Meyer and Hal Wooten of Local 555 and to Kevin Carle, Ed Evans, George Fisher, Charles Knight, Calvin McKinnis, Philip Nicoletti and Ray Rask of Local 82.

Graduates of the 2013 apprenticeship class and new journeymen are Emily Beirnes, Elias Mendoza, Julio Rodrigues, Brian Hemmer, Ryan Mikkelsen and Herb Tauscher.

Making the presentations were International Vice President Roger Bettermann, Local 555 Business Manager Brett Hinsley and Local 82 Business Manager Calvin McKinnis.



Cement Masons apprenticeship coordinator Craig Smith gets graduation certificates and other gifts for new journeymen Elias Mendoza, Ryan Mikkelsen and Brian Hemmer. Hemmer is being congratulated by apprenticeship instructor Jeremy Kendall.



Plasterers Local 82 pin recipients are, from left to right: Calvin McKinnis, 25 years; Steven Hall, 40 years; and Delbert Bussey, 30 years. To the right is international vice president Roger Bettermann. McKinnis is business manager of the local.

Unions raise money for children of Doernbecher

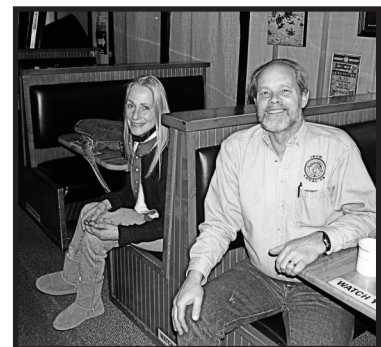


The third annual "Date Night for Doernbecher" was held Dec. 7 at the Midnight Roundup Saloon & Eatery in Gresham. Entertainment was provided by the Norman Sylvester Band. Sylvester, pictured left with vocalist Sarah Billings, is a member of Musicians Local 99 and a 2011 inductee to the Oregon Music Hall of Fame.

The fundraiser for Doernbecher Children's Hospital is sponsored by Unions for Kids. The all-volunteer organization hosts an annual motorcycle poker run in June. The "Date Night" is an off-shoot of the poker run, with all proceeds going to Doernbecher.

The organization's major fundraiser is a raffle for a new Harley-Davidson motorcycle. Over 11 years, Unions for Kids has contributed \$390,000 to the hospital.

This year's poker run is scheduled for June 14. Raffle tickets for a 2014 Heritage Softail Classic motorcycle are now on sale. Tickets are \$10 each, with only 5,000 sold. Tickets are available at IBEW and United Workers Federal Credit Union, 9955 SE Washington St., Portland; Teamsters Council 37 Federal Credit Union, 1020 NE 2nd Ave., Suite 160, Portland, and IBEW Local 48, 15937 NE Airport Way, Portland.



Lee and Kathy Duncan, both members of IBEW Local 48, enjoy the music of the Norman Sylvester Band at "Date Night for Doernbecher." Lee is president of the non-profit Unions for Kids, and Kathy is a committee member.