Striking Fear Into Corporate Hearts, Labor Board Hands Big Win to Workers

Published on Thursday, August 27, 2015 by Common Dreams
by Deirdre Fulton, staff writer

In what is being described as "one of the biggest labor decisions of the Obama administration," the National Labor Relations Board (NLRB) on Thursday expanded its "joint-employer" standard, paving the way for unions to organize on a much broader scale—and striking fear into the hearts of corporations that have used previous labor laws to shift workplace responsibilities elsewhere.

While the ruling dealt specifically with a California waste-management company, observers said its implications could go much further. "McDonald's, Burger King and every other company that relies on a franchise business model just suffered the legal setback they've been fearing for years," wrote *Huffington Post* labor reporter Dave Jamieson on Thursday afternoon.

In its 3-2 ruling, the NLRB held that Browning-Ferris Industries of California was a joint employer of workers hired by a contractor, Leadpoint Business Services, to help staff the company's recycling center.

As the *New York Times* explains:

> *The ruling, which may eventually be challenged in court in a variety of individual disputes, changes the definition of a crucial employer-employee relationship that had held in some form since the 1980s. Now, a company that hires a contractor to staff its facilities may be considered a so-called joint employer of the workers at that facility, even if it does not actively supervise them.*

> *A union representing those workers would now be legally entitled to bargain with the upstream company, not just the contractor, under federal labor law.*

The Hill notes that the ruling "is a sharp departure from previous labor laws that help companies be responsible only for employees over whom they have direct control by setting their hours, wages, or job responsibilities. They could get around the requirement by hiring staffing agencies and subcontractors that deal more closely with the workers."

The decision stemmed from a 2013 case brought by Teamsters Local 350 in Daly City, California, against Browning-Ferris. The union maintained that Browning-Ferris had control over wage and working conditions for its workers employed through Leadpoint and counted as a joint employer with that agency, and should therefore be at the bargaining table.

The NLRB, in its ruling, agreed.

"This decision will make a tremendous difference for workers' rights on the job," Jim Hoffa, general president of the Teamsters union, said Thursday. "Employers will no longer be able to shift responsibility for their workers and hide behind loopholes to prevent workers from organizing or engaging in collective bargaining. This is a victory for workers across America."

On Thursday, experts were quick to note how the decision could affect the fast-food industry, which has been under pressure from organized labor to raise wages and expand benefits.

"In the case of McDonald's, roughly 90 percent of its locations are actually run by franchisees, who are typically considered the workers' employers," *HuffPo*'s Jamieson explained. "One of the main reasons companies choose to franchise or to outsource work to staffing agencies is to shift workplace responsibilities onto someone else. But if a fast-food brand or a hotel chain can be deemed a 'joint employer' along with the smaller company, it can be dragged into labor disputes and negotiations that it conveniently wouldn't have to worry about otherwise. In theory, such a precedent could even make it easier for workers to unionize as employees under the larger parent company."

And a statement from Kendall Fells, organizing director for the Fight for $15 movement, further indicated that the growing fast-food worker movement sees Thursday's ruling as a big win.

"McDonald's is the boss—that's true by any standard," Fells said. "The company controls everything from the speed of the drive-thru to the way workers fold customers' bags. It's common sense that McDonald's should be held accountable for the rights of workers at its franchised stores."

Six leading maritime labor organizations form alliance

Six of the country's leading maritime labor organizations, American Radio Association, Inlandboatmen's Union, International Longshoremen's Association, International Longshore & Warehouse Union, Marine Engineers' Beneficial Association, and International Organization of Masters, Mates & Pilots, have announced the establishment of a broad alliance to protect the interests of their members.

On behalf of our members, we will vigorously protect our jurisdictions, working conditions and labor rights. Accordingly, we have established a new organization, the

Maritime Labor Alliance.

The first order of business of the Maritime Labor Alliance was to receive a report from ILA President Harold Daggett on the status of USMX contract negotiations. Contingency plans regarding these negotiations were discussed and mutual support pledged.

A report was also received from International Transport Workers Federation (ITF) President Paddy Crumlin regarding a collective, global strategy to ensure that the rights and livelihoods of maritime workers are protected in the efforts to automate maritime workplaces as a means of union busting.

Finally, the members of the alliance pledged their mutual support to defeat attacks on bona fide labor unions by organizations intent on undercutting working conditions and displacing incumbent workers.

We, the undersigned organizations, welcome a constructive dialogue to address the challenges facing our industry. But if threatened, we will not stand down.

It is on this basis that we will move forward in solidarity.

Robert McEllrath, President, ILWU
Michael Jewell, President, MEBA
Floyd Hepting, President, ARA
Harold Daggett, President, ILA
Timothy Brown, President, MM&P
Alan Cote, President, IBU

Movement towards busting public sector unions

There has been a big push to bust labor unions, especially public service unions, in favor of “right to work” laws. The recent blizzards on the east coast have suddenly become fodder for attacking organized labor.

> *It all began, reportedly, when some anonymous civil servants approached conservative City Councilmember to make a troubling confession. Tea Party-backed Councilmember Dan Halloran, who proudly attacks bills for paid sick leave and living wages, claimed to the press, “three sanitation workers and two Department of Transportation supervisors came to his office saying their bosses ordered the slowdown, telling workers that ‘the mayor will see how much he needs us’ and ‘there will be plenty of overtime.’”*
>
> *The union denied the charges. The Mayor, who could arguably use a good diversion tactic amid heavy criticism of his administration’s emergency preparedness, has called for further investigation. And the right has gone to town, using the botched clean-up as a platform to once again demonize the public sector. Because obviously, the city’s poorly coordinated snow plows were a direct result of sanitation workers’ lavish benefits and outsized public pensions, as opposed to just the administration’s mismanagement. At City Journal, Nicole Gelinas argues, “the snowstorm has made it obvious that New York hasn’t perfected public-sector management to such an extent that it can cut spending to feed the benefits monster without harming the public.”*
>
> *Laura Flanders gave a more cool-headed assessment of “snowgate”:*
>
> *The blizzard narrative became that it’s not tax cuts or*

layoffs that trigger state shortages and service crashes. It's the workers. Public Services fouled up? It must be public service workers' foul play.

Could the hailstorm of anti-labor rhetoric be a bellwether for backlash against the public workforce? Ask the students trudging through the slush this week to begin the semester under the controversial new schools chancellor, former media executive Cathie Black. She's poised to continue Bloomberg's agenda of antagonizing teacher unions by attacking tenure policies, while cheerleading the test-heavy, pro-charter "McEducation" model of school reform.

Steven Greenhouse, labor and workplace reporter for the New York Times, and author of "The Big Squeeze: Tough Times for the American Worker."
Michael Zweig, Professor of economics and director of the Center for Study of Working Class Life at the State University of New York at Stony Brook. He is author of "What's Class Got to Do with It?" and "The Working Class Majority: America's Best Kept Secret"
Art Levine, contributing Editor at Washington Monthly, he also writes regularly on labor, health, financial and other reform issues at the Working In These Times blog, Truthout.org, and the Huffington Post.

Olbermann – GOP goes union busting and the media helps

In December, 60 Minutes, aired a report about state and local level budget deficits. Entitled *The Day of Reckoning*, the piece paints a grim picture for states like California and New

Jersey and says states have $2 trillion in outstanding bond debt. The blame, according to CBS, lies squarely on the backs of public employees and their pensions.

New Jersey governor, Chris Christie, says of the "…"Totally unsustainable. We have a benefit problem," Christie said. "It's not an income problem from the state. It's a benefit problem. And so we gotta change those benefits." The Guardian picked up on it and wrote an article titled "[$2tn debt crisis threatens to bring down 100 US cities](#)".

Economist, Dean Baker, takes the 60 Minutes piece apart, layer by layer.

> *Way back in the last decade the United States had a huge housing bubble. The Wall Street banks made money hand over fist making and selling the loans that fueled this bubble. The economic policymakers and regulators who were supposed to prevent the growth of such dangerous bubbles, people with names like Greenspan, Bernanke, Paulson, and Geithner, assured the public that everything was just fine. When they were proved horribly wrong, they then congratulated themselves for avoiding a second Great Depression.*
>
> *This background is important to any story on the financial problems facing state and local governments, since it is 90 percent of the picture. It also would be good if the public remembered this history, since many of the people who either profited from the bubble or failed to take measures to counter its growth are now at the forefront in demanding that state and local governments sharply reduce their budgets and that public sector employees take big cuts in pay and benefits.*
>
> *On Sunday night, the CBS News show 60 Minutes joined this campaign. The piece begins by telling viewers that:*
>
> *"in the two years, since the 'great recession' wrecked their economies and shriveled their income, the states have*

> *collectively spent nearly a half a trillion dollars more than they collected in taxes."*
>
> *That's not what the data show. If we look to the Commerce Department's National Income and Product Accounts we find that in total state and local government spent $45 billion more than they took in (line 27). CBS does not give a source for the "nearly half a trillion" number.*

Now, the GOP are continuing their assault on unionized public employees, auto workers, pretty much any labor force hoping to feed a family. Leo Gerard of the United Steelworkers explains how shipping jobs oversees is hurting the US economy.