

Farah Manufacturing Company, Inc. and El Paso Joint Board, Amalgamated Clothing Workers of America and Amalgamated Clothing Workers of America, AFL-CIO, Co-Petitioners. Case 28-RC-2054

September 22, 1970

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MILLER AND MEMBERS FANNING
AND BROWN

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Robert E. Harding. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, and by direction of the Regional Director for Region 28, this case was transferred to the National Labor Relations Board for decision. Both the Employer and the Co-Petitioners have filed briefs.

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

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

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

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the policies of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Employer is a Texas corporation engaged in the manufacture and distribution of men's and boys' trousers. Its operations are conducted at three locations in El Paso and one location in San Antonio, Texas, which is approximately 600 miles from El Paso. It employs over 6,000 persons excluding management and supervisors, professional employees, guards, and office clerical employees at its El Paso locations.¹

Co-Petitioners seek a unit limited to all full-time and regular part-time cutting department employees of the Employer in Phase III of its 8889 Gateway Boulevard West, El Paso, Texas, plant,² including markers, spreaders, cutters, and miscellaneous cutting department employees, but excluding office clerical, guards, and supervisors as defined in the Act.³ The Employer contends that the only appropriate unit consists of all of its employees at its several plants or, at least, all of its employees at the Gateway plant.

At the Gateway facility, of approximately 3,000 employees, about 260 work in jobs which the Petitioner seeks to include in its unit. The employees work in Phase III of three phases in the main building. The Employer's raw material (cloth) is received here, marked, spread, and cut before being sewn at the Employer's Third Street plant, Paisano Street plant, San Antonio plant, or Gateway facility itself. The sewn garments then reenter Gateway Main at the shipping and receiving area in Phase III from which they left and are transported to a floor storage area in Phase II where they await the next operations, oven-curing and pressing.

The employees sought by the Co-Petitioners work under the supervision of Eric Goldner, who supervises all employees in Phase III of the Employer's Gateway Main building. The employees sought include the markers, spreaders, and cutters. The markers make the patterns which the cutters use in cutting the cloth into pant parts. This cloth is spread on the cutting table by spreaders, and then the cutters move from cutting table to cutting table cutting the material with cutting knife machines. Included within the unit sought are miscellaneous employees whom the record indicates, "assist the markers, spreaders, and cutters."⁴

Phase III is geographically located at the eastern end of the building, and is separated from Phase II by a common wall with passageways allowing for access between Phase III and II. There is virtually no interchange or work contact between Phase III

facility, which consists of three buildings, northwest building, machine shop, and Gateway Main, in which buildings approximately 3,000 are employed

¹ The unit sought appears as amended at the hearing. The Co-Petitioners indicated that they would include plant clericals within the unit, if in fact, plant clericals are employed in the cutting department. In this regard, the record does not disclose whether or not plant clericals are employed in Phase III.

² The Gateway Main building is approximately 200 feet long and 400 feet wide, and consists of three sections, Phase I which was an existing structure into which the Employer moved part of its operations in 1965, Phase II was an additional section built onto Phase I in 1966-67, the two Phases are separated by a 20-foot corridor. Phase III was built in 1968. All three sections or Phases, as they are referred to in the record, are under the same roof. The employees sought in the petition work in Phase III of Gateway Main.

³ But see fn 7.

¹ These El Paso plants include the Third Street plant where 1,300 are employed, the Paisano plant, 2,000 employees, and its Gateway

employees and other employees in the other two phases. The record shows that cutters rarely go outside the cutting area except on occasion to perform cutting of sample garments in the sample room located in Phase I. Although infrequently, on occasion some employees are sent into Phase III for certain material or supplies, and Phase III employees are sent to other areas of the plant for similar purposes. Aside from the above, the record shows that at various times during the year employees are pooled for such purposes as: inventory, sample work, label-changing operations for irregulars and price changes, and whenever major painting or maintenance work is required.

However, within Phase III itself, the record does indicate that there are certain miscellaneous employees some of whom appear to perform duties in assisting the markers, spreaders and cutters in the cutting operation. The record does not indicate who these employees are—their job functions, number, location, or definite information as to their own who have been identified as shipping and warehouse employees, receiving employees, and return clerks. It is not clear whether the Co-Petitioners are seeking to include these employees under the general heading of “miscellaneous employees,” or are in fact seeking to exclude them from the unit sought.⁵

The Phase III shipping and warehouse employees (under the same supervision as employees working in the cutting operation) receive all the raw material to be used in all of the Employer’s operations both at this plant and at the other plants of the Employer. These rolls of cloth are then moved into a cloth storage area or may go into floor storage depending on the nature of the items. When a cutting order is received, the particular material requested is then removed from storage and moved to a work distribution area adjacent to the cutting tables. Subsequently, upon the completion of the cutting, the cut materials are shipped by shipping employees to the Employer’s other facilities or to Phase II for the sewing operations. Upon completion of this process the sewn goods are then returned to Phase III where they are received and subsequently moved into an area in Phase II for further processing.⁶

Thus, the storage and movement of the materials and the cutting of that material are two distinctly different operations. As indicated above, the duties of the shipping and warehousing employees do not

relate solely to supplying and servicing the cutting operation. Their combination with cutting operation employees would therefore constitute a heterogeneous grouping to which the Board does not extend separate representation.

On the other hand, the record also shows that employees engaged in the cutting operations, the markers, spreaders, and cutters, together with the related workers (insofar as we have been able to ascertain their classifications)⁷ do not have the separateness—physical or supervisory—which would warrant a Board finding that they constitute an appropriate departmental unit.

The record does show, however, that all material for the Employer’s entire operations in El Paso, where it employs over 6,000 people, and San Antonio, is initially prepared in Phase III. All markers, spreaders and cutters for the Employer’s entire operations work within Phase III of the Gateway Main building and solely perform their highly skilled functions. The Employer, a manufacturer of clothing, must continually change its styles and fabrics as demanded by consumers and constantly changing fashion trends. As a result of this, a more complicated and skillful cutting operation is essential as these spreaders, markers, and cutters are continually working with a wide range of styles, fabrics, and sizes. Furthermore, as it is pointed out by the parties in their briefs, the Board has held that spreaders, markers, and cutters constitute a homogeneous group of skilled employees with separate interest entitling them to separate representation.⁸

In view of the foregoing, we find that the Employer’s markers, spreaders, and cutters constitute a homogeneous group of highly skilled employees, with interest separate and apart from those of the Employer’s other employees. Accordingly, we conclude that the markers, spreaders, and cutters constitute a unit appropriate for the purposes of collective bargaining.⁹

We find that the following employees of the Employer constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

⁷ With respect to the receiving employees and the return-clerks, on the state of the record, the Board is unable to determine whether their duties are involved with or closely related to those of the employees engaged in the cutting operation.

Likewise, with respect to the “miscellaneous” employees sought, although reference is made in the record to “checkers”, “clearers”, “pattern stapler”, and “raw material handlers”, the record also contains the statement that the term “miscellaneous employees” is used as a catchall phrase to include markers, spreaders, and cutters.

⁸ *Benjamin & Johnes, Inc.*, 133 NLRB 768, and the cases cited therein.

⁹ *Rothchild-Kaufman Co., Inc., d/b/a Tailored Slacks of Hollywood*, 98 NLRB 353, and *Newburgh Mfg Inc.*, 151 NLRB 763. Petitioner is willing to represent a unit smaller than the entire cutting department.

⁵ It is pointed out that in *Farah Manufacturing Co., Inc.*, Case 28-RC-2023, the Petitioner sought to exclude employees who are permanently assigned to Phase III who are performing shipping and warehousing functions. Also, the Petitioner sought to exclude receiving employees east of the plant’s main corridor (which separates Phase I from Phase II).

⁶ The processing includes oven-curing, pressing, and attachment of buttons and labels.

All markers, spreaders, and cutters employed in the Employer's cutting operation located within Phase III of the Gateway Main Building, at 8889 Gateway Boulevard West, El Paso, Texas, excluding all other employees, guards, watchmen and supervisors as defined in the Act.

[Direction of Election¹⁰ omitted from publication.]

¹⁰ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right

to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them *Excelsior Underwear Inc.*, 156 NLRB 1236, *NLRB v Wyman-Gordon Company*, 394 US 759 Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 28 within 7 days of the date of this Decision and Direction of Election The Regional Director shall make the list available to all parties to the election No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed