

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 94-12

September 26, 1994

TO : All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM : Fred Feinstein  
General Counsel

SUBJECT: Press Relations

On April 22, 1994, in Memorandum GC 94-4, Regional Directors were given the authority, in the exercise of their sound discretion, to issue press releases describing Regional casehandling activity of significance. Several Regional Directors regularly issued press releases prior to Memorandum OM 91-98, and they have already resumed doing so.

In my view, it is vitally important for the business and labor-relations community, and the public to be aware, not only of the existence of the National Labor Relations Act, but of its vitality as well. The Act has withstood the test of time as the preeminent statute protecting the rights of employers, employees, and labor organizations. As we approach the Board's 60th anniversary, the message that we continue to vigorously and sensitively enforce its provisions should be communicated. It is equally important that our message reach those who desire to exercise their rights under Section 7 of the Act as it is those who would violate the law. Public awareness of our activities may also serve as a deterrent to unlawful conduct, and as an incentive for settlement.

Accordingly, as you administer the Act by issuing complaints, filing Section 10(j) and 10(l) petitions, achieving settlements, issuing decisions and conducting elections, please identify those events that are newsworthy and, either by press release or a copy of the document, provide the information to the appropriate news organizations in your Region. Manifestly, some stories will be of interest solely to the local newspaper in the area of the activity, while others will have significance in the larger metropolitan areas and media markets. If you have not already done so, the Region should establish a positive working relationship with local reporters, so that they will feel comfortable in asking questions and relying upon the accuracy of the information transmitted to them and also be better informed about our responsibilities. You should maintain a listing of the names and addresses, phone and fax numbers of reporters who cover the labor beat in your jurisdiction so that material can

routinely be supplied to them. Copies of your lists, once they are compiled or updated, should be sent to the Division of Information so that they can enlarge their current database. You may wish to designate a particular individual to be responsible for preparing press releases and responding to requests for specific information, but the Regional Director retains responsibility for substantive communication with the media. See Memorandum 74-59, dated September 23, 1974. Press releases may contain an "embargo date or time" in order to ensure that the parties receive notification of your action before it is published in the newspaper or broadcast by the news media.

We have attached to this memorandum several sample copies of press releases which have issued either from Washington or from other Regional Offices concerning newsworthy events. In each instance, the release supplies sufficient information, including a quotation for attribution, which will enable the reporter to write a fairly complete story. Recently, we have added the names of the Regional personnel who were primarily responsible for the case, in addition to the Regional Director, and as set forth in Memorandum GC 94-4, I request that you do so as well.

David Parker, the Director of the Division of Information, stands ready to assist you in preparing press releases, in reaching out to the press, and in developing an ongoing relationship with the media. You may wish, for example, to set up regular press briefings, and establish a mechanism for conducting special briefings or press conferences on short notice. The establishment of a relationship with the press and the development of a rapport with them can be an important component in ensuring that our message is communicated both fairly and accurately. The upcoming 60th anniversary presents an excellent opportunity to showcase the Board, and its staff, particularly during Public Service Recognition Week, which occurs in May. No governmental agency has a better grouping of highly skilled and dedicated individuals on its staff, and our availability to the public is an important means to further the policies and objectives of the Act.

Please be sure to fax copies of any press releases issued, including Section 10(j) injunction cases, to the Division of Operations-Management so that they can deal with the national media, or answer questions that are addressed to them. Operations-Management also will provide copies to the Division of Information. Please continue, of course, to send in copies of any local news articles or letters to the editor that involve the Agency, to the Division of Information for inclusion in the Daily Labor News. You should feel free, in appropriate circumstances, to respond to letters to the editor as well.

In sum, please consider as one of my priorities bringing to the attention of the public significant events involving the work of this Agency. The dissemination of accurate information about our work is clearly in the public interest, and will assist us in accomplishing the Agency's mission. It also will help to acknowledge the efforts of our hardworking staff.

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F. F.

Attachments

cc: NLRBU





# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
11 a.m., Tuesday, September 13, 1994

(R-2012)  
202/273-1991

## **Statement by NLRB General Counsel Fred Feinstein on \$30 Million Backpay Settlement of 1987 National Football League Players' Strike Litigation**

As General Counsel of the National Labor Relations Board, I am pleased to announce the settlement of litigation arising out of the National Football League's 1987 players' strike. The settlement agreement includes \$30 million in backpay, bonuses, and interest to be distributed to over 1,300 players, who participated in the strike. The \$30 million constitutes the largest backpay award in the history of the National Labor Relations Board.

The litigation arose in 1987, based upon charges filed with the agency by the National Football League Players Association. The central charge alleged that the League's Management Council and the teams had unlawfully refused to allow returning striking players to participate in the games immediately following the end of the strike. The trial, lasting over a year and a half, began in March 1988, culminating in a decision issued by the Board in September 1992. The Board found that the denial of the returning strikers the right to play or be paid, as well as other acts by League management, such as the withholding of game checks for certain injured reserve players, constituted unfair labor practices in violation of the National Labor Relations Act.

The significance of this settlement is that it underscores the fundamental principle that when the law is violated we will enforce it fully and fairly. This is not about sports per se, it's about protecting the rights of employees to engage in collective bargaining, irrespective of the type of work they perform.

The negotiations leading to the \$30 million settlement negotiations were conducted by Baltimore Regional Supervisor and lead Trial Attorney Eric Fine, Deputy Assistant General Counsel of the Appellate Court Branch Howard Perlstein, and Baltimore Compliance Officer Elizabeth Tursell and Compliance Supervisor Shelley Korch. The Baltimore Regional Office is currently in the process of finalizing the procedures for distributing the backpay checks. The backpay distribution is expected to occur within the next couple of months.

I wish to express my thanks to the National Football League Players Association, to the League's Management Council, and to the agency personnel for their cooperation and efforts in bringing this matter to a successful conclusion.

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# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
Friday, September 9, 1994

(R-2010)  
202/273-1991

## **FEDERAL COURT IN CALIFORNIA GRANTS NLRB PETITION FOR BARGAINING ORDER AT NEW BREED LEASING CORP.**

The National Labor Relations Board has obtained a temporary injunction from a federal district court in California ordering New Breed Leasing Corp. to recognize and bargain with the International Longshoremen's and Warehousemen's Union (ILWU) and its Locals 13 and 63, in separate bargaining units of longshore and clerical employees.

The court also ordered the company, a service contractor operating the U.S. Army container freight station at Compton, California, to offer positions to employees of the former contractor, Maersk Pacific Limited, which had a collective bargaining agreement with the ILWU, and to restore the conditions of employment which had prevailed at Maersk.

This relief was based on a showing that the Board had demonstrated a "strong likelihood" of success in the underlying administrative proceeding now pending before the Board that New Breed had violated the National Labor Relations Act. The injunction petition alleged that New Breed had unlawfully failed to hire Maersk employees for its workforce, and that it was a successor employer, for labor law purposes, to Maersk.

Pursuant to the August 22, 1994 order from U.S. District Court Judge A. Wallace Tashima, Central District of California, New Breed was ordered to offer former employees of Maersk their former or substantially equivalent positions; to recognize and bargain, upon request, with the ILWU; and to restore the wages, hours and other terms and conditions of employment which prevailed with Maersk, and maintain those conditions pending good faith negotiations with the ILWU. Approximately 12 former employees of Maersk are covered by this order. Judge Tashima's order issued pursuant to Section 10(j) of the National Labor Relations Act, which authorizes federal district courts to grant temporary injunctive relief to maintain or restore the lawful status quo pending the Board's adjudication of the unfair labor practices.

On August 24, 1994, the Judge denied New Breed's motion for a stay of the injunction pending their appeal to the U.S. Court of Appeals for the Ninth Circuit, but issued a temporary stay until September 7, 1994, to allow New Breed to move the Circuit for a stay pending appeal. On September 7, the Circuit Court denied the company's motion for a stay. The company's appeal is pending.

NLRB General Counsel Fred Feinstein commented:

"This case demonstrates the effectiveness of Section 10(j) for giving prompt relief to employees who are adversely affected by unfair labor practices. The judge's decision restores employees to their former positions and working conditions, and restores the bargaining relationship, pending administrative proceedings on the unfair labor practice complaint.

"I am pleased that the court agreed with our request for interim relief. Because New Breed has a fixed-term service contract, the normal administrative remedies may well occur too late to provide meaningful relief to the affected employees."

General Counsel Feinstein has placed a priority on identifying appropriate injunction cases and moving them expeditiously into the courts. Since taking office in March, the Board has authorized him to file 57 Section 10(j) petitions with a success rate of 85 percent, consistent with the historical rate.

The case arose when New Breed was awarded a two-year service contract at the Compton facility, effective April 1, 1994. Maersk had operated that facility for several years, during which time it had a collective-bargaining agreement with the ILWU. New Breed hired its own workforce, without considering the ILWU-represented employees of Maersk; established its own terms and conditions of employment for these new employees; and declined to recognize the ILWU. NLRB's Region 21 in Los Angeles had issued an administrative complaint against New Breed, in May 1994 alleging the above actions to be unlawful. The complaint is scheduled to be heard before an NLRB administrative law judge on September 26, 1994 in Los Angeles.

The region's complaint seeks a bargaining order under the authority of the Supreme Court's decision in *NLRB v. Burns International Security System, Inc.*, 406 US 272 (1972) in which the Court held that under certain circumstances a successor employer will be required to recognize and bargain with a union which enjoyed majority support among the predecessors employees.

Commenting further on the New Breed case, General Counsel Feinstein said:

"I want to commend the fine work on this case by Region 21 Field Attorneys Frank Wagner, who presented and argued the matter in court, and Jean Libby, who investigated the case and prepared the injunction papers, as well as the dedicated efforts by the other staff members in the region and in Washington who assisted with the case, including the clerical staff which prepared and served the necessary documents."

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# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
Friday, September 9, 1994

**(R-2009)**  
202/273-1991

## **NLRB ANNOUNCES INTENT TO ISSUE COMPLAINT AGAINST LA CONEXION FAMILIAR, A SUBSIDIARY OF SPRINT, OVER CLOSURE OF ITS SAN FRANCISCO FACILITY**

The San Francisco office of the National Labor Relations Board announced its intention to issue an unfair labor practice complaint against La Conexion Familiar (LCF), a subsidiary of Sprint, alleging that the company violated the National Labor Relations Act (NLRA) by closing its San Francisco facility on July 14, 1994 in response to employees' organizing efforts on behalf of the Communications Workers of America (CWA).

LCF, with a workforce of over 200, was engaged in marketing long distance telephone services to the Spanish-speaking community, and has asserted that its closure was due to economic reasons.

San Francisco Regional Director Robert H. Miller, in announcing the decision, stated:

"After careful consideration of the evidence, we have concluded that there is sufficient evidence to establish that La Conexion Familiar closed its facility because of the ongoing union activity. We have asked the company to consider a settlement, which would include reopening the facility and restoring employees to their former positions. Absent settlement, the region will issue a formal complaint on September 12, placing the matter for hearing and decision before an Administrative Law Judge."

The region's investigation also revealed over 50 separate incidents of employer conduct deemed violative of Section 8(a)(1) of the NLRA, which prohibits interference with employees in their exercise of their rights to engage in union activity. This conduct, included, among others, unlawful interrogation of employees concerning their union activities; threats of reprisal, including closure of the facility; surveillance of union activities; and the promise and granting of benefits to discourage union activity.

The region's investigation was conducted pursuant to an unfair labor practice charge filed by the CWA. At the time of the closure, LCF employees were scheduled to vote in a July 22, 1994 NLRB election to determine whether to be represented for collective bargaining purposes by the CWA.

The CWA has also requested that the agency seek injunctive relief under Section 10(j) of the Act, which authorizes federal district courts to grant temporary injunctive relief to maintain or restore the lawful status quo pending the Board's adjudication of the unfair labor practices. The determination whether to seek such relief is made by the five-member Board in Washington, upon recommendation of the agency's General Counsel.

NLRB General Counsel Fred Feinstein commented as follows:

"The CWA's request for injunctive relief to reopen the facility and restore the employees' positions is under active consideration, as we await word on settlement. This is consistent with my policy of expeditiously seeking interim relief, where appropriate, for employees who are adversely impacted by alleged unfair labor practices."

General Counsel Feinstein went on to say:

"I would also like to recognize the excellent work of Regional Director Miller and his staff on this case, including Field Attorney Leticia Pena and Field Examiner Craig Wilson, who conducted the investigation, Field Attorney Jonathan Seagle, who did legal work, and Regional Attorney Joseph Norelli, Deputy Regional Attorney Robert Buffin, and Supervisory Examiner William Engler, who, under the overall direction of Mr. Miller, supervised the investigative and legal work."

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# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
Friday, September 2, 1994

**(R-2007)**  
**202/273-1991**

## **NLRB SUCCESSFUL IN SEEKING REIMBURSEMENT OF AGENCY EXPENSES IN A RECENT CASE**

In NLRB v. A.G.F. Sports LTD., 146 LRRM 3022, the United States District Court for the Eastern District of New York ordered the agency to be reimbursed for attorney fees at the prevailing market rate of \$150.00 per hour. In this case the Employer refused to produce voter eligibility lists pursuant to a decision by the National Labor Relations Board calling for single employer elections at each of the Employer's companies. The Court also allowed expenses for the salary of the Board Field Examiner's attendance at both a conference with the Employers and at the Board hearing. The Court accepted the agency's time records in awarding the full amount requested.

General Counsel Fred Feinstein said, "I am pleased that we have prevailed in seeking reimbursement for our costs from persons engaged in conduct violative of the National Labor Relations Act. This very significant case demonstrates that any delay in our election process resulting from a refusal to provide a voter eligibility list will be expensive."

The Brooklyn Regional Office achieved this important decision for the agency. Field Attorney Elias Feuer as well as Field Examiner Ariella Bernstein are the individuals most directly involved in achieving this result.

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# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
**Thursday, August 25, 1994**

**(R-2006)**  
**202/273-1991**

## **EIGHTH CIRCUIT ORDERS MINN-DAK FARMERS CO-OP TO BARGAIN WITH AFGM**

The United States Court of Appeals for the Eighth Circuit has issued a decision enforcing an order of the National Labor Relations Board directing Minn-Dak Farmers Cooperative of Wahpeton, ND, to recognize and bargain with the American Federation of Grain Millers (AFGM) Local 405. The court found that Local 405 became the collective bargaining agent of the Cooperative's employees during the summer of 1991 and the Cooperative's refusal to bargain with Local 405 since August then constituted an unfair labor practice. Circuit Judge Frank Magill of Fargo, ND, and Senior Circuit Judges Floyd R. Gibson and John R. Gibson joined in the unanimous decision.

Minn-Dak had bargained for many years with an independent union consisting solely of its own employees. The employees voted to affiliate with AFGM in early August 1991. Minn-Dak refused to recognize the affiliation on the stated grounds that the employees failed to comply with the constitution and bylaws of their own association in conducting the affiliation, and that the affiliated union was a substantially different entity than the one with which Minn-Dak had agreed to bargain.

The AFGM and Local 405 filed unfair labor practice charges protesting Minn-Dak's withdrawal of recognition with the NLRB's Regional Office in Minneapolis, MN on January 10, 1992. The NLRB in Washington, DC upheld the charges in a decision issued on May 28, 1993. The NLRB concluded that the affiliation vote was conducted with sufficient procedural safeguards to ensure that it reflected the will of the employees involved and that the

institutional changes resulting from affiliation were not so great as to relieve Minn-Dak of its legal obligation to continue bargaining with the employees' representative. The Eighth Circuit's decision, entered on August 22, agrees with those conclusions.

The Minneapolis Regional Office of the NLRB has jurisdiction over cases arising in North and South Dakota, Minnesota, most of Iowa, and western Wisconsin. The AFGM's and Local 405's charges were investigated and presented to the NLRB by Field Examiner Floyd M. Child and Attorney Joseph Henry Bornong, both of Minneapolis. The case was argued before the Eighth Circuit by William A. Baudler of the NLRB's Appellate Court Branch, Division of Enforcement Litigation in Washington, DC.

For More Information Call:  
Ronald M. Sharp, Regional Director  
NLRB Region 18, Minneapolis, MN  
(612) 348-1799

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# NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

**FOR IMMEDIATE RELEASE**  
Monday, August 15, 1994

**(R-2004)**  
202/273-1991

## **N.C. COURT GRANTS NLRB INJUNCTION REQUEST FOR BARGAINING ORDER AT JACK GRAY TRANSPORT**

The National Labor Relations Board has obtained a temporary injunction from a federal district court in North Carolina, ordering Jack Gray Transport, Inc. of Greensboro to recognize and bargain with International Brotherhood of Teamsters (IBT) and to immediately offer reinstatement to 11 discharged employees.

The bargaining obligation was based upon a showing that a majority of the employees signed union authorization cards designating IBT Local 391 to represent them and bargain collectively on their behalf. The NLRB obtained the injunction under Section 10(j) of the National Labor Relations Act, which empowers it to petition a federal district court for injunctive relief to temporarily prevent unfair labor practices and to restore the status quo, pending full review of the case by the five-member Board. Judge N. Carlton Tilley, Jr. of the U.S. District Court for the Middle District of North Carolina issued his order in open court on August 8.

Since becoming General Counsel in March, Fred Feinstein has established as a priority identifying appropriate injunction cases such as this one so that employees are granted interim relief while the case is adjudicated before the NLRB. With the Board's authorization, the General Counsel has sought Section 10(j) relief in 47 cases, with a success rate to date, including settlements, of 91 percent, consistent with the historical rate.

General Counsel Feinstein stated: "We have asked our Regional Directors to identify all cases where injunctive relief is appropriate, to immediately investigate them, and then to bring them to my attention. I am pleased that Judge Tilley agreed with our position that an interim bargaining order was warranted here and that the 11 Jack Gray Transport employees who were unlawfully terminated for union activity should be reinstated immediately while the case is litigated before the NLRB."

Mr. Feinstein praised the work of the Winston-Salem, N.C. Regional Office staff in handling this case, especially litigation attorneys Patricia Timmins and Jasper Brown. He also commended attorney Karen Thornton, in the Division of Advice, Office of the General Counsel. Meanwhile, in an administrative proceeding before the Board, the Regional Office is seeking permanent reinstatement and full backpay for the discharged employees, an affirmative bargaining order on behalf of IBT Local 391, and a permanent cease-and-desist order.

The case arose when Jack Gray Transport employees sought representation by the Teamsters in early 1994. The company is in the business of transporting steel, iron and refuse. The NLRB complaint alleged that once Jack Gray Transport learned that the employees were supporting the Teamsters, management officials threatened them with loss of jobs unless they withdrew their support for the union; interrogated employees to determine their union sentiments; promised employees benefits if they would discontinue their support for the union; and discharged or laid off 11 of their 18 employees because they supported the union.

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