

20th Century-Fox Film Corporation and Office and Professional Employee International Union, Local 174, AFL-CIO, Petitioner. Case 31-UC-70

January 10, 1978

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS
PENELLO AND MURPHY

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Homer T. Ball of the National Labor Relations Board. Following the close of the hearing, the Regional Director for Region 31 transferred this case to the Board for decision. Thereafter, briefs were filed by the Employer and the Petitioner.

Pursuant to provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, including the briefs, the Board finds:

1. The parties stipulated, and we find, that the Employer, 20th Century-Fox Film Corporation, is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The parties stipulated, and we find, that the Petitioner is a labor organization within the meaning of the Act.

3. The Employer, a Delaware corporation doing business in the State of California, is engaged in the production of television and moving pictures. The parties stipulated that since 1946 the Petitioner¹ has represented employees in the following unit as described since then in successive collective-bargaining agreements, the most recent one being dated February 1, 1976:

All office, clerical, secretarial and accounting employees of the Company, office and tabulating machine operators, switchboard operators, casting clerks, messengers and other persons doing work of a similar nature, excluding casting directors, assistant casting directors, outside messengers attached to the Transportation Department, laboratory shipping clerks, production script clerks, and other employees of the Company

¹ In stipulating that the Union has represented the employees in the bargaining unit, the parties did not explain the fact that the name of the current Petitioner is different from that which appeared on the Board's 1946

covered by the terms of any other collective bargaining agreement, or classified within a group represented by any other collective bargaining representative; confidential secretaries to the officers of the Company, confidential secretaries to the executive head of production in the studio, to the executive manager, to the general production manager, to the executive producers, to the studio treasurer, to the executive in charge of public relations, to the executive in charge of labor relations, to the comptroller of the studio, not more than two confidential secretaries in the Legal Department of the studio, one confidential secretary to the chief auditor of the studio, one confidential secretary to the chief of police of the studio, employees who perform executive, administrative, or supervisory functions during a substantial portion of their working time and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

The attorneys in the Employer's Legal Affairs Department are specialists engaged in the practice of entertainment law. Previously their function primarily was to draft contracts negotiated by the Business Affairs Department with such personnel as actors, directors, producers, cameramen, costume designers, editors, and musicians. They essentially used form contracts which they tailored to the specific needs of each new arrangement. Legal secretaries were also given the task of filling in blanks on these contracts with such information as names, dates, and dollar amounts. Prior to 1974, the 10 attorneys performing this job were able to do all the work because the contracts were relatively simple, the workload was not too great, and the attorneys had no responsibility for the total project, such as a motion picture.

In 1972 and 1973, Fox began a transition in its method of doing business, which ultimately resulted in a reorganization of the Legal Affairs Department. As a result, contract drafting for attorneys became more extensive and creative, attorneys became the legal coordinators for entire projects, and they became involved in complex negotiations involving the projects. The direction of the attorneys' energies towards these new responsibilities caused a tremendous backlog in the drafting of the simpler contracts. Consequently, in the fall of 1974, the Employer

Decision and Certification of Representatives; i.e., 20th Century-Fox Independent Office Employees Guild unaffiliated.

created the position of "paralegal specialists" to draft the simpler contracts and perform other uncomplicated legal functions, thereby relieving the attorneys of a large amount of their workload to meet the additional responsibilities of becoming project coordinators.

The present petition for unit clarification was filed by the Petitioner on March 18, 1977. The issue in this case² is whether or not the above-described existing unit of office clerical employees should be clarified to include the paralegal specialists working in the Legal Affairs Department.³

The Union sought to establish that there is a community of interest between the paralegals and the office clerical employees. Thus, the Union presented witnesses who testified that the contracts which paralegals now draft are basically form contracts involving the filling in of blanks, and that as secretaries the witnesses have drafted those contracts. However, these witnesses were primarily testifying about job duties they had before the position of paralegal specialist was created by the Employer, and many of these secretaries no longer perform the same task they did before the paralegal position was created. Further, it seems obvious that the performance of this duty is not traditionally a clerical function and that only certain of the secretaries were capable of assisting the attorneys in this respect.

There are several job characteristics which distinguish the paralegals from the office clerical employees. Thus, the paralegals are supervised by attorneys,

² We find no merit in the Employer's contention that the petition is insufficient and should be dismissed because it requests "clarification . . . to determine whether the duties and functions of . . . [paralegals] are properly included or excluded from the bargaining unit." This is a technical inaccuracy which is not a fatal deficiency, as the nature of the relief sought

whereas the secretaries and clerks work for paralegals and attorneys and report administratively to the office administrator. Paralegals are salaried, unlike the office clericals who are hourly paid, and the paralegals do not punch a timeclock while the secretaries and clerks do. Unlike the office clericals, the paralegal specialists attend regular meetings with attorneys and receive business cards and the same office distribution of information as attorneys. Paralegals do not type their own work but assign typing jobs to the secretaries. Although there do not appear to be any specific educational requirements for employment as paralegals and a number of former secretaries were promoted to paralegal as a result of on-the-job-training, one has received a paralegal certificate, at least two are college graduates, and all of the paralegal specialists employed at the time of the hearing had attended professional courses at the University of Southern California and at the University of California at Los Angeles through arrangements made by the Employer.

In view of the foregoing and on the entire record in this proceeding, we conclude that the paralegal specialists have interests separate from those of the unit employees and, accordingly, we find that this classification is not an accretion to the bargaining unit. We shall therefore dismiss the petition.

ORDER

It is hereby ordered that the petition herein be, and it hereby is, dismissed.

is clear; i.e., a determination of whether the position of paralegal specialist performing the contract work is an accretion to the existing unit so that the incumbents are properly part of [the] said unit.

³ At the time of the hearing there were approximately eight employees in the category.