



The NLRB GUMBO

September 2010
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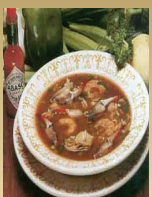
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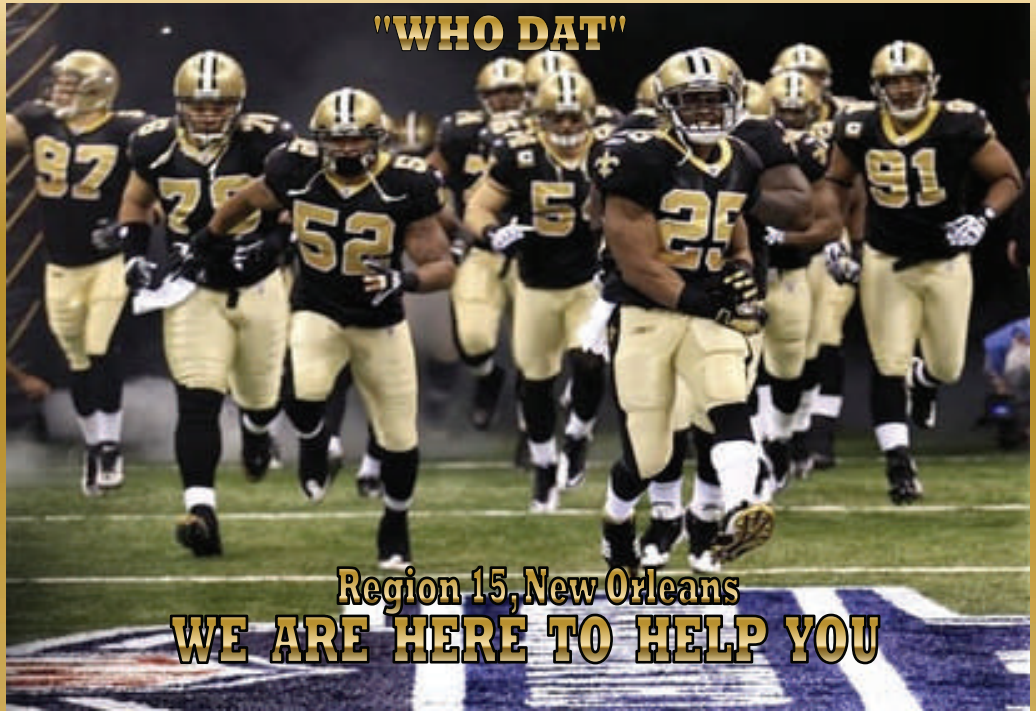
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Gumbo - a thick, spicy, roux-based soup sometimes thickened with okra or file'. It can include sausage, chicken, ham, seafood, or a combination thereof, and is served over rice. It is a New Orleans specialty.



"WHO DAT"

Region 15, New Orleans WE ARE HERE TO HELP YOU

75th Anniversary of the National Labor Relations Act

On July 6, 2010, the NLRB began celebrating 75 years of enforcing the National Labor Relations Act, the primary law governing relations between employers and employees in the private sector, which was signed by President Franklin Roosevelt on July 5, 1935.

The Agency is celebrating the anniversary with a [commemorative website](http://www.nlrb.gov/75th/index.html) at <http://www.nlrb.gov/75th/index.html> culminating with a free [two-day symposium in late October](#) on the legacy of the law and prospects for its future, co-sponsored by the NLRB and the George Washington University School of Law. Event info available at http://www.nlrb.gov/75th/GW_Event_10282010.html.

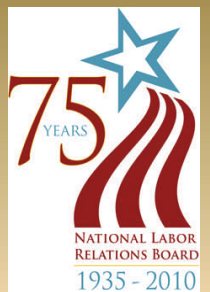
Facebook and Twitter NLRB Mobile Brings Access to NLRB Case Information and Decisions to Smartphones

You can access the NLRB via NLRB Mobile, a web-based mobile application that delivers recent cases, decisions, news, updates, case search and other information about the NLRB to web-enabled devices. NLRB Mobile is available at: <http://m.nlrb.gov>. NLRB is on Facebook at <http://www.facebook.com/NLRBpage>. One component of the NLRB's FB page is also a "wall" of "status updates" about new developments affecting the Agency, such as major elections, injunctions, settlements, backpay awards, speeches by the Board and the General Counsel, and legislative and court developments. The status updates often link to the press releases on the NLRB's website and invite readers to comment on the developments or to simply signal that they "like" what they have read. Every Friday afternoon, the NLRB page hosts "Trivia Fridays" in which trivia questions are posed, and users are encouraged to post their answers. Other parts of the NLRB page give the public information about their rights under the Act and provide a link to the Board's home website, as well as to the recently launched 75th Anniversary website. Another section coming soon will serve as a recruiting tool for new Agency employees. You can also follow the NLRB's feed on Twitter <http://twitter.com/nlrb?> When you subscribe to the NLRB's feed, updated information is automatically sent to your internet browser or to your cell phone as a text message. These new methods further the Agency's commitment to open governance and transparency, and makes it even easier for those interested in the Agency's work to find the information they're looking for as efficiently as possible.

Second Line



A Second line is a tradition in [brass band parades in New Orleans, Louisiana](#). The "main line" is the main section of the parade, or the members of the actual club with the parading permit; those who follow the band just to enjoy the music are called the "second line." The second line's style of [traditional dance](#), in which participants walk and sometimes twirl a parasol or handkerchief in the air, is called "second lining." It has been called "the quintessential New Orleans art form — a [jazz funeral](#) without a body."



MEET THE GENERAL COUNSEL

The *General Counsel* is appointed by the President to a 4-year term with Senate consent; is independent from the Board; is responsible for the investigation and prosecution of unfair labor practice cases, and for the general supervision of the NLRB field offices in the processing of cases. The current Acting General Counsel is Lafe Solomon. Each Regional Office is headed by a Regional Director who is responsible for making the initial determination in cases arising within the geographical area served by the region.

Acting General Counsel: Lafe Solomon

Lafe Solomon was named Acting General Counsel by President Obama as of June 21, 2010. In 1972, Mr. Solomon began his Agency career as a field examiner in Seattle. Acting GC Solomon completed his law degree and returned to the Agency working in offices on both the Board and General Counsel side. Prior to his current appointment, Mr. Solomon was the Director of the Office of Representation and Appeals. A native of Helena, Arkansas, Mr. Solomon received a B.A. degree in Economics from Brown University in 1970 and a J.D. from Tulane University (**possibly a closet Saints fan**) in 1976. On September 29, 2010, Celeste Mattina was appointed Acting Deputy General Counsel.



IMPACT OF NEW PROCESS STEEL AT REGION 15

Currently, four of the Board's five seats are filled. The current members are Chairman Liebman, Member Brian Hayes, Member Mark Pearce and Member Craig Becker. From January 2008 to April 2010, the Board operated with three of its five seats vacant. During that 27-month period, the two remaining members issued nearly 600 decisions. On June 17, 2010, in *New Process Steel v. NLRB*, 130 S.Ct. 2635, a divided Supreme Court ruled that the two-member Board was not authorized to issue decisions, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegate group of at least three members must be maintained.

M&B SERVICES INC

M&B Services, Inc., whose president is Milton Berry Sr. of Metairie, LA was initially found guilty of violating the National Labor Relations Act on May 29, 2009, by the Agency's Two-member Board. However, that decision had to be reconsidered in light of United States Supreme Court's decision in *New Process Steel*. Thereafter, on August 6, 2010, a three-member Board found M&B violated the Act by:

1. since about September 1, 2008, to pay its unit employees a wage increase
2. and refusal to bargain with the Union about the company's failure to implement a scheduled wage increase

M&B was ordered to bargain in good faith with the Union on request and to pay the unit employees their wage increase. Milton Berry's company was engaged in the business of providing temporary employees to Richard's Disposal, Inc., and Metro Disposal, Inc., companies engaged in the business of collecting and disposing of municipal waste in Louisiana.

MACHINISTS LOCAL LODGE 2777 (L-3 COMMUNICATIONS): 355 NLRB No. 174 (2010)

On August 27, 2010, Region 15 attorneys prevailed in a case against the Int'l Assoc of Machinist, Local 2777. The Board majority found the union violated its duty of fair representation in requiring non-member dues objectors to re-state their position every year, despite their express desire to have the objection continue from year to year.

Under federal labor law, unions and employers may enter into agreements requiring employees represented by a union to pay dues or fees as a condition of employment. Nonmembers have the right to object to paying any portion of dues that is not used for collective bargaining purposes. Unions must provide notice of this option, and calculate the share of dues money used for collective bargaining purposes.

In the Region 15 case, an employee of Florida-based L-3 Communications Vertex Aerospace LLC who was represented by the IAM objected to paying full dues. In 2003, he informed the union in writing that he wished his objection to continue indefinitely. The union responded that all dues objections had to be re-stated annually. In its decision the Board majority found the annual renewal requirement was "arbitrary".

A WIN IN IATSE, LOCAL 478, 15-CB-5827

Region 15 attorneys successfully litigated a case alleging that International Alliance of Theatrical Stage Employees (IATSE) Local 478 in New Orleans, Louisiana violated the National Labor Relations Act.

After a two day hearing in December 2009, an Administrative Law Judge (ALJ) found the Union illegally asked out of state IATSE member employees to refuse offered work and threatened them with expulsion from IATSE. The Judge also found the Union in violation for contacting the Employer and attempting to cause and causing the Employer to withdraw the job offers made to the employees. In April 2010, the Board adopted the ALJ's decision and the case is currently in compliance to determine the remedy including all backpay owed to the two affected employees deprived of Sound Department work on the major motion picture *Bad Lieutenant*.

THE SAINTS ARE COMING

The New Orleans Saints are currently the reigning NFC and Super Bowl football champions. After 43 years vying for a Super Bowl, the team and the city finally have reason to rejoice and celebrate. Although fans will continue to revel in their beloved Saints' victory, NFL players and owners have turned their attention to the looming labor troubles.

Minutes before the Saints and Minnesota Vikings kicked off the 2010 NFL season, players from both teams stepped on the field and raised one finger into the air in a show of union solidarity. The move was a public message to owners that players are united in negotiations for the upcoming collective bargaining agreement, which threatens to derail the 2011 season. The league's collective bargaining agreement ends in March. Leading up to the negotiations for a new collective bargaining agreement there has been much speculation there will be a lockout, putting the 2011 season on hold. Some issues at stake are the percentage of profits that go to the players, a rookie salary scale and how to use the money saved by lowering the expenditures on rookies, and the increase of the schedule from 16 to 18 games.

It is uncertain whether a deal will be reached by the start of the 2011 season. But, it is clear that the players are united in their cause. Referring to the gesture, Saints quarterback Drew Brees said: "Even though five minutes from then we were going to go out and bash each others' heads in, we're all one voice." On September 20, 2010, the Saints voted 59-0 to authorize the NFL Players Association to decertify as a union if collective bargaining negotiations should reach an impasse.



How Do I Request a Representation or Decertification Election?

The NLRB can conduct an election only when a petition has been filed requesting one. A petition for certification of representatives can be filed by an employee or a group of employees or any individual or labor organization acting on their behalf, or it can be filed by an employer. If filed by or on behalf of employees, the petition must be supported by a substantial number of employees who wish to be represented for collective bargaining and must state that their employer declines to recognize their representative. If filed by an employer, the petition must allege that one or more individuals or organizations have made a claim for recognition as the exclusive representative of the same group of employees.

The NLRA allows employees or someone acting on their behalf to file a decertification petition seeking an election to determine if the employees wish to retain the individual or labor organization currently acting as their bargaining representative, whether the representative has been certified or voluntarily recognized by the employer.

Representation Matters

Ever Wonder Who Can Be Included in a Bargaining Unit? A unit may cover the employees in one plant of an employer, or it may cover employees in two or more plants of the same employer. In some industries in which employers are grouped together in voluntary associations, a unit may include employees of two or more employers in any number of locations. It should be noted that a bargaining unit can include only persons who are "employees" within the meaning of the Act. The Act excludes certain individuals, such as agricultural laborers, independent contractors, supervisors, and persons in managerial positions, from the meaning of "employees." None of these individuals can be included in a bargaining unit established by the Board. In addition, the Board, as a matter of policy, excludes from bargaining units employees who act in a confidential capacity to an employer's labor relations officials.

Robinson Aviation, Inc. (RVA), Case No. 15-RC-8844

On August 23, 2010, Region 15 certified the Professional Air Traffic Controllers Organization, Inc. (PATCO) as the bargaining representative for the Air Traffic Control Specialists (Full and Regular Part Time).

Vose Technical Systems, Inc., Case No. 15-RD-928

On June 7, 2010, Region 15 issued a Certification of Result for the Unit described as "all production and maintenance employees including all leads employed by Vose Technical Systems, Inc at Fort Polk, LA" who (**were formerly**) represented by the International Brotherhood of Teamsters, Local 19.

Protected by the NLRA without a Union: Protected Concerted Activity

Among other scenarios, the Board has found Protected Concerted Activity to encompass "those circumstances where individual employees seek to initiate or to induce or to prepare for group action, as well as individual employees bringing truly group complaints to the attention of management." The Board has found that a single employee's inability to sway his coworkers does not change the concerted nature of his activity. Nor does the fact that the only employee to be an immediate or direct beneficiary of the individual employee's complaint was the individual employee himself detract from the concerted nature of his solicitation of the other employees. See [Meyers Industries \(Meyers II\)](#), 281 NLRB 882, 885 (1986), [El Gran Combo](#), 284 NLRB 1115, (1987).

Don't Wait Too Late to File Your Charge:

Section 10(b) of the NLRA requires that a NLRB charge be **filed and served** within six months of an unfair labor practice occurring. The charging party is responsible for the timely and proper service of a copy of the Charge on the Charged party. However, generally the Regional office where the charge is filed will serve the Charged Party.

Hiring from A to Z

Welcome the newest additions to Region 15's staff, Zachary Herlands and Amiel Provosty. Both 2010 Tulane Law School graduates, Amiel is originally from Cincinnati, OH and Zachary is originally from Clarks Summit, PA. They both have prior NLRB and/or labor backgrounds and are eager to start their career with the NLRB.

In September 2010, Region 15 returned to the Agency Three Manager Model. Therefore, the Region now has a Regional Director, Assistant to the Regional Director and a Regional Attorney.



The NLRB Public Information/Assistance Program

If you Contact an NLRB Information Officer (I/O) They Will:

- Explain what the NLRB does and does not do.
- Help prepare an [unfair labor practice charge](#) or [representation petition](#) for you, if requested.
- Refer you to another federal or local agency, if appropriate.

If you have a job-related question or problem that appears to be within our jurisdiction, please contact an Information Officer (I/O) at the local NLRB office nearest you.

The typical person contacts Region 15's I/O by phone at 504-589-6361. Most questions or assistance can be handled by phone and/or mail. If you phone the NLRB field office, the I/O will normally speak to you at that time or return your telephone call as promptly as possible. If you chose to visit to Region 15's office, the I/O will meet with you as promptly as possible. Understand the I/O may not be able to speak or meet with you immediately because there may be people ahead of you.

The I/O either over the telephone or in person, will listen to your question or may ask questions, which will enable them to help you. If you decide to file a charge or petition, the I/O will assist you. The I/O can normally complete the filing process on the same day you decide to file the charge or petition. The I/O can email, fax or mail you the completed forms soon after your call. At this time a ULP charge cannot be filed via email, which means once a charge is signed and dated it must be faxed or mailed back to the Region.

The I/O will always take the opportunity to educate a caller or visitor about the NLRB, and where appropriate, the I/O will give you literature explaining our law and our procedures. Region 15 welcomes your comments about the services we provide or should provide. You may contact us by telephone, email and/or mail with any question or concerns.

NO COST TO YOU! The Agency also has a toll free telephone number that offers a general description of the Agency's mission, referrals to other related agencies and access to an Information Officer based upon the caller's telephone number. A Spanish language option is also available. Toll free access is available by dialing: 1-866-667-NLRB (1-866-667-6572)



Organizational Chart

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