

On The Hook: NLRB Forces Hotel To Pay Union's Attorney's Fees Related To Boycott Spat

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Companies, rightfully so, detest negative publicity, especially when it comes to things like organized consumer boycotts. Unfortunately, the National Labor Relations Act (NLRA) protects a union's right, to some extent, to organize such boycotts in furtherance of its objectives. Employers interfering with lawful union-sponsored boycotts can face significant legal consequences, as demonstrated by a recent case issued by the National Labor Relations Board (NLRB). On Feb. 1, the NLRB issued its [decision](#) in *Ashford TRS Nickel, LLC*, where the board ruled a hotel in Alaska was on the hook for a union's legal fees and expenses related to the union's defense of a federal lawsuit brought by the hotel regarding a consumer boycott. The UNITE HERE! union represents workers at the hotel and organized a consumer boycott after the company, in its view, refused to bargain in good faith over a new labor agreement. The union allegedly told prospective customers that the hotel was "firing workers illegally" and that guests would have to cross a "vigorous picket line" in the event they booked the facility for an event. The company filed a federal lawsuit against the union alleging the organized boycott constituted tortious interference and further alleged UNITE HERE! defamed the hotel by stating it was illegally firing employees. The court ultimately dismissed the lawsuit, finding it legally deficient. The hotel did not appeal the dismissal. After the lawsuit was dismissed, UNITE HERE! filed charges with the NLRB alleging that the lawsuit violated the NLRA because it was frivolous and initiated in retaliation against the union for instituting a lawful consumer boycott. The NLRB agreed with the union's arguments. Specifically, the board found the lawsuit to be "baseless" and retaliatory as to protected activity (*i.e.*, the boycott). As a result, the agency forced the hotel to reimburse UNITE HERE! for "all legal and other expenses" incurred by the union with respect to the dismissed lawsuit – with interest. This case serves as an important reminder that companies must exercise caution when crafting a response to any "protected activity" under the NLRA, such as lawfully organized boycotts. Missteps in this area can result in severe penalties, as illustrated by this decision.

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