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Cough It Up! Company Forced To Give Union Complete Copy Of Third-Party Agreement

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Union information requests continue to be an area of consternation for companies. Under the National Labor Relations Act (NLRA), unionized companies generally have a duty to provide unions with "relevant" information upon request. The National Labor Relations Board (NLRB) – at least under the prior administration – has taken an expansive view of the types of information a company must provide to a union. A recent decision from a federal appellate court shows this is an area that continues to get employers in trouble.

On June 7, the United States Courts of Appeals for the District of Columbia issued a decision in which it held a company violated the NLRA when it refused to provide a union with a complete copy of a third-party service contract. In the employer's collective bargaining agreement (CBA) with its union, it secured assent from the union that any "new work" arising during the term of the CBA would not constitute bargaining unit work (i.e., work to be performed by union employees) unless it was pursuant to the Home Service Provider contract the company had with a satellite TV provider.

During the term of the CBA, the union requested a complete copy of that Home Service Provider contract. The company refused to provide a full version; it only provided a "redacted, partial" copy. The NLRB ruled that the employer violated its statutory duty by failing to give a complete copy, and the court agreed. The court specifically reasoned that the company's explicit

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reference to the Home Service Provider contract in the CBA rendered it relevant to the union, and the union was entitled to a complete copy to evaluate what exactly constitutes “new work” and what does not. Accordingly, the company was ordered to provide a complete version.

While the NLRB has, in some instances, placed limits on unions’ rights to information from a company, this case serves as an important reminder that there often are many legal nuances in this context that must be accounted for when employers are evaluating if, when, and how to respond to union information requests.