



MANUFACTURERS' ASSOCIATION OF SOUTH CENTRAL PENNSYLVANIA

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1/5/11

To: MASCPA Members & Affiliates

BEWARE: UNIONS ARE NOW FOCUSING EFFORTS ON ORGANIZING COMPANIES ONE-DEPARTMENT-AT-A-TIME!

The National Labor Relations Board (NLRB) reinforced its "Specialty Healthcare" decision on December 30th, when the Board upheld a "Decision and Direction of Election" at Northrop Grumman (NG) based on the union's petition for a bargaining unit ***limited solely to one department*** of 223 workers; a small subset of 2400 technical employees working in its Newport News Shipbuilding facility. NG appeal was that the smallest appropriate unit includes the petitioned-for employees plus all of its other technical employees. NG argued that all of the Employer's technicians operate under the same salary structure and personnel policies, share break facilities, and enjoy the same benefits.

In this case (Northrop Grumman) the Board ruled that their Radiological Control Department provided an independent oversight role and NG has placed all radiological control technicians (RCTs) in a separate department and under separate supervision from its production employees.

In addition, work contacts between RCTs and other technical employees are brief, and limited to the same radioactive screening at safety checkpoints that thousands of trades employees receive, with only a few exceptions during particular projects. As shown, to do their job, RCTs receive extensive and highly-specialized radiological training and use 27 radiation detection instruments specific to their job; as a result they possess unique skills.

The Board cited that the NLRA does not require a petitioner (employees or a labor organization) to seek representation of employees in the most appropriate unit possible, but only in an appropriate unit.

As explained in the Board's earlier "Specialty Healthcare" decision, its analysis begins with the petitioned-for unit. When employees or a labor organization petition for an election in a unit of employees who are readily identifiable as a group (based on job classifications, departments, functions, work locations, skills, or similar factors), and the Board finds that the employees in the group share a community of interest after considering the traditional criteria, the Board will find the petitioned-for unit to be an appropriate unit, despite a contention that employees in the unit could be placed in a larger unit which would also be appropriate or even more appropriate, **unless** the party so contending (i.e., the Employer) demonstrates that employees in the larger unit **share an overwhelming community of interest** with those in the petitioned-for unit.



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Additional employees share an overwhelming community of interest with the petitioned-for employees only when there "is no legitimate basis upon which to exclude [the] employees from" the larger unit because the traditional community-of-interest factors "overlap almost completely."

In other words, the union will now decide how large or small the targeted unit will be. The Employer will then be faced with the nearly impossible task of demonstrating that the larger unit shares an **overwhelming community of interest!**

In my humble opinion **the attached 18 page decision** is the most far reaching decision the National Labor Relations Board made in 2011!

This NLRB decision now opens the door for unions to organize a single department rather than an entire facility.

Board Member HAYES dissented, stating the impact on Northrop Grumman said, "In the wake of this decision, how many separate technical bargaining units will eventuate among 2400 employees?"

Employers are well advised to do both a wall-to-wall assessment of vulnerability to unionization, as well as a department-by-department assessment; and, it is more important than ever to train your management/supervisory team how to remain union-free.

If you want to discuss how we (MASCPA) can assist I encourage you to contact me.

Jim

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Manufacturers' Association of South Central Pa
Serving South Central PA Manufacturers Since 1906

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"When the camel's nose enters the tent, can the rest of the camel be far behind?" - Bedouin Proverb