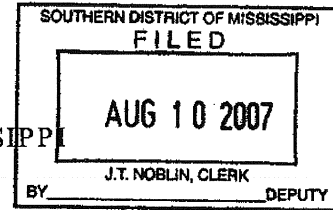


IN THE UNITED DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION



BILLIE JO ARTZ, DANIEL KUDRAV,
and INETRA WRIGHT

PLAINTIFFS

v.

CAUSE NO. 1:07cv1006 LG-JMR

MISSISSIPPI RIVER BOAT COUNCIL, UNITE
HERE, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, INTERNATIONAL UNION
OF OPERATING ENGINEERS, and GULFSIDE
CASINO PARTNERSHIP.

DEFENDANTS

COMPLAINT

Preliminary Statement

This is a suit for injunctive and declaratory relief under § 302 of the Labor Management Relations Act, 29 U.S.C. § 186. Section 302(a) makes it unlawful for an employer to deliver "any money or other thing of value" to a labor organization, except for that specifically exempted by § 302(c). Section 302(b)(1) makes it unlawful for a labor organization to demand or receive "any money or other thing of value" prohibited by § 302(a).

A consortium of labor organizations called the Mississippi River Boat Council ("Unions") is demanding that Gulfside Casino Partnership ("Gulfside") deliver the following valuable things to the Unions to assist their organizing campaign against Gulfside's employees: (1) lists of confidential business information about Gulfside's nonunion employees; (2) physical access to Gulfside's properties and the use of its facilities for organizing; and (3) control over Gulfside's communications with its nonunion employees.

The Unions' demands violate the plain text of § 302(b)(1). Each of the three types of organizing assistance that the Unions demand are a "thing of value" to a labor organization under § 302(a) and are not specifically exempted from the statute's prohibitions by § 302(c).

Plaintiffs Billie Jo Artz, Daniel Kudrav and Inetra Wright are employees of Gulfside who do not want the Unions to obtain their personal information, gain access to them at their workplace, or become their exclusive bargaining representative. In this suit, the Plaintiff Employees seek an injunction under § 302(e) that prohibits the Unions from demanding or receiving the three forms of organizing assistance from their employer and a declaration that the Unions' demands for such assistance are unlawful under § 302.

Jurisdiction and Venue

1. This action arises under § 302 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 186. This Court has jurisdiction over the subject matter of this action pursuant to § 302(e), 29 U.S.C. § 186(e), which grants this Court jurisdiction to restrain violations of §§ 302(a) and (b), and under 28 U.S.C. § 1331, which grants this Court jurisdiction over civil actions arising under federal law.
2. This is a case of actual controversy in which Plaintiffs seek a declaration of their rights. Under 28 U.S.C. §§ 2201 and 2202, this Court may declare the rights of the Plaintiff Employees and grant further relief based thereon.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1392(a). The events giving rise to this suit occurred in this judicial district, the Defendants transact business and/or are located in this judicial district, and the Plaintiff Employees reside in this judicial district.

The Parties

4. The Mississippi Riverboat Council (" Council") is an unincorporated consortium of labor organizations consisting of UNITE HERE (" UNITE"), the International Brotherhood of Teamsters (" IBT"), and the International Union of Operating Engineers (" IUOE"), with principal places of business in Washington, D.C. and New York, NY. The Council may be served with process upon its constituent labor organizations. Hereinafter, the term " Unions" means the Council, UNITE, IBT, and IUOE both collectively and individually.

5. UNITE is an unincorporated labor organization having its principal office in New York, New York. UNITE may be served with process upon Bruce Raynor, President, UNITE HERE, 275 7th Ave., New York, NY 10001.

6. The IBT is an unincorporated labor organization having its principal office in Washington, D.C. The IBT may be served with process upon James Hoffa, General President, IBT, 25 Louisiana Ave., N.W., Washington, D.C. 20001.

7. The IUOE is an unincorporated labor organization having its principal office in Washington, D.C. The IUOE may be served with process upon Vincent J. Giblin, General President, IUOE, 1125 17th St., N.W., Washington, D.C. 20036.

8. Gulfside Casino Partnership ("Gulfside") is a general partnership organized under the laws of Mississippi, with its principal place of business in Gulfport, Mississippi. Gulfside is an employer, or association of employers, engaged in an industry affecting interstate commerce. Gulfside may be served with process upon Cathy M. Beeding, Vice President and General Counsel, Gulfside Casino Partnership, P.O. Box 1600, Gulfport, MS, 39502.
9. Gulfside owns and operates the Island View Casino Resort ("Island View"), which is located at 3300 West Beach Boulevard, Gulfport, Mississippi.
10. Plaintiffs Billy Jo Artz, Daniel Kudrav and Inetra Wright ("Plaintiff Employees") are Mississippi residents who are employed by Gulfside at Island View and are employees engaged in an industry affecting interstate commerce.

The Memorandum of Agreement

11. On October 20, 2004, the Unions entered into a Memorandum of Agreement ("MOA") with the Grand Casinos of Mississippi, Inc. Biloxi; Grand Casino of Mississippi LLC, Gulfport, Sheraton Tunica Corporation; and BL Development Corp. d/b/a Grand Casino Tunica. The MOA is attached hereto as Exhibit "A."
12. The MOA requires that the signatory employers assist the Unions with becoming the exclusive representative of the employees of the signatory employers' river boat casinos and associated landside operations in Mississippi.

13. The Unions sought and entered into the MOA to aid, further, and facilitate their self-interest in organizing the employees of the signatory employers.

14. In furtherance of this organizing objective, the Unions intentionally drafted the MOA to circumvent and abrogate the representational procedures of the National Labor Relations Act ("NLRA"), 29 U.S.C. § 151 *et seq.* The MOA mandates that the signatory employers:

- a. not file petitions with the National Labor Relations Board for secret-ballot elections;
- b. not file unfair labor practice charges with the National Labor Relations Board in connection with the Unions' actions during organizing campaigns;
- c. not exercise their option under § 8(c) of the NLRA, 29 U.S.C. § 158(c), to speak in opposition to the Unions or unionization;
- d. provide the Unions with access to nonunion properties and facilities to which the Unions are not entitled under the NLRA; and
- e. provide the Unions with information about nonunion employees to which the Unions are not entitled under the NLRA.

15. On information and belief, the Unions made concessions at the expense of employees they exclusively represent in collective bargaining in exchange, *quid pro quo*, for the signatory employers' agreement to enter into the MOA.

The Unions Demand Organizing Assistance from Gulfside

16. On or around August 29, 2005, Hurricane Katrina destroyed the Grand Casino of Mississippi LLC, Gulfport ("Grand Casino"), which was a signatory to the MOA. As a result, the Grand Casino ceased all operations and terminated its employees.

17. On or around December 19, 2005, Gulfside purchased the non-operational remains of the Grand Casino. On or around September 18, 2006, Gulfside opened the Island View.

18. The Unions do not exclusively represent the Plaintiff Employees or any other employees employed by Gulfside at Island View. However, the Unions seek to become the exclusive representative of these employees and would admit these employees to membership.

19. On or around February 1, 2007, the Unions demanded that Gulfside comply with the MOA by providing written notice of the Unions intent to organize Gulfside's employees pursuant to ¶ 6 of the MOA. In so doing, the Unions demanded that Gulfside deliver to the Unions three types of organizing assistance: lists of information about Gulfside's nonunion employees pursuant to ¶ 7 of the MOA, (*see* ¶¶ 20-25, *infra*); physical access to Gulfside's property and use of its facilities pursuant to ¶ 6 of the MOA, (*see* ¶¶ 26-31, *infra*); and contractual control over Gulfside's communications and personnel pursuant to ¶ 4 of the MOA (*see* ¶¶ 32-36, *infra*).

20. *Information.* The Unions demand that Gulfside provide the Unions with lists of information about Gulfside's nonunion employees pursuant to ¶ 7 of the MOA, which states:

Within ten (10) days following receipt of written notice of intent to organize Employees as provided in paragraph 6, the Employer will furnish the Council with a complete list of Employees, including both full and part-time Employees, showing their job classifications and departments. Within two (2) weeks thereafter, the Employer will furnish a second list of such Employees to the Union, including the addresses of all Employees. Thereafter, the Employer will provide updated complete lists monthly.

(hereinafter "Information").

21. The Information is the property of Gulfside, is maintained by Gulfside as confidential business information, and would not otherwise be provided to the Unions by Gulfside.

22. The Information has commercial and monetary worth.

23. The Unions subjectively desire the Information, believe it useful for organizing, and intend to use the Information to send Union organizers to the homes of Gulfside's employees.

24. The Information has utility to the Unions and is objectively useful for organizing because, among things, it permits the Unions to systematically target employees during organizing campaigns and facilitates the Unions' tactic of sending Union organizers to the homes of individual employees.

25. The Information has value to the Unions.

26. *Access*. The Unions demand that Gulfside provide the Unions with access to Gulfside' s property and the use of its facilities pursuant to ¶ 6 of the MOA, which states:

If the Council provides written notice to the Employer of their intent to organize Employees at one of the Boats covered by this Agreement, the Employer shall provide access to its premises and to such Employees by the Council. The Council may engage in organizing efforts in non-public areas of the Employer' s Boat during Employees' non-working times (before work, after work, and during meals and breaks) and/or during such other periods: as the parties may mutually agree upon.

(hereinafter " Access").

27. The Access is to Gulfside' s private property and to the non-public areas of its Island View facilities, which would otherwise be off-limits to the Unions and the Unions' non-employee organizers and agents.

28. Access to Gulfside' s private property and the use its Island View facilities has commercial and monetary worth.

29. The Unions subjectively desire the Access and believe it useful for organizing.

30. The Access has utility to the Unions and is objectively useful for organizing because, among things, it permits the Unions to station Union organizers on Gulfside' s property and in its Island View facilities to organize employees before they work, after they work, and during their meals and breaks.

31. The Access has value to the Unions.

32. *Control*. The Unions demand that Gulfside provide the Unions with contractual control over Gulfside's communications and personnel pursuant to ¶ 4 of the MOA, which states:

The Employer will take a positive approach to unionization of Employees; The Employer will not do any action nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection by such Employees of a collective bargaining agent, or preference for or opposition to any particular union as a bargaining agent.

(hereinafter "Control").

33. Control over Gulfside's communications and the actions of its personnel has commercial and monetary worth.

34. The Unions subjectively desire the Control and believe it useful for organizing.

35. The Control has utility to the Unions and is objectively useful for organizing because, among things, it silences a persuasive party that would otherwise oppose the Unions and, *inter alia*, prevents employees from learning about the potential disadvantages of unionization and the Unions.

36. The Control has value to the Unions.

37. The Unions and other labor organizations have made, agreed to make, or are liable to make wage, benefit, and other concessions at the expense of employees they exclusively represent in collective bargaining in exchange, *quid pro quo*, for organizing assistance from employers, including information about nonunion employees, access to nonunion properties, and control over management communications with nonunion employees.

38. Gulfside has refused to deliver the Information, Access, and Control that the Unions demand on the grounds that Gulfside is not a party to the MOA and that the Unions' demands are unlawful. Gulfside filed a suit against the Unions in *Gulfside Casino Partnership v. Mississippi Riverboat Council*, Case No. 1:07-CV-110-LG-JMR (S.D. Miss. 2007), seeking declaratory judgments on these issues.

**The Unions Demands for Organizing Assistance Create
An Imminent Risk of Injury to the Plaintiff Employees**

39. On and around February 1, 2007, the Plaintiff Employees did not know, and could not have reasonably discovered, that the Unions demanded Information, Access, and Control from their employer. The MOA is a nonpublic document kept confidential by the Unions. The Plaintiff Employees did not learn of the aforementioned Union demands until July and August 2007.

40. The Plaintiff Employees, and many of their fellow employees at Island View, are strongly opposed to and do not want:

- a. Gulfside to deliver personnel information about them to the Unions, such as their home addresses, job descriptions, and work departments and shifts;
- b. Union organizers to have access to them at their workplace, such as during their lunch and work breaks;
- c. to be deprived of full information about the Unions and unionization;
- d. to be exclusively represented by the Unions, and thus forced into an unwanted agency relationship and deprived of their ability to speak and deal with management with respect to their terms and conditions of employment;

e. their terms and conditions of employment to be partially controlled and determined by the Unions or to be changed by the Unions.

41. The Unions' demands for Information, Access, and Control create an actual and imminent risk of the above-stated harms and injuries to the Plaintiff Employees' rights and interests.

The Unions Demands for Information, Access, and Control
Violate § 302(b)(1) of the LMRA

42. Section 302(a)(2) of the LMRA states in pertinent part that "[i]t shall be unlawful for any employer or association of employers . . . to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value . . . to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer." 29 U.S.C. § 186(a)(2).

43. Section 302(b)(1) of the LMRA states that "[i]t shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) of this section." 29 U.S.C. § 186(b)(1).

44. Section 302(c) of the LMRA states nine exemptions to the prohibitions of §§ 302(a) and (b). None of the exemptions of § 302(c) are applicable to the Information, Access, and Control demanded by the Unions.

45. Gulfside is an “ employer or association of employers” under § 302(a)(2). The Unions are “ labor organization[s] . . . which . . . seeks to represent, or would admit to membership, any of the employees of” Gulfside under § 302(a)(2), and are “ person[s]” under § 302(b)(1).

46. The Information, Access, and Control demanded by the Unions are each a “ thing of value” under §§ 302(a) and (b).

47. If Gulfside delivered, or agreed to deliver, Information, Access, or Control to the Unions, this action or agreement would be prohibited by § 302(a)(2).

48. The Unions have violated § 302(b)(1) by requesting and demanding that Gulfside deliver “ thing[s] of value” to the Unions in the form of Information, Access, and Control.

49. At this time, it is not alleged that Gulfside has violated § 302(a)(2) because Gulfside has not delivered to the Unions the Information, Access, or Control that the Unions demand, and Gulfside claims that it has not agreed to deliver these things to the Unions in the MOA. Gulfside is a necessary party to this suit.

Prayer for Relief

WHEREFORE, the Plaintiff Employees pray that this Court:

A. Issue a permanent injunction that enjoins the Unions from:

1. requesting, demanding, or receiving from Gulfside things of value in the form of information about Gulfside’ s nonunion employees, access to Gulfside’ s property and the use of its facilities, and control over Gulfside’ s communications

and personnel; and

2. invoking, enforcing, or attempting to enforce ¶¶ 4, 6, and 7 of the MOA.

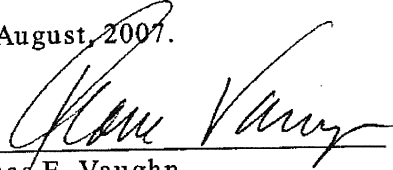
B. Issue a declaratory judgment that:

1. the Unions' requests and demands for things of value in the form of information about Gulfside's nonunion employees, access to Gulfside's property and the use of its facilities, and control over Gulfside's communications and personnel, are unlawful under § 302(b)(1) of the LMRA; and

2. ¶¶ 4, 6, and 7 of the MOA are unlawful, void, and facially invalid under § 302 of the LMRA.

C. Order any other legal or equitable relief it deems just and proper.

Respectfully submitted this 10th day of August, 2007.


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* *Pro hac vice motion to be filed*