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Subject: Marek Bros. Drywall Co., 16-CA-258507 - case-closing email
Date: Monday, July 20, 2020 3:19:38 PM

This COVID-19 case was submitted for advice as to whether the Employer violated Section 8(a)(1) by discriminatorily laying off the charging party in retaliation for (b) (6), (b) (7)(C) comments at a group safety meeting. We conclude that the charging party did engage in protected concerted activity when (b) (6), (b) (7)(C) raised concerns about the lack of available resources for employees to wash or sanitize their hands as a precaution against the growing COVID-19 pandemic. *Alstate Maintenance, LLC*, 367 NLRB No. 68, slip op. at 7 (2019) (discussing factors relevant to inferring a concerted objective at a group meeting). The Board in *Alstate* reaffirmed earlier decisions such as *Whittaker Corp.*, 289 NLRB 933 (1988), and *Chromalloy Gas Turbine*, 331 NLRB 858 (2000), for the proposition that a concerted objective may sometimes be inferred from the totality of the circumstances surrounding an employee's statements at a group meeting. *Alstate Maintenance*, 367 NLRB No. 68, slip op. at 4-7. Such an inference would be appropriate here, in the context of a meeting where Charging Party spoke up in response to an issue affecting terms and conditions of employment; the issue affected multiple employees in the meeting and not solely (b) (6), (b) (7)(C). Charging Party raised serious concerns over the lack of available water and hand sanitizer for all employees on the jobsite, and given it was the site supervisors who raised the need for employees to be mindful of the Covid-19 pandemic, the meeting would have been the first natural point at which Charging Party would have had reason to raise the lack of water and hand sanitizer.

However, we agree with the Region that dismissal is warranted. There is insufficient evidence of knowledge or animus on this record – elements critical to establishing a prima facie case. Accordingly, the charge should be dismissed, absent withdrawal. This email closes the case in Advice.

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