

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: April 6, 2001

TO : Roberto G. Chavarry, Regional Director
Region 25

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: Wal-Mart
Case 25-CA-27387 (Muncie)
Case 25-CA-27388 (Anderson)
Case 25-CA-27387 (Noblesville)

These cases were submitted for advice pursuant to Operations-Management Memorandum OM 00-24 for coordination with other Wal-Mart cases seeking a nationwide remedy.

Case 25-CA-27387 (Muncie)

On August 15, 2000, the Store Manager required two Union agents to obey Wal-Mart's "15' Rule" and handbill at least 15' away from the store entrance. Thereafter, three new trashcans were placed near the entrance. A Wal-Mart manager, also stationed near the entrance, observed all handbilling until the Union agents left.

The Region concluded that the Employer lawfully enforced its "15' Rule," but violated Section 8(a)(1) by unlawfully surveilling the Union's handbilling.

Case 25-CA-27388 (Anderson)

Also on August 15, 2000, the same two Union agents were advised that they could not handbill within 15' of this store entrance. The Region concluded that Wal-Mart lawfully enforced its "15' Rule."

Case 25-CA-27387 (Noblesville)

Also on August 15, 2000, three store managers approached the same two Union agents who were preparing to handbill outside the store. The managers stated that the Union agents had to leave because "Wal-Mart doesn't support unions." Police later appeared and evicted the agents, threatening them with arrest if they returned. The Region concluded that Wal-Mart did not disparately enforce its property rights because there was no evidence showing that Wal-Mart allowed other groups on the outside of its property.

[FOIA Exemptions 2 and 5

.]¹ The Region thus may proceed as follows. [FOIA Exemptions 2 and 5] the charges involving the Muncie and Anderson store should be dismissed for the reasons stated by the Region. As to the Noblesville store we conclude complaint should issue, absent settlement.

In that regard, we note that Wal-Mart has admitted that its nationwide "15' Rule," which was lawfully applied here in both Muncie and Anderson, does allow outside organizations to solicit on exterior store property at least 15' away from store entrances. The manager in Noblesville, however, ignored the "15' Rule" and instead discriminatorily excluded the Union organizers from anywhere outside the store. The Region thus should issue complaint, absent settlement, on this total denial of outside store access in Noblesville.²

B.J.K.

¹ [FOIA Exemptions 2 and 5

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² Wal-Mart has offered to settle similar mis-applications of its nationwide "15' Rule" by store managers in other locations, e.g., Case 6-CA-31781 (Buckhannon, WV and Grafton, WV) and 9-CA-38132 (Beckley, WV).