



NLRB Asks Calif. Court To Make Airgas Rehire Union Backers

By **Braden Campbell**

Law360 (November 2, 2020, 5:44 PM EST) -- National Labor Relations Board prosecutors have asked a California federal court for an injunction making gas supplier Airgas US LLC rehire several Teamsters backers and rescind various rules it allegedly enacted to erode union support after workers voted to unionize.

Attorneys in the agency's Los Angeles office on Friday accused Airgas of firing six workers, withholding raises and committing numerous other unfair labor practices to undermine the union following the 2018 vote, asking the Central District of California for an injunction under National Labor Relations Act Section 10(j).

Board prosecutors sometimes seek injunctions to immediately rectify serious labor law violations while the agency's usually lengthy legal process plays out. If the court doesn't act, the company's breaches will kill the fledgling union, attorneys argued Friday.

"Unless a temporary injunction is obtained, it can fairly be anticipated that support for the union among [Airgas'] employees in the Ventura unit will be destroyed by the effects of the unfair labor practices," the prosecutors said.

Friday's petition supplements an unfair labor practice suit against Airgas currently playing out in the NLRB's administrative courts. Attorneys in the board's Los Angeles office brought that case in September 2019 after International Brotherhood of Teamsters Local 848 accused Airgas of violating its employees' labor rights during and after its successful campaign to represent workers at the company's Ventura, California, location. Prosecutors have also accused Airgas of misconduct in a contemporaneous union drive at its Burbank location, but did not ask the court to act on those claims Friday.

The prosecutors allege Airgas sought to stall the Ventura campaign in mid-2018 by threatening to fire workers if they voted to join the Teamsters, interrogating workers about their union sympathies and promising to give raises if workers voted down the drive, among other things. The company made good on some of those threats after workers unionized, withholding annual raises shortly after the vote and firing four union supporters in October 2019, prosecutors say. In March, the company refused to recognize the union and gave workers raises, and laid off two more workers in April, the complaint alleges.

Airgas' anti-union campaign will succeed unless the court enjoins the company from committing further violations, the prosecutors said Friday. Absent an order, the fired and laid-off workers will find other jobs, the remaining workers won't exercise their rights for fear of retaliation and the union will be crippled, they said.

"It is likely that substantial and irreparable harm will result to [Airgas'] employees and their statutorily protected right to organize, unless the aforesaid unfair labor practices are immediately enjoined and appropriate relief is granted," the attorneys said.

The petition asks that the court make Airgas rehire the fired workers and provide them with back pay, provide going forward the wages workers would have earned had they gotten raises in 2018 and

read to workers an order admonishing the company for violating their labor rights. It also asks that the court block the company from similarly firing workers or altering their job terms to erode union support.

The union's attorney called the filing "a tremendous victory" for the Airgas workers.

"Airgas is violating the law with impunity, and has engaged in some of the most egregious conduct that I have seen in over 25 years as a labor lawyer," Bush Gottlieb attorney Julie Gutman Dickinson said. "Hopefully a 10(j) injunction will finally bring them to justice."

Representatives for the NLRB and Airgas did not immediately respond Monday to requests for comment.

The NLRB is represented by Brian Gee and Nayla Wren of the Office of the General Counsel.

Airgas is represented in the NLRB litigation by Mark Stublely of Ogletree Deakins Nash Smoak & Stewart PC.

Teamsters Local 848 is represented in the NLRB litigation by Julie Gutman Dickinson and Hector De Haro of Bush Gottlieb ALC.

The case is *Mori Rubin v. Airgas USA LLC*, case number 2:20-cv-10009, before the U.S. District Court for the Central District of California.

--Editing by Abbie Sarfo.

Update: This story has been updated with comment from the union's attorney and additional attorney information.