

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
ATLANTA BRANCH OFFICE

ALPHA BAKING COMPANY

and

Case 13-CA-43723

BAKERY, CONFECTIONERY, TOBACCO  
WORKERS & GRAIN MILLERS INTERNATIONAL  
UNION, LOCAL UNION NO. 1

*Helen I. Gutierrez, Esq.*, for the General Counsel.  
*Mark L. Stolzenburg and Michael Klupchak, Esqs.*,  
for the Respondent.

DECISION

Statement of the Case

GEORGE CARSON II, Administrative Law Judge: This case was tried in Chicago Illinois, on March 26, 2007, pursuant to a complaint that issued on January 23, 2007.<sup>1</sup> The complaint alleges five violations of Section 8(a)(1) of the National Labor Relations Act, all of which are alleged to have occurred in a single conversation that took place on November 7. The Respondent's answer denies all violations. I find no violation of the Act and shall recommend that the complaint be dismissed.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following

Findings of Fact

I. Jurisdiction

The Respondent, Alpha Baking Company, the Company, is an Illinois corporation engaged in the manufacture and distribution of bread, rolls, and other hearth-baked products at various facilities including its facility at 4545 West Lyndale Avenue, Chicago Illinois. The Company annually purchases and receives goods valued in excess of \$50,000 directly from points outside the State of Illinois. The Respondent admits, and I find and conclude, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Respondent admits, and I find and conclude, that Bakery, Confectionery, Tobacco Workers & Grain Millers International Union, Local Union No. 1, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

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<sup>1</sup> All dates are in 2006 unless otherwise indicated. The charge herein was filed on November 16 and amended on January 16, 2007.

## II. Alleged Unfair Labor Practices

### A. Facts

#### 5 1. Background

10 The Company and Union have had a collective bargaining relationship for over 20 years and currently are parties to a collective-bargaining agreement effective from January 1, 2005, through December 31, 2007, that was signed on behalf of the Union by President Jethro Head. The contract contains a three step grievance procedure with the first, Step A, being an informal step at which the grievance is not reduced to writing but is addressed by the union steward and supervisor of the aggrieved employee or possibly a higher ranking manager. At the second step, Step B, the grievance is reduced to writing and is usually handled by Business Agent Beth Zavala who deals with Manager of Human Resources Mike Rosen, Vice President of Human Resources Gary Hibbard, or Plant Manager Phil Stevens. An answer must be provided within 5 days. An unresolved grievance is submitted for a final attempt at adjustment in the third step, Step C. Thereafter, the contract provides for arbitration.

20 The November 7 conversation in which the alleged violations occurred involved Plant Manager Phil Stevens, Union Steward Jorge Lamas, and employee Erasmo Sanchez. The conversation related to the dissatisfaction of Sanchez with his pay.

25 Plant Manager Stevens has worked for the Company for over 13 years. He was sanitation manager for two years and assistant manager for nine years at the Lyndale facility. He became plant manager in 2005. During his tenure as assistant plant manager and plant manager, Stevens has handled 278 written, Step B, grievances. None has gone to arbitration.

30 Union Steward Jorge Lamas has also worked at the Company for over 13 years. He became the third shift group leader about five years ago, a promotion that entitled him to an additional 12 cents an hour more than the highest contractual rate for an employee who is not a group leader. He has served as chief union steward for six or seven years. Lamas was discharged in November or December 2005 after accumulating too many points for attendance violations. A grievance filed on his behalf resulted in his reinstatement. Upon reinstatement, he resumed his position as group leader.

35 Employee Erasmo Sanchez has worked at the Company for 12 years. He, like Lamas, is on the third shift which normally works from 10 p.m. to 6:30 a.m. During the period in which Lamas was absent due to his discharge, Sanchez served as group leader. He unsuccessfully protested the reinstatement of Lamas as group leader to Plant Manager Stevens, arguing that he could do the job and pointing out that Lamas got fired and that he did not get fired. There is no evidence that the Union filed a grievance on behalf of Sanchez in that regard. For several months early in 2006, Sanchez was absent due to a hernia. When he returned, he was restricted to light duty for several months, and the Company hired an additional employee on third shift to perform the heavy lifting that Sanchez could not perform.

45 Lamas and Sanchez both worked on the bun line. On those occasions upon which Lamas' duties as third shift group leader or union steward caused him to be away from the bun line, Sanchez performed the duties of group leader on the bun line.

On or about March 1, Sanchez complained to the Union that he was not receiving group leader pay. The collective-bargaining agreement, Article 8, Section 3, provides that "employees performing work within a higher classification for one (1) hour or more, will be paid the higher

rate.” On March 14, at a grievance meeting concerning another employee, Union Business Agent Beth Zavala raised the claim that Sanchez was performing the work of a group leader but not receiving group leader pay. Zavala assumed that the Company had dealt with the matter since she heard no more from Sanchez. It would appear that the absence of any further complaint was due to the absence of Sanchez due to his hernia.

Sanchez recalls returning to work in May. Zavala recalls that Sanchez again complained to her and that she spoke with Vice President of Human Resources Gary Hibbard who stated that he would look into the matter. At a meeting in August concerning a grievance relating to another employee, Zavala stated that Sanchez “was performing the duties of a group leader and was not getting paid [at that rate].” Hibbard disputed the claim, but asked that the Union provide the Company with the amount that it believed that Sanchez was owed. On September 5, the Union requested, “for possible grievance on pay issue for Erasmo Sanchez,” the schedules and attendance sheets for the third shift from May 21 through June 2006. The information was provided on October 24, following a second request dated October 23.

On October 31, Zavala met with Sanchez and Union Steward Lamas. Zavala determined that more employees on the bun line than Sanchez were not being properly paid and filed a grievance. The grievance does not name Sanchez. It is a class action grievance “[o]n behalf of the Bargaining Unit Members [o]f the Bun Line” claiming that the Company violated the collective-bargaining agreement “by refusing to pay bargaining unit members the appropriate wage scale for the duties they perform.” She left a voice mail message for Stevens in which she informed him that she had met with Sanchez and was filing a grievance because she had “determined that there were more employees that were not getting [properly] paid ....”

The following day, November 1, Zavala testified that she received a telephone call from Stevens in which he pointed out that the bid sheets had only one group leader. He stated that Sanchez was not going to be paid as a group leader and explained that an extra employee had been hired for third shift and that, if he had to pay Sanchez, he would eliminate that employee. Zavala informed Stevens that she would file an information request “on all the employees” and discuss it at a grievance meeting. On November 1, Zavala filed an information request “for possible grievance on pay issue for Erasmo Sanchez” in which the Union requested the rate of pay and classifications of the employees on the bun line and pay record and time card reports for Sanchez and another employee, Carmen Trejo, “for the year 2006.”

Stevens denied being aware at the time it was filed that the October 31 class action grievance related to Sanchez. He recalled an October meeting in which the Union raised the issue of group leader pay and at which he informed the Union that they could “have Erasmo [Sanchez] receive the bump in pay, or they could have the sixth man,” the extra employee hired when Sanchez was restricted to light duty. The Union did not commit itself to either option. Thereafter, he recalled receiving a voice mail message from Zavala stating, “We’ve got a problem with Erasmo’s [Sanchez’s] pay.” Stevens mentioned that message to Lamas, stating that he thought he had made himself clear at the October meeting. Stevens admitted that a settlement reached on December 5 regarding the October 31 grievance included Sanchez.

Whether there was an October meeting or a November 1 telephone call is immaterial. The Company was aware that the Union was requesting more pay for Sanchez, and it gave the Union two options: it would raise the pay of Sanchez and eliminate the extra third shift employee or keep the extra employee. The December 5 settlement resulted in Sanchez receiving group leader pay and the extra employee on third shift being eliminated.

Underlying the complaint of Sanchez regarding his pay is the undisputed fact that, prior

to Stevens becoming plant manager, Lamas and Sanchez had been receiving two extra hours of pay at overtime rates every week pursuant to a “special deal” they made with the former plant manager. This came about after Lamas and Sanchez protested that “the job we were doing ... was too much work.” The record does not establish whether the Union was aware of this arrangement. When Stevens became plant manager, he discontinued this practice.

Relative to payments outside of the collective-bargaining agreement, Stevens testified to an occasion some two and a half years ago, when he was assistant plant manager, upon which Sanchez initially refused to perform emergency mixing work unless he was paid four hours of overtime. Sanchez ultimately performed the work after Stevens stated that he would come from home and perform the work himself. Sanchez denied having requested four hours of overtime and explained that did not remember how to perform the job “because we kept changing the ingredients.” He did not deny that he had eventually performed the work.

Before addressing the testimony of the witnesses regarding the conversation of November 7, I note that vulgarity was common in the plant. As the Respondent’s brief points out, although Sanchez denied using vulgar language at any time, he was contradicted in that regard by both Lamas and Stevens.

## 2. The Conversation of November 7

As hereinafter set forth, although all participants agree that the conversation of November 7 occurred at the end of the third shift in the early morning, each of the participants has a different recollection of how the conversation came about and, to some extent, exactly what was said. I shall recount the testimony and then discuss my findings.

Employee Erasmo Sanchez, who speaks and understands some English, testified through an interpreter. The conversation he recounted was in English. According to Sanchez, he observed Union Steward Lamas in Stevens’ office with secretary Melody Cruz and entered to ask whether Lamas wanted to go eat after they got off work. Stevens entered and stated that he “wanted to talk to me.” Sanchez stated that he did not have time, but Stevens insisted. Stevens asked Cruz to leave and then stated that “yesterday he had received five calls from the woman from the Union and he did not know what the reason was for her calls” and then asked if “we could stop the woman from talking to him.” According to Sanchez, Lamas responded that she was calling about Sanchez not being paid according to the contract. Stevens replied that he did not have to pay Sanchez because he was not doing the work, it was Lamas’ work. Lamas disputed this, saying that “there was not anyone else doing it,” a reference to times that he was off of the bun line. Sanchez testified that Stevens then asked him why he had “gone to fill out a complaint at the Union because he [Stevens] had done a lot of favors” for Sanchez and Lamas,” and then asked “what exactly did I want?” Sanchez answered that he wanted an increase in pay. Stevens responded that he would not pay him any more money and that “if I wanted to quit for the door, right through the door.” Stevens repeated that he would not give Sanchez any more pay, but would give a one dollar increase to Lamas. Stevens again asked Sanchez what he wanted, and Sanchez again stated that he wanted “the increase.” Stevens stated that “that was not what I [Sanchez] was looking for,” but Sanchez stated that it was. Stevens told Lamas to “as[k] the son-of-a-bitch what exactly he wants ... because he is a ... fucking asshole” and that he, Sanchez, wanted “to stick it in my [Stevens’] ass.” Sanchez moved to leave, but Stevens told him not to go, stating that he did not want “the woman from the Union to come and see ... [him],” he wanted “to fix everything now.” Stevens asked Lamas to ask Sanchez whether he understood, and Sanchez answered that he “only wanted the increase.” Sanchez claimed that “at no moment” did Stevens tell him to go speak to Union President Jethro Head.

Union Steward Lamas recalled that he was speaking with secretary Cruz regarding his timecard when Sanchez entered the office stating that he would wait in the parking lot in case Lamas decided to go to breakfast. Stevens entered and, as Sanchez started to leave, asked him to remain because he “wanted to talk to both of us.” Cruz left. Stevens asked Sanchez what was going on, “why [did] he have to go and cry to the Union.” Sanchez answered that it was because he was “not getting paid for what I do.” Stevens replied that Sanchez wanted “to get paid for something that you’re not supposed to get.” Sanchez said that he was doing the group leader’s job, that he and Lamas both did the job. Stevens made a comment about what he was doing for them, an apparent reference to personal favors, but that they were “repaying him by going to the Union.” He then asked Sanchez what was he “really looking for by going to the Union?” Sanchez replied that he wanted to be paid “the two hours [overtime] that he was getting paid before.” Stevens told Sanchez that the reason he was not getting paid the two hours “was because he was opening his fucking mouth on the floor” so that other employees knew about it and were asking why they could not get the two hours overtime, and that if the Union asked him about it, he “wasn’t going to be able to cover it.” He commented, when Sanchez “was asking about ... the two hours” that if Sanchez wanted to quit, “he could take any door of the plant.” Sanchez stated that, if he could not get the two hours, “just pay me the group leader rate.” Stevens stated that he “wasn’t the fucking group leader.” Sanchez said that he was when Lamas had to leave the bun line. Stevens referred him to the bid sheet stating that there was only one group leader and that was Lamas. He then told Sanchez that he was asking for 10 cents, four dollars for 40 hours, and commented that Sanchez was “wasting the Union’s time for silly money.” Sanchez did not reply, and Stevens stated that after what he had been doing “for you this is the way that you pay me, by sticking me in the ass.” He then commented that a supervisor “had to beg him [Sanchez] ... [to use] the knowledge that he got in the bakery.” Stevens asked Lamas to “ask the mother fucker to [tell] us exactly what ... he wants.” According to Lamas, Sanchez made a move to leave and Stevens said to wait, “we’re not finished yet ... [w]e got to straighten this out now, because I don’t want the Union to come back.” Stevens then commented that if he did give Sanchez the group leader rate that he was going to give Lamas a dollar raise and asked if Sanchez would be happy with that. Sanchez said yes. Stevens asked him if he would not tell the Union that Lamas was getting a dollar more. Sanchez said “not now, but maybe next year.” Stevens then asked Sanchez, “What if it was [two dollars] \$2.00?” Sanchez did not reply, and Stevens stated that he could “go and cry to the Union.” Lamas admitted that, near the end of the conversation, Stevens told Sanchez to “go and cry to Jethro [Head],” the President of the Union. Union Steward Lamas was unaware that there was any pending grievance relating to Sanchez.

Stevens recalled that, in the hallway outside his office, Lamas approached him stating that he had received a voice mail from Business Agent Zavala regarding Sanchez, that he wanted to get Sanchez and “let’s talk about it.” The three met in Stevens’ office, and Stevens asked Cruz to leave. Lamas stated to Stevens that he, Stevens, had proposed two options but that “they’re not going to work, we need a third option.” Stevens understood that Lamas was referring to the options of paying Sanchez as a group leader or keeping the extra employee. Although unstated, Stevens believed that the third option was resumption of the extra two hours overtime pay. Lamas stated his desire to solve the matter “before they [Business Agent Zavala and President Head] get involved again.” Stevens responded that there was “no fucking chance, not going to happen. ... [Y]ou guys have option one and two, ... I’m not going to sit here and play games with extortion money. It’s not going to happen.” Lamas stated that Stevens knew “what [Sanchez was] ... looking for.” Stevens replied that “you guys stuck it up my ass before with this overtime extra hours stuff, it’s not going to happen again. Everybody’s getting the wage they have in the contract.” Lamas and Sanchez asked “why can’t they get the money [the two hours of overtime],” and Stevens explained that they had told everybody in the

bakery and that now, “even if I wanted to give it to you, I couldn’t.” Lamas commented that Sanchez was not going to be happy with a raise of 12 cents, the premium paid to a group leader. Stevens agreed and stated that if they wanted any other than that amount “why didn’t they ... go to the Union and tell them the truth, that they want t[w]o hours overtime above and beyond the contract.” At this point, according to Stevens, Lamas and Sanchez began speaking to each other in Spanish, which Stevens understands. “The argument between the two of them wouldn’t die.” Lamas wanted the extra man because it would help with the workload. Sanchez “didn’t give a fuck if we had to lay a guy off,” he wanted “what’s mine.” Sanchez referred to some employees who were making more than he was. Lamas explained that, during contract negotiations, it was agreed that employees who had formerly received a higher rate of pay would have the former rates “red-circled.” [The contract, Article 8, Section 1, confirms that agreement.] Sanchez repeated that he wanted his money. Stevens repeated that it was not going to happen, that he had two offers, “go to Jethro [Head] if you want number three [the two hours overtime], if you don’t there’s a hole in the wall in the front of the building, fucking leave. I’m not going to make you work.” Stevens continued, stating that if he gave Sanchez the 12 cents and Lamas got a dollar, that Sanchez would want a “a dollar and one, that if Lamas got two dollars, Sanchez would want “two dollars and one.” Stevens told Lamas and Sanchez “to get the fuck out” of his office. “You guys obviously don’t want to resolve this, ... go to Jethro [Head] to resolve it.”

It is undisputed that the substance of the conversation related to Sanchez’s desire to receive more pay. Overall, I credit the testimony of Stevens and of Lamas insofar as it is not inconsistent with that of Stevens. The arguments in the brief of the General Counsel are predicated upon my crediting Sanchez. The General Counsel’s brief does not address the failure of Sanchez to admit that he requested reinstatement of the two hours of overtime that he had received from the previous plant manager. Lamas confirms that Sanchez did request reinstatement of the two hours of overtime. Stevens recalls that both asked “why can’t they get the money [the two hours of overtime].” Lamas admitted that Stevens’ statement that, if Sanchez wanted to quit, he could “take any door to the plant,” was made in the context of his refusal to agree to pay Sanchez the noncontractual two hours of overtime. Sanchez also denied that Stevens, “at any moment,” told him to speak with Union President Jethro Head. The General Counsel’s brief does not address the admission by Lamas that, near the end of the conversation, Stevens told Sanchez to “go and cry to Jethro [Head].” I find that Stevens told Sanchez to “go to the Union,” or to Union President Head, at least three times. I do not credit the testimony of Sanchez.

Although both Sanchez and Lamas testified that the conversation occurred at the request of Stevens, I credit the testimony of Stevens that Lamas and Sanchez approached him. If, as Sanchez testified, Stevens had opened the conversation by referring to receiving “five calls from the woman with the Union and he did not know what was the reason was for her calls,” I am satisfied that Lamas would have corroborated that number specific testimony. Lamas did not corroborate that testimony or the assertion that Stevens asked Sanchez if they could “get the woman to stop,” and I do not credit that testimony.

The testimony of Lamas that the conversation began by Stevens questioning Sanchez regarding “why [did] he have to go and cry to the Union” is illogical as is the testimony of Sanchez that Stevens asked him why he had “gone to fill out a complaint at the Union because he [Stevens] had done a lot of favors” for Sanchez and Lamas. Stevens knew why Sanchez had complained to the Union. Sanchez had been complaining since March, and Stevens knew that the Union was requesting more pay for Sanchez. He had offered two options: pay Sanchez as a group leader and eliminate the extra employee on third shift or keep the extra employee.

Lamas testified that Sanchez stated that he was “not getting paid for what I do.” Getting paid for what they felt was too much work was the basis for Lamas and Sanchez obtaining the two hours overtime from the former plant manager, and Lamas noted that Stevens responded that Sanchez was asking to be “paid for something you’re not supposed to get.” Sanchez testified that Stevens asked him “what exactly did I want?” Lamas recalled that Stevens asked Sanchez what was he “really looking for by going to the Union.” Stevens did not specifically deny asking Sanchez what he wanted. I find, as Lamas testified, that Sanchez replied, “the t[w]o hours [overtime] he was getting paid before.”

No violative comments are alleged in the remarks made regarding Sanchez’s having informed other employees of his former arrangement. Lamas’ recollection that Stevens referred to a supervisor having “to beg” him to use his knowledge and sticking him “in the ass” was, as Stevens testified, a reference to the day Sanchez had refused to mix dough unless given four hours of overtime. Stevens attributed that demand to the former plant manager having agreed to make the weekly noncontractual overtime payments, that “you guys stuck it up my ass before with this overtime extra hours stuff, it’s not going to happen again.” Regardless of how the remarks regarding the foregoing were phrased, no violation is alleged with regard to them.

I do not credit the testimony of Sanchez that Stevens said that he did not want “the woman from the Union to come and see ... [him],” or the testimony of Lamas that Stevens stated that the matter needed to be straightened out “now, because I don’t want the Union to come back.” That statement is inconsistent with the admission of Lamas that Stevens told Sanchez to “go and cry to Jethro [Head].”

I specifically credit the testimony of Stevens that he stated that “[e]verybody’s getting the wage they have in the contract” and that if they wanted other than that amount they should “go to the Union and tell them the truth, that they want t[w]o hours overtime above and beyond the contract.” I find that he repeated the direction to go to the Union, stating that he had two options, that, if Sanchez wanted a “third” option, the two hours overtime, “go to Jethro [Head]” and that there was “a hole in the wall in the front of the building” through which Sanchez could leave, that “I’m not going to make you work.” He closed the conversation by telling Sanchez and Lamas that they did not want to resolve the situation and to “go to Jethro [Head] to resolve it.”

#### *B. Analysis and Concluding Findings*

The complaint alleges that Plant Manager Stevens interrogated employees regarding their union activities by asking why they had filed grievances, instructed employees not to go the Union to file grievances, told employees that he did not want to see the Union come with them to talk to him, threatened to withhold employees’ pay in order to discourage their union activities, and threatened employees with discharge because they engaged in union activities.

The evidence does not establish a coercive interrogation. Stevens was aware that Sanchez had complained about his pay, and he had offered the Union two options. Sanchez’s situation had been discussed in March and in August at meetings relating to grievances involving other employees. No grievance on behalf of Sanchez had been filed when those discussions occurred. Stevens was unaware that Sanchez was included in the class action grievance filed on October 31. The word “grievance” was never stated in the conversation of November 7. Although the brief of the General Counsel asserts that Stevens was “well aware of the fact that the grievance had already been filed,” Stevens’ lack of awareness that the Union considered Sanchez to be included in the class action grievance is corroborated by Union Steward Lamas’ testimony that he himself unaware that there was a pending grievance with regard to Sanchez. As stated in the Respondent’s brief, when evaluating whether an

interrogation is coercive, the Board examines the circumstances surrounding the alleged interrogation including the nature of the information sought, the identity of the questioner, and the place and method of the interrogation. *Sunnyvale Medical Clinic*, 277 NLRB 1217, 1218 (1985); *Rossmore House*, 269 NLRB 1176, 1178 fn. 20 (1984). Even if I were to have found that Stevens was aware of a grievance and asked Sanchez why he had “gone to fill out a complaint at the Union,” I fail to see how that question, asked in the presence of the chief union steward, would be coercive. As already discussed, I do not credit that testimony because Stevens was fully aware, irrespective of any grievance, that Sanchez had been complaining since March and that the Union was requesting that he be paid as a group leader. As Stevens credibly testified, he believed that Sanchez was really seeking resumption of the noncontractual payments, and I have found that early in the conversation Stevens asked Sanchez to state “what he wanted.” The brief of the General Counsel does not address the testimony of Lamas, which I have credited, that Sanchez replied, “the t[w]o hours [overtime] he was getting paid before.” The vulgar language cited in the brief of the General Counsel was spoken later in the conversation. I find no coercion in a management official asking an employee in the presence of his union steward about the remedy the employee is seeking in order to resolve the employee’s complaint.

There was no instruction to Sanchez not to go to the Union to file a grievance. Stevens and Lamas agree that Stevens specifically told Sanchez to go to the Union.

I have not credited the testimony of Sanchez that Stevens asked him to stop “the woman” from talking to him and that he did not want “the woman from the Union to come and see ... [him],” or the testimony of Union Steward Lamas that Stevens stated that he did “want the Union to come back.” Stevens, at least three times, directed Sanchez to go to the Union. It is undisputed that Stevens has never refused to speak with representatives of the Union and that he has been involved in the handling of 278 written grievances. There is no evidence that Stevens told employees that he did not want to see the Union come with them to talk to him.

Stevens did not threaten to withhold pay in order to discourage employees’ union activities. Stevens specifically rejected Sanchez’s demand for the noncontractual two hours of overtime. The Union had made no demand for noncontractual payments. Stevens, in rejecting Sanchez’s demand, told him that “[e]verybody’s getting the wage they have in the contract” and that if they wanted other than that amount they should “go to the Union and tell them the truth, that they want t[w]o hours overtime above and beyond the contract.”

Regarding the allegation of a threat of discharge, the General Counsel argues that Stevens’ reference to “a hole in the wall in the front of the building, fucking leave” constituted “a threat to discharge the employees because a grievance had been filed.” The foregoing remark had nothing to do with a grievance. It related to Sanchez’s demand that he be paid the noncontractual two hours of overtime. As set out abut, Stevens stated that he had two offers, “go to Jethro [Head] if you want number three [the two hours overtime], if you don’t there’s a hole in the wall in the front of the building, fucking leave. I’m not going to make you work.” Lamas confirmed that the reference to taking “any door to the plant” was made in the context of Steven’s refusal to agree to pay Sanchez the noncontractual two hours of overtime. I am mindful of Board precedent holding that a suggestion that employees quit if they were dissatisfied with their working conditions constitutes an unlawful threat of discharge when the suggestion is made in response to the employees’ assertion of rights protected by Section 7 of the Act. See *McDaniel Ford, Inc.*, 322 NLRB 956 at fn. 1 (1997). I am unaware of any case holding that an employer’s informing an employee that it intends to abide by the collective-bargaining agreement to which it is legally bound, that wages other than those specified in the contract will not be paid, and that, if the commitment to thus abide by the contract is

unacceptable, the employee can complaint to the employees' collective bargaining representative or quit either impinges upon the employee's Section 7 rights or constitutes an unlawful threat of discharge. The statement of Stevens did not constitute an unlawful threat of discharge.

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Having found none of the violations alleged in the complaint, I shall recommend that the complaint be dismissed.

Conclusions of Law

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The Respondent has not violated the National Labors Relations Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>2</sup>

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ORDER

The complaint is dismissed.

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Dated, Washington, D.C., May 2, 2007

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George Carson II  
Administrative Law Judge

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<sup>2</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.