

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 6**

PITTSBURGH POST-GAZETTE/BCI,

Respondent

and

**NEWSPAPER GUILD OF
PITTSBURGH/CWA LOCAL 38061,**

Charging Party

**Cases 06-CA-248017
06-CA-263791
06-CA-269346**

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

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (“the Board”), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 06-CA-248017, 06-CA-263791, and 06-CA-269346, which are based on charges filed by Newspaper Guild of Pittsburgh/CWA Local 38061 (“the Union”) against Pittsburgh Post-Gazette/BCI (“Respondent”), are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (“the Act”), 29 U.S. C. § 151 et seq., and Section 102.15 of the Board’s Rules and Regulations, and alleges Respondent has violated the Act as described below:

1. (a) The charge in Case 06-CA-248017 was filed by the Union on September 11, 2019, and a copy was served on Respondent by U.S. mail on September 11, 2019.

(b) The first amended charge in Case 06-CA-248017 was filed by the Union on April 5, 2021, and a copy was served on Respondent by U.S. mail on April 7, 2021.

(c) The charge in Case 06-CA-263791 was filed by the Union on July 29, 2020, and a copy was served on Respondent by U.S. mail on July 30, 2020.

(d) The first amended charge in Case 06-CA-263791 was filed by the Union on March 5, 2021, and a copy was served on Respondent by U.S. mail on March 9, 2021.

(e) The charge in Case 06-CA-269346 was filed by the Union on November 20, 2020, and a copy was served on Respondent by U.S. mail on November 24, 2020.

(f) The first amended charge in Case 06-CA-269346 was filed by the Union on February 22, 2021, and a copy was served on Respondent by U.S. mail on February 23, 2021.

(g) The second amended charge in Case 06-CA-269346 was filed by the Union on June 22, 2021, and a copy was served on Respondent by U.S. mail on June 22, 2021.

(h) The third amended charge in Case 06-CA-269346 was filed by the Union on June 28, 2021, and a copy was served on Respondent by U.S. mail on June 28, 2021.

(i) The fourth amended charge in Case 06-CA-269346 was filed by the Union on October 20, 2021, and a copy was served on Respondent by U.S. mail on October 20, 2021.

2. (a) At all material times, Respondent has been a corporation with an office and place of business in Pittsburgh, Pennsylvania (“Respondent’s facility”), and has been engaged in the business of publishing The Pittsburgh Post-Gazette, a daily print and electronic newspaper.

(b) Annually, in conducting its operations described above in paragraph 2(a), Respondent derived gross revenues in excess of \$200,000 and held membership in and subscribed to various interstate news services, including Associated Press, published various nationally syndicated features, and advertised various nationally sold products.

(c) During the period of time described above in paragraph 2(b), Respondent purchased and received at its Pittsburgh, Pennsylvania facility products, goods, and materials valued in excess of \$5,000 directly from points outside the Commonwealth of Pennsylvania.

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

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

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

John Robinson Block	-	Publisher
Rob Weber	-	Director of Operations
Arturo Fernandez	-	Chief Photography Editor
Linda Guest	-	Senior Human Resources
Manager Steven Stockdale	-	Director of Human Resources
Jerry Micco	-	Newsroom Manager

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:

Steve Cain	-	Security Contractor
Charles Sansky	-	Security Contractor

7. Respondent, by the individuals named below, about the dates and in the locations opposite their names, engaged in surveillance of employees who were engaged in Union activities,

or created an impression among its employees that their Union activities were under surveillance by Respondent by taking pictures and/or video recordings:

Agent	Date	Location
(a) Rob Weber	September 25, 2020	Respondent's facility
(b) Arturo Fernandez	September 25, 2020	Respondent's facility
(c) Steve Cain	October 3, 2020 October 24, 2020 October 31, 2020	The public sidewalk opposite the private residence of Respondent Publisher Block located in Pittsburgh, Pennsylvania ("the Block residence")
(d) Charles Sansky	October 3, 2020 October 24, 2020 October 31, 2020	The public sidewalk opposite the Block residence

8. The following employees of Respondent ("the Unit") constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All Editorial Department employees employed by Respondent at its facility currently located in Pittsburgh, Pennsylvania, excluding employees covered by other collective-bargaining agreements, all publishers and associate publishers, Publisher and Editor-in-Chief, Executive Editor, Editor of the Editorial Page, Managing Editor, Deputy Managing Editor, Senior Assistant Managing Editor, Assistant Managing Editor, City Editor, Sports Editor, Sunday Editor, Technology Systems Editor, Business Editor, Night Operations Manager, Seen Editor, Associate Editor of Opinion Pages, Editorial Cartoonist, Confidential Secretaries, professional employees, office clerical employees, guards, and supervisors as defined in the Act.

9. For many years and at all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been

embodied in successive collective-bargaining agreements, the most recent of which was effective from October 15, 2015 until March 31, 2017.

10. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

11. (a) At various times from about March 2017 through September 2020, Respondent and the Union met for the purposes of negotiating a successor collective-bargaining agreement to the agreement described above in paragraph 9.

(b) Since about March 11, 2019, Respondent bargained with no intention of reaching agreement by:

(i) insisting upon proposals that are predictably unacceptable to the Union, including unilateral control over wage rates, hours and number of hours worked, subcontracting of bargaining unit work, provisions of health insurance, layoffs, and a broadly worded no-strike clause;

(ii) failing to provide explanations to the Union regarding the Employer's proposals; and

(iii) prematurely declaring impasse.

(c) By its overall conduct, including the conduct described above in paragraph 11(b), Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the Unit.

12. (a) About July 27, 2020, Respondent implemented changes to the following terms and conditions of Unit employees' employment:

(i) the performance of Unit work by non-Unit employees;

- (ii) wages;
- (iii) hours of work;
- (iv) overtime;
- (v) conditions governing part-time and temporary employees;
- (vi) sick leave;
- (vii) layoffs;
- (viii) expenses;
- (ix) conditions governing internships and two-year associates;
- (x) vacation;
- (xi) holidays;
- (xii) promotion and transfer;
- (xiii) severance pay;
- (xiv) leaves of absence;
- (xv) preferential re-employment;
- (xvi) payroll services;
- (xvii) health, dental, and vision insurance;
- (xviii) life insurance; and
- (xix) pension.

(b) The subjects set forth above in paragraph 12(a) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

13. Respondent engaged in the conduct described above in paragraph 12(a) without first bargaining with the Union to an overall good-faith impasse for a successor collective-bargaining agreement.

14. (a) In the alternative, if it is determined that the parties bargained to an overall good-faith impasse prior to the implementation of terms described in paragraph 12(a), Respondent implemented the following terms which were not reasonably comprehended by its pre-impasse proposals:

- (i) health, dental, and vision insurance;
- (ii) life insurance;
- (iii) pension;
- (iv) wages;
- (v) transfers due to new technology;
- (vi) hours of work;
- (vii) payroll provisions; and
- (viii) the performance of Unit work by non-Unit employees.

(b) The subjects set forth above in paragraph 14(a) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

15. Respondent engaged in the conduct described above in paragraph 14(a) without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

16. (a) On about July 27, 2020, Respondent implemented a discretionary proposal concerning the performance of bargaining unit work by non-Unit employees.

(b) The subject set forth above in paragraph 16(a) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

(c) By the conduct described above in paragraph 16(a) Respondent retained unilateral discretion over the performance of Unit work by non-Unit employees, thereby undermining the status of the Union as the employees' exclusive collective-bargaining representative.

18. By the conduct described above in paragraph 7 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(a)(1) of the Act.

19. By the conduct described above in paragraphs 11(b-c), 12(a-b), 13, 14(a-b), 15 and 16(a-c), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

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

REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 7, 11(b-c), 12(a-b), 13, 14(a-b), 15 and 16(a-c), the General Counsel seeks an Order requiring Respondent to: (1) bargain on request within 15 days of a Board Order; (2) make whole all employees for any losses, including consequential damages, that resulted from Respondent's unilateral implementation of terms; (3) make whole the Union for all costs and expenses incurred during negotiations; (4) make whole employee negotiators for any earnings and or leave lost while attending bargaining sessions; (5) hold a meeting or meetings, scheduled to

ensure the widest possible attendance, where Respondent's representative will read the notice to employees on worktime in presence of a Board agent. Respondent will provide each Unit employee that attends this meeting with a copy of the notice to be read.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 complaint. The answer must be **received by this office on or before May 11, 2022, or postmarked on or before May 10, 2022.** Respondent also must serve a copy of the answer on each of the other parties. The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, 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. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic

version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) 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, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **September 12, 2022, 10:00a.m. at William S. Moorhead Federal Building, 1000 Liberty Ave., Rm 904, Pittsburgh, PA 15222-4111**, 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: April 27, 2022

 /s/ Nancy Wilson
 NANCY WILSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD REGION 06
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 6**

PITTSBURGH POST-GAZETTE/BCI,

Respondent

and

**NEWSPAPER GUILD OF
PITTSBURGH/CWA LOCAL 38061,**

Charging Party

**Cases 06-CA-248017
06-CA-263791
06-CA-269346**

**AFFIDAVIT OF SERVICE OF: Order Consolidating Cases, Consolidated Complaint and
Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on April 27, 2022, I served the above-entitled document(s) by **electronic mail**, as noted below, upon the following persons, addressed to them at the following addresses:

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April 27, 2022

Date

Hannah Ghrist, Designated Agent of

NLRB
Name

/s/ Hannah Ghrist

Signature

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Case 06-CA-248017 et al.

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 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.

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Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court 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 ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are 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. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.