

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, LOCAL 2L, AFL-CIO-CLC

and

CASE NO. 8-CB-10687

SCOTT LAUBY, An Individual

UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, LOCAL 2L, AFL-CIO-CLC

and

CASE NO. 8-CB-10740

FRANK C. STEEN III, An Individual

**ORDER CONSOLIDATING CASES,
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Scott Lauby, an Individual, herein called Charging Party Lauby, has charged in Case Nos. 8-CB-10687 that the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 2L, AFL-CIO-CLC, herein called the Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Frank C. Steen III, an Individual, herein called Charging Party Steen, has also charged in Case No. 8-CB-10740 that the Respondent has been engaging in unfair labor practices as set forth in the Act. Based thereon and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned,

pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, ORDERS that these cases are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (A) The charge in Case No. 8-CB-10687 was filed by Charging Party Lauby on February 8, 2007 and a copy was served by mail on Respondent on February 9, 2007.

(B) The original charge in Case No. 8-CB-10740 was filed by Charging Party Steen on March 26, 2007 and a copy was served by mail on Respondent on March 27, 2007.

(C) An amended charge in Case No. 8-CB-10740 was filed by Charging Party Steen on April 19, 2007 and a copy was served by mail on Respondent on April 19, 2007.

(D) A second amended charge in Case No. 8-CB-10740 was filed by Charging Party Steen on May 31, 2007 and a copy was served by mail on Respondent on May 31, 2007.

2. (A) At all material times, Goodyear Tire & Rubber Company, herein called Goodyear, an Ohio corporation, with an office and place of business in Akron, Ohio, herein called Goodyear's facility, has been engaged in the manufacture of tires.

(B) Annually, Goodyear, in conducting its business operations described above in paragraph 2(A), sells and ships from its Akron, Ohio facility, goods valued in excess of \$50,000 directly to points located outside the State of Ohio.

3. (A) At all material times, Viox Services, herein called Viox, an Ohio corporation with an office and place of business at Goodyear's facility in Akron, Ohio, has been

engaged, as a subcontractor for Goodyear, in the business of facility support services for Goodyear.

(B) Annually, in the course and conduct of its business described above in paragraph 3(A), Viox provides services valued in excess of \$50,000 to other employers such as Goodyear, who are directly engaged in interstate commerce.

4. (A) At all material times, Goodyear has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(B) At all material times, Viox has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, Respondent has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

| | | |
|---------------|---|---------------------|
| Peter Stamich | - | Local President |
| Jack Hefner | - | Vice President |
| Howard Kropff | - | Financial Secretary |
| Jim D. Falco | - | Recording Secretary |
| Don Wood | - | Treasurer |
| Rick Nixon | - | Union Official |
| Dave Prentiss | - | Union Official |

7. (A) At all material times, Respondent has been the collective-bargaining representative of the production employees of Goodyear at the Akron, Ohio facility.

(B) At all material times, Respondent has been the collective-bargaining representative of the Viox employees at the Goodyear Akron, Ohio facility.

(C) From on or about October 5, 2006 to on or about January 2, 2007, certain employees of Goodyear represented by Respondent employed at the Goodyear Akron, Ohio facility, ceased work concertedly and engaged in a strike.

(D) On or about November 21, 2006, by written notification and in person, employees of Goodyear at its Akron, Ohio facility, including Frank C. Steen III, David Dann and Tony Sando, who had been engaged in the strike referred to above in paragraph 7(C), resigned their membership in Respondent.

(E) On or about December 5, 2006 and at various times thereafter, including on December 8, 2006, Scott Lauby, a Viox employee employed at the Goodyear Akron, Ohio facility, resigned his membership in Respondent.

8. (A) On or about November 21, 2006, Respondent, by Pete Stamich, telephonically informed a former member and employee of Goodyear, who had resigned from the Respondent, that if he crossed the picket line he would be fined for everything he made and then some, and that once the strike was over, his employment would be terminated.

(B) On or about various dates beginning on November 23, 2006 and continuing on at least two dates thereafter in December 2006, the exact dates being unknown, Respondent, by its representatives, including Don Wood, Dave Prentiss and Rick Nixon, went to a former member of Respondent and Goodyear employee's residence in Tallmadge, Ohio, and by their conduct, through the use of a bullhorn and verbally, threatened and coerced said individual because he had engaged in protected concerted activity.

9. (A) On or about January 29, 2007, Respondent brought internal Union charges against Scott Lauby, David Dann, Tony Sando and Frank C. Steen III, and served those charges on the above-named individuals.

(B) On or about February 16, 2007, Respondent held a hearing by a Trial Committee composed of Respondent members concerning the charges referred to above in paragraph 9(A).

(C) On or about February 16, 2007, the Trial Committee referred to above in paragraph 9(B) found David Dann, Tony Sando and Frank C. Steen III guilty of the charges referred to above in paragraph 9(A) and recommended that fines in the sum of \$620.00 per individual be levied against each former member referred to above.

(D) Respondent engaged in the conduct described above in paragraphs 9(A), 9(B) and 9(C) because the named employees and former members of Respondent engaged in protected concerted activities.

10. Since about January 2007, and continuing to date, Respondent has, and continues to collect full union dues from David Dann, Tony Sando and Frank C. Steen III, even though they are no longer members of Respondent.

11. By the conduct described in paragraphs 8, 9 and 10 above, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act.

12. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be **received by this office on or before June 14, 2007, or postmarked on or before June 13, 2007.** Respondent should file an original and three copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. When an answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than three business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on the 21st day of August 2007, at 10:00 a.m., in a hearing room of the National Labor Relations Board, 1695 AJC Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio, and on consecutive days thereafter until concluded, a hearing

will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cleveland, Ohio this 31st day of May 2007.

/s/ Frederick J. Calatrello

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Cases Nos. 8-CB-10687 and 8-CB-10740

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; *and*
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Peter Stamich, President
United Steel, etc., Local 2L
AFL-CIO-CLC
501 Kelly Avenue
Akron, OH 44306

Scott Lauby
1761 Deanna Lane
North Canton, OH 44720

Cy Kangus, Site Supervisor
Viox Services
1144 East Market Street
Akron, OH 44316

Scott Junod, Human Resources Manager
Goodyear Tire & Rubber Co.
Goodyear Akron Technical Center
1376 Tech Way Dr.
Akron, OH 44316

Melvin P. Stein, Senior Counsel
United Steelworkers of America,
AFL-CIO, CLC
Five Gateway Center, Room 807
Pittsburgh, PA 15222

John Martin, Esq.
National Right to Work Legal
Defense Foundation
Suite 600, 8001 Braddock Rd.
Springfield, VA 22160

Frank C. Steen, III
6311 Boatman Dr., N. W.
Canal Fulton, OH 44614

Administrative Law Judges
1099 14th Street, N.W.
Washington, D.C. 20570

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)