

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13

ZEIGLER NORTH RIVERSIDE, LLC d/b/a	)	
ZEIGLER FORD OF NORTH RIVERSIDE	)	
	)	
AND	)	
	)	No. 13-CA-225984
ZEIGLER LINCOLNWOOD d/b/a ZEIGLER	)	13-CA-230635
BUICK GMC OF LINCOLNWOOD &	)	13-CA-233695
CADILLAC OF LINCOLNWOOD,	)	13-CA-23700
	)	
AND	)	
	)	
LOCAL LODGE 701, INTERNATIONAL	)	
ASSOCIATION OF MACHINISTS AND	)	
AEROSPACE WORKERS, AFL-CIO,	)	
	)	
AND	)	No. 13-CA-230375
	)	13-CA-235144
TEAMSTERS LOCAL 731, INTERNATIONAL	)	13-CA-235147
BROTHERHOOD OF TEAMSTERS, AFL-CIO	)	

**RESPONDENTS' ZEIGLER NORTH RIVERSIDE AND ZEIGLER LINCOLNWOOD  
POST-HEARING BRIEF TO THE ADMINISTRATIVE LAW JUDGE**

Submitted by:  
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Counsel for the Respondents respectfully submit the following brief to the Honorable Charles J. Muhl, Administrative Law Judge

### **I. STATEMENT OF THE CASE**

This proceeding was initiated by the filing of charges (13-CA-233695, 13-CA-295687 AND 13-CA-290375) against Respondent Zeigler Lincolnwood d/b/a Ziegler Buick of Lincolnwood and Cadillac of Lincolnwood (Respondent Lincolnwood) and charges (13-CA-230635, 13-CA-233700) against Zeigler North Riverside, LLC d/b/a Zeigler Ford of North Riverside (Respondent North Riverside). These charges with amendments, were filed by the Automobile Mechanics' Local Lodge 701, International Association of Machinists and Aerospace Workers, AFL-CIO (hereinafter "Union"). A series of complaints, consolidated complaints, and related amendments were issued by the Regional Director for Region 13.

The complaint alleges *inter alia*, that Lincolnwood and North Riverside threatened employees, rescinded base pay guarantees and implemented terms and conditions of employment without bargaining with the Union or reaching an overall good-faith impasse and that Lincolnwood constructively caused the termination of employees Mark Galuski and Carlos Martinez.

The Complaint further alleges Lincolnwood dealt directly with the employees, implemented the terms of its July 10, 2018 last, first and final offer without first bargaining with the Union. Further, that North Riverside unilaterally changed its payroll period from weekly to semi-monthly, changed time standards for wheel alignments, changed the process of approving vacation requests, unlawfully installed surveillance cameras and revoked Union representatives access to the facilities.

It should be noted that, over the objections of Respondents, Region 13 consolidated the cases of two totally different and separate corporations having no common unit employees with these charges (13-CA-230375, 13-CA-235144, 13-CA-235147) filed by Teamsters Local 731, International Brotherhood of Teamsters, AFL-CIO.

Subsequent to the hearing on the Union charges, Region 13, Teamsters Local 731 and the Respondents entered in a Board and ALJ approved settlement of the Teamster charges.

## **II. ISSUES**

1. Whether or not Respondent Lincolnwood caused the termination of employees Mark Galuski and Carlos Martinez?
2. Whether either Respondent “threatened” employees that either dealership was not a “union shop?”
3. Whether Respondent Lincolnwood reached an overall good-faith impasse when implementing changes in terms and conditions of employment in July 2018?
4. Whether Respondent offered to negotiate on the installation of security cameras?
5. Whether either Respondent, after their last, best and final offer on July 10, 2018 which deleted the Union Health Insurance, Union Pension and Union Shop provisions, ever changed its offer until both collective bargaining agreements were executed?
6. Whether the Administrative Law Judge committed prejudicial error by not bifurcating the case having two separate respondent corporations which are in different towns having totally separate bargaining units, different supervisors with separate payrolls?

## **III. FACTS**

### **A. Background**

Respondent Lincolnwood and Respondent North Riverside are two of 25 auto dealerships owned and operated by Aaron Zeigler, who has corporate offices in Kalamazoo, Michigan and is referred to as Zeigler Auto Group (“Zeigler” herein.)

In February 2018, Zeigler purchased the Respondent Lincolnwood dealership from the Grossinger Auto Group (“Grossinger” herein) and hired the majority of the bargaining unit employees represented by Automobile Mechanics’ Local 701. Respondent Lincolnwood was a successor to Grossinger and recognized the Union as the bargaining unit representative.

In June 2018, Zeigler purchased Respondent North Riverside from McCarthy Ford (“McCarthy” herein) and hired the majority of the bargaining unit employees represented by Automobile Mechanics’ Local 701. Respondent North Riverside was a successor to McCarthy and recognized the Union as the bargaining unit representative.

While Aaron Zeigler was the President of both Respondent dealerships, there was no common management or exchange of employees between the two dealerships. Both Respondents had different managers for its unit employees.

#### **IV. ARGUMENT**

##### **A. Resignation of Mark Galuski and Carlos Martinez.**

After bargaining to impasse over critical issues of health insurance, pension, guarantee wages and union security, respondent Lincolnwood declared an impasse and implements its last, best and final offer in July 2018.

In his testimony, Martinez stated that he left Respondent Lincolnwood because “I couldn’t support my family,” (Tr. 71)<sup>1</sup> and “I couldn’t live off what I was making there.” (Tr. 71)

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<sup>1</sup> Pages of the transcript are designated herein by “Tr. \_\_”, the General Counsel’s exhibits by “GC” and a number and Respondent’s exhibits by “R” and a number, and Joint Exhibits as “JTX” with a number.

Likewise, Union Stewart and Union Bargaining Committee Member, Mark Galuski, was asked, “*When you resigned and left on August 17<sup>th</sup> that was voluntary on your part, was it not?* . . . “*Yes, it was.*” (Tr. 313)

Clearly, both Martinez and Galuski left the dealership voluntarily. There was no “union activity” causing the voluntary quits as in *Yellow Ambulance Service*, 342 NLRB 804 (2004). Further, there was no demand by the Respondent that the employees abandon their Section 7 rights as in Scheid Electric, Case No. 18-CA-19084 (2010) or *Hoener Waldord Corp.*, 227 NLRB 612 (1976).

Many years ago, a gentleman from Springfield, Illinois, Abraham Lincoln, eliminated “involuntary servitude.” Both Mr. Martinez and Mr. Galuski were free to leave the employment of Respondent Lincolnwood.

The aspect of “threatening” employees that the dealership would not be “union shops,” was merely an expression of what the last, best and final offer encompassed, to wit, a removal of any “union shop” provision. This, indeed, was encompassed in the general collective bargaining agreements between the parties.

**B. Respondent Lincolnwood’s Declared Impasse.**

The Union and Lincolnwood were at impasse on July 10, 2019, when it implements its last, best, and final offer. As noted previously, Local 701, after delays in negotiations, including its “no show” on July 3, 2019, forced Respondent Lincolnwood to declare impasse in order to stop the Union’s demand for continued union health insurance, union pension contributions, and elimination of the union shop provision. Good faith negotiations on those issues had proven futile and the Union had not shown any willingness to compromise. *Taft Broadcasting Co.*, 163 NLRB 475, 478 (1967).

There was no bargaining history between the parties. The Union had not shown any willingness to meet the Respondent's proposal on these critical issues, causing continued exposure to the financial demands of the Union Health and Welfare and Pension Funds.

C. Bifurcation Issue.

In the Administrative Law Judge's decision to deny Respondent's motion to bifurcate the hearing of two separate corporations, having no common bargaining units nor common employees, he ignored the prejudice against each respondent in favor of "unnecessary costs to the Agency." Such a decision should not stand.

**V. CONCLUSION**

As can be seen from the many stipulations as agreed, the Respondents have left the ALJ with few issues to decide. The Union wanted to continue bleeding the Respondents for benefit contributions *ad infinitum*, which the Respondents would not tolerate. Absent any movement on the issues, Respondent declared impasse to stop the continued demand by the Union Funds for contributions.

It should be noted that the Respondents did not refuse to continue negotiations, but its last, best, and final offer was accepted by the Union and incorporated into their collective bargaining agreements.

WHEREFORE, Respondents pray that the Complaint be dismissed, and a new hearing bifurcated for each Respondent be held.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the **RESPONDENT'S POST-HEARING BRIEF** was e-filed with the Division of Judges on June 11, 2019, and was served on the parties below in the method indicated on this 11<sup>th</sup> day of June 2019.

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