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

COASTAL CARGO COMPANY, INC.

and **Case No. 15–CA–18215**

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 270

Joseph A. Hoffman, Jr., Esq. and Fernando de Juan, Esq., **for the General Counsel.**
Peyton S. Irby, Jr., Esq., **for the Respondent.**
Louis L. Robein, Jr., Esq., **for the Charging Party.**

DECISION

Statement of the Case

MICHAEL A. MARCIONESE, Administrative Law Judge. I heard this case in New Orleans, Louisiana, on July 8, 2008. The Union (International Brotherhood of Teamsters, Local Union 270) filed the initial unfair labor practice charge on February 28, 2007 and amended it three times, on April 27, 2007, June 7, 2007, and March 18, 2008. Based upon the charge, as amended, the General Counsel issued the complaint on March 28, 2008, alleging that Coastal Cargo, Inc., the Respondent, violated Section 8(a)(1) and (5) of the Act by increasing the wages of unit employees on October 2, 2006, without affording the Union adequate notice and an opportunity to bargain about this change, and/or without first bargaining to a good-faith impasse.

On April 7, 2008, the Respondent filed its answer to the complaint, admitting that it increased its employees' wages on October 2, 2006, but denying that it committed any unfair labor practice by doing so. Although it raised no affirmative defenses in the answer, the Respondent argued at the hearing and on brief that it was permitted to act unilaterally because of exigent circumstances beyond its control. The Respondent also argued that the Union had waived any right to bargain about this wage increase by agreeing in advance that the Respondent could increase wage rates in response to labor market conditions following Hurricane Katrina.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel, Charging Party and Respondent[1], I make the following

[1] Counsel for the General Counsel and Respondent filed Reply Briefs with motions for leave to do so. Both motions indicated that opposing counsel did not object to the filing of reply briefs. In the absence of any objection, I have received the General Counsel's and the Respondent's Reply Briefs and considered the arguments made there in reaching my decision.

Findings of Fact

I. Jurisdiction

The Respondent, a corporation engaged in the longshoreman and stevedoring industry at the Port of New Orleans in Louisiana, annually derives gross revenues in excess of $500,000 for the transportation of freight from the State of Louisiana directly to points outside the State of Louisiana. The Respondent admits that it also performs services valued in excess of $50,000 in States other than Louisiana and that it derives gross revenues in excess of $500,000 for the transportation of freight in interstate commerce under arrangements with and as agent for various common carriers, each of which operates between various States of the United States. Based on its operations, I find that the Respondent is an essential link in the transportation of freight in interstate commerce and is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Respondent admitted that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

As noted above, the Respondent admitted increasing its employees' wages on October 2, 2006. There is also no dispute that the Respondent and the Union have been parties to a collective-bargaining relationship since about 1985, that the most recent collective bargaining agreement expired on September 30, 2005, and that the parties have been negotiating for a new agreement since before that date, without success.[2] The parties' negotiations have already resulted in one Board Order finding that the Respondent violated Section 8(a)(1) and (5) of the Act, about October 17, 2005, when it implemented its "last, best and final offer" in the absence of a good faith impasse. *Coastal Cargo Co.,* 348 NLRB No. 32 (September 29, 2006). The Respondent was ordered to rescind any changes made to employees' terms and conditions of employment as a result of the implementation of its contract proposal, to refrain from making any other changes in employees' wages, hours and terms and conditions of employment, and to bargain in good faith for a new collective bargaining agreement. The charge in this case was filed by the Union during the compliance phase of the prior case.[3]

On October 18, 2005, the day after unlawfully implementing its contract proposal, which took away many benefits that existed under the last contract, the Respondent's Executive Vice President and Chief Operating Officer David Mannella hand-delivered the following letter to the Union's chief negotiator, Business Manager David Negrotto:

> As we discussed during the time we were trying to restore operations after Hurricane Katrina and in negotiations, it may be necessary to pay in excess of the wage rate. As you were advised, if that unusual condition arises, the roster employees will receive equal to or excess of any rate paid to casual employees.
>
> If you have any question, please advise.

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[2] The unit represented by the Union, as defined in the collective bargaining agreement, consists of "all checkers, lift drivers, loaders, flagmen, etc, but excluding Company Supervisory Clerks." Although the agreement established separate wage rates for roster and casual employees, the parties do not agree on the inclusion of casuals in the Unit. This is an issue I need not address here.

[3] Neither the General Counsel nor the Respondent has filed for enforcement or review of the Board's Order in the Court of Appeals.

Negrotto did not respond to the letter at that time. He testified that the only time he and Mannella "discussed" wages prior to receiving this letter was in the context of contract negotiations, when the parties were discussing the rate to be included in the contract. Negrotto denied that there was any discussion about raising the wage rate specifically as a result of Katrina. At most, according to Negrotto, he and Mannella discussed generally the impact of Katrina on themselves and people in the New Orleans area. This was essentially trading "war stories". Negrotto testified that he never agreed that the Respondent could raise wages unilaterally because of the hurricane.

Mannella had a somewhat different recollection of events preceding this letter. According to Mannella, he and Negrotto had "numerous discussions", post-Katrina, before he hand-delivered the October 18 letter. Mannella testified that a common theme throughout these "discussions" was the effect of the hurricane on the supply of labor in New Orleans, such as the high wages being paid even to fast-food workers because of the shortage of workers. Mannella testified that Negrotto "understood" what he was talking about. However, he did not testify to any specific statements made by Negrotto that led him to this belief. On cross-examination, Mannella admitted that Negrotto did not explicitly agree that the Respondent could unilaterally raise wages. He nevertheless insisted that Negrotto "understood" that the Respondent might have to do this.

Negrotto testified that he heard nothing further from the Respondent on this subject until he received another letter from Mannella, dated September 26, 2006, almost one year later.[4] In this letter, Mannella advised the Union:

> In accordance with our letter to you of October 18, 2005, the current labor market requires Coastal to offer increased wages to attract qualified lift operators. As stated previously, roster employees will receive no less than any casual employee.
>
> If you have any questions or comments, please advise.

Negrotto denied have any conversation with Mannella before receiving this letter. Mannella testified that he spoke to Negrotto a couple days before sending the letter. According to Mannella, he told Negrotto that he was going to be providing this letter to the Union, which he described as "confirmation" that, due to labor market conditions, the Respondent was going to increase the wage rate. Again, Mannella claims that Negrotto "understood" that and voiced no objection. Mannella admitted, however, that he never specifically told Negrotto the specific amount of the increase, which employees would be receiving it and when it would go into effect. The only thing he recalled telling Negrotto was that the new rate for roster employees would be higher than that for casuals.

This time, the Union responded to Mannella's letter. On September 29, 2006, Negrotto wrote to Mannella as follows:

> Please be advised that Teamsters Local Union 270 does not recognize your letter of October 18, 2005, because your current contract is in appeal with the National Labor Relations Board.

[4] There is no dispute that the parties did not have any negotiation sessions in the interim, since the Respondent implemented its contract proposal. The parties instead were focused on the investigation and litigation of the prior unfair labor practice charge.

> Additionally, be advised that if there is a change with the current Collective Bargaining Agreement between [the Respondent and the Union] a charge will be filed with the National Labor Relations Board.

Mannella testified that he was surprised by the Union's objection to his letter because he thought he had an agreement to the wage increase. Mannella sent Negrotto a letter on October 3, 2006, expressing his surprise, stating that Negrotto "acknowledged and did not object to our October 18, 2005 letter and indicated verbally your agreement to our September 26 letter." Mannella went on to inform the Union that it was having difficulty attracting qualified lift operators and would not be able to continue in business without a higher wage. When Negrotto did not respond to the October 3 letter, Mannella sent another one, on October 5, stating that

> this issue is causing Coastal to not be able to compete for skilled labor. We do not want to have to turn away customers due to inability to perform the work. Please give consideration to my earlier letter as the roster employees will benefit from this option.

While the parties were exchanging this latest correspondence, the Board issued its order in the prior case. By the time Negrotto responded to Mannella's October 3 and 5, 2006 letters, he had received the Board's order. On October 5, he wrote to Mannella advising him that he had received the order and enclosing a copy for Mannella. Negrotto referred to that portion of the Board's decision stating that the Respondent could not unilaterally make changes to employee's wages, etc. He concluded the letter with the following:

> While I understand your position, it is imperative that both parties adhere to the original contract. As stated in my previous letter, any change to the current Collective Bargaining Agreement between [the Respondent and the Union] will result in a charge with the National Labor Relations Board.
>
> Upon receipt of this letter, we stand ready to negotiate any terms and conditions of the current contract.

After exchanging further correspondence, the parties ultimately met for the first time since the prior unfair labor practice on October 19, 2006. At that meeting, the Respondent gave the Union a letter stating that it had "rescinded any changes made to employees' wages, hours, and other terms and conditions of employment as reflected in our October 13, 2005 contract proposal, that were implemented on or after October 17, 2005." According to Negrotto, the parties met for about an hour and discussed what the "status quo" should be in terms of roster size.[5] No contract proposals were exchanged and there was no discussion of the October 2 wage increase. Mannella admitted that he did not specifically tell the Union on October 19, 2006 that the Respondent had already raised employees' wages, but he believed the Union was aware of this.[6] Negrotto testified that he did not find out the exact amount of the wage increase

[5] Before Hurricane Katrina, there were about 23 roster employees. By October 2006, there were only 9 employees on the roster. The Respondent had been supplementing its work crews with casual employees who did not receive any benefits under the contract and were not covered by the grievance procedure.

[6] The parties held several negotiation sessions between October 19, 2006 and the filing of the instant charge in February 2007, without reaching any agreement on wages or a contract. The last meeting occurred shortly before the hearing, on June 23, 2008, during which the

Continued

until the parties last meeting on June 23, 2008, although he had heard from at least one unit employee that Respondent was paying higher wages that were "all over the board." Negrotto acknowledged that he never specifically asked the Respondent what they were paying the employees, assuming he would learn this through the General Counsel's compliance officer.

Mannella admitted raising the rate for roster employees from $13.25 to 14.50 an hour on October 2, 2006. The Respondent also raised the hourly rate it paid casual employees I and II from the $9.00 and $10.25 rate in the last contract to $10.00 and $12.00, respectively. The Respondent attempted to show that the Union had agreed to this change by citing a contract proposal made at the June 23, 2008 meeting in which the Union was seeking the same rate for roster employees as part of a new collective bargaining agreement. I rejected this proffer because the purpose of the meeting was as much to try to settle the instant case as it was to negotiate a contract. I also ruled that any proposal the Union made after the change was irrelevant to whether the change itself, more than eight months earlier, was unlawful.

The above evidence does not establish, as the Respondent argues, that Negrotto or the Union "agreed" with the Respondent's proposal to raise the wage rate of unit employees on October 2, 2006. Although there is no dispute that Negrotto did not respond to the October 18, 2005 letter, the letter made no specific proposal regarding any change. At most, it advised the Union of the possibility that a wage increase might be needed in the future. Silence in the face of such a notice was not acquiescence in any future wage increase, regardless of its amount and timing. As the Board and courts have historically held, any waiver by a union of the right to bargain about wages or any other mandatory subject of bargaining must be "clear and unmistakable," and will not be lightly inferred. *Metropolitan Edison Co. v. NLRB,* 460 U.S. 693, 708 (1983); *Georgia Power Co.,* 325 NLRB 420 (1998). See also *Melody Toyota,* 325 NLRB 846, 848 (1998). Here, the Respondent sent the Union this letter the day after it unlawfully implemented its last contract proposal, which action the Union protested by filing unfair labor practice charges. Clearly, under the circumstances, I can not find that the Union acquiesced in giving the Respondent carte blanche to raise employees' wages whenever it wanted in any amount.

Mannella's testimony, that Negrotto "agreed" to the wage increase before the September 26, 2006 letter was sent, is not credible. Even Mannella acknowledged that Negrotto never explicitly agreed to the wage increase that was implemented. The most that can be said of Mannella's testimony is that he believed that Negrotto "understood" the labor market conditions affecting the Respondent's operations and was sympathetic to the need to attract and retain employees. In fact, Negrotto said as much in his October 5, 2006 letter, when he objected to any unilateral change. What Negrotto proposed instead is that the parties resume negotiations and address the Respondent's concerns as part of an overall contract settlement. This is hardly an "agreement" that Respondent could raise wages by $1.25 an hour on October 2, 2006.

Having rejected the Respondent's "waiver by agreement" argument, I must address the more substantial defense raised by the Respondent, i.e. "exigent circumstances." In *Bottom Line Enterprises,*[7] the Board held that, "when parties are engaged in negotiations for a collective bargaining agreement, an employer's obligation to refrain from unilateral changes extends beyond the mere duty to give notice and an opportunity to bargain about a particular subject matter. It encompasses a duty to refrain from implementation at all, unless and until an overall impasse has been reached in bargaining for an agreement as a whole." The Board recognized

parties discussed settlement of the unfair labor practice charge in addition to contract terms.

[7] 302 NLRB 373 (1991), enfd. 15 F.3d 1087 (9th Cir. 1994).

only two exceptions to this rule, i.e. delay or avoidance of bargaining by the Union; or "economic exigencies that compel prompt action." Id. The Board has consistently maintained a narrow view of the latter exception, imposing a heavy burden on an employer that seeks to avoid bargaining because of "economic exigency". This exception has thus been limited to "extraordinary events which are an unforeseen occurrence, having a major economic effect requiring the company to take immediate action….Absent a dire financial emergency, the Board has held that economic events such as loss of significant accounts or contracts, operation at a competitive disadvantage, or supply shortages do not justify unilateral action." *RBE Electronics of S.D.,* 320 NLRB 80, 81 (1995) and cases cited therein (citations omitted). Accord: *Harmon Auto Glass,* 352 NLRB No. 24, slip op. at pp. 3-4 (February 21, 2008); *Pleasantview Nursing Home, Inc.,* 335 NLRB 961, 962-963 (2001), enfd. in rel. part 351 F.3d 747, 755-756 (6th Cir. 2003).

The Board, in *RBE Electronics,* supra, further refined the "economic exigency" exception to the general duty to bargain by holding that there may be other economic exigencies that, although not sufficiently compelling to excuse bargaining altogether, would permit an employer to take action without an overall impasse in negotiations. In such circumstances, an employer will satisfy its bargaining obligation by providing adequate notice to the union and an opportunity to bargain over the particular subject matter. Bargaining in good faith in such time sensitive circumstances need not be protracted. 320 NLRB Supra, at 81-82. Even in these circumstances, the Board still requires the employer to prove that its proposed changes are "compelled" by external events that are beyond the employer's control or not reasonably foreseeable. The exception is limited to situations where "time is of the essence." Id.

In *Port Printing AD and Specialties,*[8] the Board applied the above principals to a case where an employer had unilaterally laid off employees and thereafter used nonbargaining unit employees and supervisors to perform bargaining unit work. The layoff at issue occurred when the employer was forced to close its facility by a mandatory evacuation order from the mayor due to the impending arrival of Hurricane Rita, Katrina's sister in wreaking havoc and destruction. About a week later, when the Respondent resumed operations, it used the nonunit employees to perform the work done by laid off unit employees. The Board found that the hurricane and evacuation order were the type of economic exigency recognized in *Bottom Line* and its progeny and excused the employer's unilateral action in laying off the employees. However, a majority of the Board found that the decision to use nonunit employees to perform unit work was not excused by the hurricane. The Board found that the need for immediate decisionmaking created by the hurricane was over by the time the employer made this decision. The employer had sufficient time to bargain over this decision but failed to do so. The Board thus found a violation of the Act.

In *Pleasantview Nursing Home,* supra, the Board dealt with a situation similar to that here. In the midst of negotiations for a new collective bargaining agreement, the employer unilaterally raised the wages of certain employees in the unit, claiming that it was unable to attract new recruits due to a tight labor market. The Board rejected the employer's economic exigency defense, finding that it was not the type of extraordinary event justifying unilateral action. Nor was the employer entitled to rely upon the lesser bargaining obligation recognized in *RBE Electronics,* supra. As the Board found, the employer failed to show that "time was of the essence" with respect to its employment situation, and that "prompt action" was "compelled independent of the overall ongoing bargaining process. 335 NLRB Supra, at 962.

In this case, Mannella testified that the Respondent was "compelled" to increase the

[8] 351 NLRB No. 91 (December 28, 2007).

wage rate of its roster employees on October 2, 2006 because of the labor market conditions in New Orleans post-Hurricane Katrina. According to Mannella, the Respondent's roster had been reduced by half as a result of employees not returning to New Orleans following the storm. Mannella also testified that two roster employees chose to leave for higher pay in the construction industry. However, when pressed for specifics, Mannella was unable to identify a single employee who left for higher pay. In addition, although the Respondent's roster had been depleted since the storm, and despite requests from the Union in negotiations that Respondent increase the size of the roster, the Respondent chose not to add any casual employees to the roster.

Although the labor shortage in New Orleans following Katrina is documented by Labor Department reports placed in evidence by the Respondent, Mannella admitted this had been a problem since immediately after the storm. Nevertheless, the Respondent waited more than a year to increase the wage rate to address this shortage. According to Mannella, the Respondent had been "monitoring" labor conditions since the October 18, 2005 letter to the Union, but only decided to raise its wage rates a few days before September 26, 2006, the date it notified the Union that "the current labor market requires Coastal to offer increased wages to attract qualified lift operators." When pressed on cross-examination, Mannella could not point to a specific event that dictated this decision at that time.

The Respondent also relies on the testimony of its Hiring Superintendent John Duke and General Manager Don Zemo to establish the need to raise wages. However, as with Mannella, this testimony is devoid of any specifics that would explain why the Respondent had to act unilaterally on October 2, 2006. Duke testified that roster employees had been coming to him threatening to leave for higher pay since soon after Hurricane Katrina. He cited the higher pay available at two competitors in the port, one an ILA-represented company and the other a non-union one. But both employers had historically paid higher wages than the Respondent, even before the storm. Duke and Zemo also testified that the Respondent attempted to address the labor shortage by offering forklift training to new hires, presumably casuals, but that the individuals receiving this training would leave for higher pay in construction once they got their OSHA certification. Again, this was an ongoing problem which started with the first class of trainees in late 2005. As with Mannella, when pressed to identify a single employee who quit for higher pay, Duke was unable to do so. Zemo testified that he was aware of the employees' concern about pay from reports he received from Duke, yet he also could not cite any specifics as to employee and date. What Zemo did acknowledge is that the Respondent's management had been discussing an increase in the wage rate for roster employees since mid-2006, but did not make a decision to make a change until late September. When asked if the date chosen for the increase, October 2, was a "magic date", Zemo said it was not. Zemo candidly testified that it would not have made a difference if the rate was increased on September 2, 2006 or November 2, 2006.

Having considered the evidence offered by the Respondent, I conclude that the Respondent has not met its heavy burden of proof that "exigent circumstances" required the Respondent to act unilaterally. As is clear from the above recitation of the evidence, there was no extraordinary unforeseen event in September 2006 that required immediate action. The extraordinary event here, as in *Port Printing AD and Specialties,* supra, was the hurricane itself. But that occurred more than a year before the Respondent took action. Respondent's own witnesses acknowledged that the labor shortage was an ongoing problem for that whole period but never once did the Respondent approach the Union with a specific proposal to increase wages. In fact, according to Zemo, Respondent had been considering a wage increase since June or July, 2006, yet it never sought the Union's input on such a matter of critical concern to the employees it represented. Under these circumstances, the Respondent was not privileged

to act unilaterally and change employees' wages outside the process of collective bargaining.

Even considering the Respondent's actions under the lesser standard of *RBE Electronics*, supra, I find that the Respondent has not met its burden. The Respondent has not shown here that "time was of the essence" in raising its roster employees' rates. In fact, according to Zemo, the Respondent could have waited until November 2 and it would not have made a difference. So, why not bargain with the Union before implementing the change? Even if the Respondent had shown that it faced the type of exigent circumstances that would permit a more limited bargaining obligation, it certainly did not satisfy even that lower standard. See *Pleasantview Nursing Home,* 335 NLRB, supra, at 963. The Respondent gave the Union no notice before implementing the change regarding the amount of the increase it was proposing or even when it would go into effect. Moreover, the Respondent went ahead and implemented the increase on October 2 in the face of the Union's objection and demand for bargaining. The Respondent's action also coincided with an order from the Board directing the Respondent to rescind previous changes and to refrain from making any more changes until it bargained in good faith with the Union. Any "negotiations" that may have occurred between October 19, 2006 and June 2008 were tainted by the Respondent's unilateral action and could not have retroactively cured the violation.

Based on the above and the record as a whole, I find that the Respondent increased the wage rate of unit employees on October 2, 2006 without providing the Union with adequate notice and an opportunity to bargain. Accordingly, I find that the Respondent violated Section 8(a)(1) and (5) of the Act as alleged in the complaint.

Conclusions of Law

By unilaterally increasing the wage rate of unit employees on October 2, 2006, the Respondent has failed and refused to bargain collectively with the Union and has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. At a minimum, the Respondent will be ordered once again to refrain from changing the wages, hours and other terms and conditions of its employees until it has satisfied its statutory bargaining obligation to the Union, to bargain with the Union upon request, and to post a notice to employees. The more difficult aspect of fashioning a remedy here involves how to restore the parties' relationship to the status quo that existed before the Respondent's unlawful conduct.

The General Counsel specifically requests an order requiring the Respondent to return the wages of roster employees to the rates set forth in the collective bargaining agreement that expired in September 2005. According to the General Counsel, this is the only remedy that will restore the Union to the bargaining position it held prior to the unlawful conduct, thus giving it leverage to engage in meaningful bargaining. Such a remedy however would reduce employees' wages by $1.25 an hour. The Respondent objects to such a remedy, arguing that it would surely result in the exodus of the majority of the employees remaining on the roster and leave the Respondent incapable of operating its business. Under the Respondent's view, the parties should start bargaining from the current rate of pay, citing the Union's June 23 proposal as an acknowledgment that this rate is satisfactory.

The problem with the General Counsel's recommended remedy is that, while the Union would gain leverage in bargaining since it could trade the wage increase the Respondent wants for something the Union wants, it would almost surely lead to disaffection of the employees from the Union. On the other hand, the remedy proposed by the Respondent would essentially leave the Union with nothing left to bargain over, thereby continuing the corrosive effect of the Respondent's two unfair labor practices.

Having considered the matter, I shall adhere to the policy of the Board enunciated in *Boise Cascade Corp.*:

> In cases where the Respondent has granted benefits to unit employees unilaterally but on a nondiscriminatory basis, the Board makes clear that, absent a request by the employees' union to bargain over a particular grant of benefits, the Board's order is not to be construed as requiring the employer to rescind benefits. When benefits are in the hands of employees and the only unlawfulness in their original grant is that the union was not consulted, it makes sense to leave it at the option of the union whether to leave things as they are or to reopen the subject and bargain over the particular grant. A Board order requiring a change in the status quo to the detriment of all the employees would not effectuate the purposes of the Act.

304 NLRB 94, 96 (1991). See also *Steel-Fab, Inc.,* 212 NLRB 363, fn. 1 (1974).

Accordingly, I shall recommend that the Respondent be ordered to rescind the wage increase only if requested to do so by the Union, after it has had an opportunity to consult its members and the employees it represents as to an appropriate course of action.[9]

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[10]

ORDER

The Respondent, Coastal Cargo Company, Inc., New Orleans, Louisiana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Unilaterally changing the wages, hours, or other terms and conditions of employment of its employees in the bargaining unit represented by International Brotherhood of Teamsters, Local Union No. 270 (the Union).

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[9] The General Counsel requested as part of the remedy a "make whole order". It is hard to imagine how any employee lost money as a result of the Respondent's unilateral wage increase. In the absence of such evidence, I shall not recommend the traditional make whole relief for a unilateral change.

[10] 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.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Upon a request from the Union, rescind the wage increase granted to unit employees on October 2, 2006 until such time as the parties have bargained in good faith to an agreement or impasse on the wages to be paid to unit employees.

(b) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> All checkers, lift drivers, loaders, flagmen, etc. employed at the Respondent's New Orleans, Louisiana facility excluding Company Supervisory Clerks, guards and supervisors as defined in the Act.

(c) Within 14 days after service by the Region, post at its facility in New Orleans, Louisiana, copies of the attached notice marked "Appendix."[11] Copies of the notice, on forms provided by the Regional Director for Region 15, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 2, 2006.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., September 29, 2008.

_____
Michael A. Marcionese
Administrative Law Judge

[11] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT unilaterally make changes to your wages, hours, or other terms and conditions of employment without bargaining in good faith to agreement or impasse with your Union, the International Brotherhood of Teamsters, Local Union No. 270.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon a request by the Union, rescind the wage increase we unlawfully granted you on October 2, 2006 until we are able to bargain in good faith to an agreement or impasse on the subject of wages.

WE WILL, upon request, bargain in good faith with your Union concerning your terms and conditions of employment and, if an agreement is reached, embody the understanding in a signed agreement.

COASTAL CARGO COMPANY, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

1515 Poydras Street, Room 610
New Orleans, Louisiana 70112-3723
Hours: 8 a.m. to 4:30 p.m.
504-589-6361.

JD(ATL)–37–08

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 504-589-6389.