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Preserving and Growing The Printing, Packaging & Production Workers Union of North America Defending Representation Challenges And Pursuing Representation Opportunities

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Splitting with the Teamsters Timeline

June 23, 2022, Meeting

- Zuckerman stated that the IBT had decided to terminate the merger agreement between the GCC and IBT effective at the end of the year
- Zuckerman stated that the new administration did not consider GCC members to be Teamsters and that the GCC and its members were of no use to the IBT with the conditions set forth in the merger agreement

June 30, 2022 – IBT Letter terminating Merger Agreement effective 12/31/22 provided to GCC

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Splitting with the Teamsters Timeline

August 23, 2022, September 23, 2022, and November 8, 2022

- GCC presented three proposals to the IBT to salvage the merger
- All three proposals were rejected by the IBT
- The IBT never presented the GCC with a counterproposal
- At the November meeting, Zuckerman said he would not provide any protections to the GCC's Locals or District Councils. He said that there were no protections for Locals under the IBT Constitution and that there would be no exceptions for GCC Locals and District Councils.
- At the November meeting, IBT stated that they would refuse to arbitrate whether they could unilaterally terminate the merger agreement.
- GCC offered to negotiate a separation agreement. The IBT refused.

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Splitting with the Teamsters Timeline

November 15, 2022. Because of the IBT's refusal to arbitrate, GCC filed a complaint in Federal Court to force the IBT to arbitrate and obtain an injunction to stop the IBT from enforcing their termination of the Merger Agreement until after the arbitration.

December 9, 2022, Court Decision. Finding the GCC's evidence overwhelming, the Judge issued a bench decision at the hearing awarding the GCC's requested injunction and forcing the IBT to arbitrate.

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Splitting with the Teamsters Timeline

April 29, 2023. Virtual convention with Delegates from all GCC Locals voting to change the GCC's name to the Printing Packaging & Production Workers Union of North America.

May 18-19, 2023. Bifurcated arbitration hearing addressing whether the IBT was liable for illegally terminating the merger agreement.

May 19, 2023. PPPWU dismissed the November 15, 2022, Complaint in the federal lawsuit against the IBT causing the injunction to dissolve, and thereby putting into effect the IBT's termination of the merger.

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Splitting with the Teamsters Timeline

June 2023. Notwithstanding the IBT's unilateral termination of the Merger Agreement, IBT asserts that the PPPWU Locals and District Councils still belong to the IBT and are subject to its authority.

June 27, 2023. PPPWU files new Complaint in federal court seeking a declaratory judgment that the IBT has no jurisdiction over PPPWU Locals and District Councils.

June 30, 2023. PPPWU obtains a temporary restraining order from the Court which prohibits the IBT from asserting or exercising authority or jurisdiction over PPPWU Locals or District Councils.

Splitting with the Teamsters Timeline

September 14, 2023. Arbitrator Irvings issued his award finding.

- The IBT could not unilaterally terminate the GCC Merger Agreement, with or without reasonable notice.
- The IBT breached the Merger Agreement by trying to unilaterally terminate the Merger Agreement
- The PPPWU effectively consented to the termination of the Merger Agreement when it dismissed its complaint and injunction keeping the Merger Agreement in place on May 19, 2023, and
- There should be a hearing to determine the damages that the PPPWU is entitled to from when the IBT.

Splitting With the Teamsters Timeline

October 3, 2023.

- In a Joint status conference report to the Court, the IBT argued for the first time since it announced the termination of the Merger Agreement that the Merger Agreement continues in effect because of the ruling of Arbitrator Irvings.
- The PPPWU responded that the IBT's argument is wrong on the law and the facts, does not reflect Arbitrator Irvings' ruling, and that the IBT is estopped from making this argument because of the admissions and actions both before and after making this argument.

November 17, 2023.

- Argued the case before Judge Kelly of the United States District Court for the District of Columbia.
- Judge Kelly was very sympathetic to PPPWU's position and very skeptical of IBT's.

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What's next?

- Judge Kelly's Decision on the PPPWU's request for a Declaratory Judgment that IBT have no jurisdiction over PPPWU Locals and District Councils
- Rulings on motions that dispose of a case are taking approximately 9 months
- Decision on whether to proceed with an arbitration hearing on damages over the IBT's breach of the Merger Agreement
- Discussions to determine whether there is a viable merger partner that will preserve PPPWU autonomy and autonomy for its Locals and District Councils.

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How's the PPPWU Doing?

Lost 5 shops between October 26, 2023, and January 4, 2024

- WestRock Salinas,
- Southland Printing
- GPI-Carol Stream
- Sonoco PCA

Have lost no shops since January 4, 2024

Have Successfully Defeated Teamsters' Raids

- Quest Graphics (St. Louis)
- Gared Graphics (Los Angeles)
- Honsa Printing (St. Paul)
- S-E-D (Philadelphia)
- Royal Paper Box (Los Angeles)
- Dome Printing (Sacramento)
- Many other locations

One election scheduled for TomaTek (Modesto, CA) July 25, 2024

How are the Teamsters Doing for Shops and Locals that Voted for Them?

- WestRock Salinas – NO CONTRACT for EIGHT MONTHS
- Southland Printing – NO CONTRACT for SEVEN MONTHS
- GPI-Carol Stream – NO CONTRACT for SEVEN MONTHS
- Sonoco – NO CONTRACT for SIX MONTHS
- PCA – NO CONTRACT for FIVE MONTHS
- Amcor (Des Moines) 2 week strike. Over 50% of Teamster members to be PERMANENTLY LAID OFF on June 1, 2024.

How do the PPPWU's Contracts Compare to the Teamsters' Contracts?

PPPWU

PCA. 19.5% wage increase over the term of agreement, plus lump-sum payment up to \$4,000.

GPI. 11.25% increase over the term of agreement, plus cash lump sum payments.

Sonoco. 17% wage increase over the term of the agreement. Promotions for many workers. Elimination of tier. Increased vacation.

WestRock. 14% wage increase over the term of the agreement. Plus, lump sum payment up to \$12,000

Amcor. 15.75% wage increase over the term of the agreement

TEAMSTERS

PCA. NO CONTRACT for FIVE MONTHS

GPI. NO CONTRACT for SEVEN MONTHS

Sonoco. NO CONTRACT for SIX MONTHS

- Couldn't do better than what DC2 had negotiated
- Substandard contract to what PPPWU had negotiated at another location

WestRock. NO CONTRACT for EIGHT MONTHS

Amcor. Two Week Strike. Over 50% of Workers Permanently Laid Off

What's Working?

Why PPPWU Members Agree Moving to the Teamsters is a Bad Deal for Them

- Start from scratch bargaining – first time contract.
- Could take months to reach new contract or may never achieve contract
- Losing wage increases and lump sum payments during that time that you will never recover
- Loss of Union Health Care
- Will get stuck on company plan
- Loss of Pension
- Company hit with Employer Withdrawal Liability
- Could threaten company's ability to continue operating
- At very least EWL payments will be taken out of workers' pay and benefits.
- Right to arbitrate disputes disappears
- No way to challenge terminations
- Outsiders coming in to take away everything that has been built for yourself and your family
- Plays into employer's desire for division and discord
- Teamsters don't know our industry
- Teamsters terrible track record of not getting contracts
- Teamsters aren't interested in your shop, only national contracts such as UPS.

Types of Representation Elections

- Unorganized bargaining unit
- Replace existing union with another union
- Decertification of existing union

How is a representation election triggered?

- Petition signed by at least 30% of workers in a bargaining unit
- Authorization cards signed by at least 30% of workers in a bargaining unit
- Signatures on a petition or authorization card remain valid for one year
- To revoke a signature on a petition or card, a revocation in writing must be signed prior to the filing of the petition or cards

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Who Is on the Ballot?

- Petition to Organize a New Unit
- Two options involving one union
- Do you want the petitioning union to be the employees' exclusive bargaining representative?

Yes or No

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Who Is on the Ballot?

- Petition to Organize a New Unit
- Two options involving one union
- Do you want the petitioning union to be the employees' exclusive bargaining representative?

Yes or No

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Who Is on the Ballot?

- Petition to Decertify Existing Union
- Two options involving one union
- Do you want the petitioning union to continue to be the employees' exclusive bargaining representative?

Yes or No

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Bars to Filing Petitions for Elections

- Certification Bar
 - Newly certified bargaining unit
 - One year
- Election Bar
 - Decertification or rival union election
 - One year
- Successorship Bar
 - Successor employer who refuses to adopt existing CBA
 - One year
- Contract Bar
 - 1st three years of a collective bargaining agreement

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When does the Contract Bar Not Apply

- The Window Period
 - 60-90 days prior to the expiration of the CBA
- After a collective bargaining agreement expires or terminates
- Any year of a CBA after the third year
- After a one year certification bar, election bar or successorship bar expires without a CBA being negotiated.

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Contract Extensions

Contract Extensions Can Serve as a New Contract Bar

- Automatic
- Negotiated

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Automatic Extension

- In collective bargaining agreement
- Must be of a definite duration sufficiently long enough to allow a window period 60-90 days before expiration (e.g., one year)
- Multiple automatic extensions can each serve as a new contract bar
- Automatic extensions of potential indefinite duration will not serve as a new contract bar
- This contract will continue in effect until a new contract is negotiated
- Notices to terminate the contract, modify the contract or negotiate a new contract can terminate an automatic extension or prevent it from going into effect.

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Negotiated Extension

For a negotiated extension to serve as a new contract bar it must be voted on and approved by the membership

Negotiated extensions agreed to by the company and the bargaining committee will not serve as a new contract bar.

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Negotiated Agreements

While there is no way to avoid the 60-90 day window period prior to the expiration of a CBA, if a new CBA is negotiated and ratified by the membership prior to the expiration of the existing CBA, the new CBA continues the contract bar in place for another three years.

Challenging a Petition/Election

- Insufficient signatures/support
- Contract bar (or other bar) is in effect
- Company/rival union commits unfair labor practices tainting the election
 - Pre-election
 - Can request that charges block election
 - Trump rules
 - Election proceeds
 - Ballots can be impounded if credible charges filed that would interfere with free and fair election
 - Ballots counted
 - Certification upheld until charges are resolved
 - If charges upheld, re-run election ordered after ULPs cured/dismissal of petition
 - May return to old blocking rules
- Objections to company/rival union conduct
 - Post-election
 - If supported, can result in new election/dismissal of petition.

NLRB “Quickie” Election Rules

Effective for all NLRB Elections filed December 26, 2023, or after

Initial Representation Election Petitions

Raiding Petitions

Decertification Petitions

NLRB 'Quickie' Election Rules		
Rule Topic	Old NLRB Rule	New NLRB Rule (12.26.23)
Scheduling of Pre-Election Hearings	14 business days from when an employer receives a Notice of Hearing	8 business days from when an employer receives a Notice of Hearing.
Postponement of Pre-Election Hearing and Employer's Position Statement.	Regional Directors had discretion to postpone a hearing for an unlimited amount of time.	2 business days if a party demonstrates "special circumstances" and more than 2 business days if a party demonstrates "extraordinary circumstances"
Submission of Non-Petitioner's Statement of Position.	By noon 8 business days (or 10 calendar days) after employer receives a Notice of Hearing.	By noon the day before the hearing (i.e., usually 7 calendar days after being served a Notice of Hearing)
Responsive Statement of Position	3 business days before the pre-election hearing	Orally at the start of the hearing
Posting of Notice of Petition For Election.	5 business days after employer receives a Notice of Hearing.	2 business days after receiving a Notice of Hearing.
Post-Hearing Briefs	Up to 5 business days after the hearing, with an extension of 10 additional business days upon a showing of good cause.	Only with the regional director's special permission.
Timing Between Decision and Direction of Election (DDE) and Notice of Election	Regional Directors had discretion to convey election details in a DDE or in a later-issued when Notice of Election.	Regional Directors should specify the election details in the DDE and simultaneously transmit the Notice of Election with the DDE.
Scheduling of an Election	Elections had to be scheduled for "the earliest date practicable" but there had to be a 20-business day waiting period between a DDE and the election.	No 20 business-day waiting period and elections must now be scheduled for "the earliest date practicable."

Other NLRB 'Quickie' Election Rules

- The elimination of pre-election hearings on issues beyond whether an election should be held at all.
 - Disputes concerning whether individuals are supervisors or whether certain other positions should fall within the petitioned-for unit may not be litigated until after a vote is held.
- Under prior rules, most elections held 40-60 days after petition filed.
- Under new rules, most elections will be held 20-40 days after petition filed.

Statement of Position – NLRB Form 505

Non-petitioning party must file by noon the day before the hearing (i.e., usually 7 calendar days after being served a Notice of Hearing).

- Does the NLRB have jurisdiction?
- Is the designated unit appropriate?
- Does it match the unit in the CBA?
- Does it match the unit in the Certification?
- What employees, classifications, locations, or groupings must be included or excluded from the proposed unit?
- Individuals whose eligibility to vote you intend to contest
- Is there a bar to conducting an election?
- Describe all other issues you intend to raise at the pre-election hearing
- Position on details of the election
- Manual, mail or mixed
- Dates, times, locations

The Goal Is to Avoid a Petition Being Filed in the First Place

- Once a petition is filed it is very difficult to defeat it
- Already have a significant portion of the workforce wanting to replace the union for another option.

Be Prepared for an 'Ambush' Election

- Be on the alert for covert authorization card or petition activity
 - Phone calls
 - Text Messages
 - Circulation of Cards/Petition in Plant
 - Meetings in Parking Lot and Close to Plant
- Know your strengths
- Inoculate against challenges
 - Risks of leaving PPPWU
- Have an election plan in place
 - Leaders
 - Communications
 - Meetings

**If You Don't Start Winning an Election
Until After a Petition Is Filed,
You Have Already Lost**

What to look out for

- The disgruntled member
- The member who falls for unproven promises
- The member who thinks that the grass is always greener on the other side
- The member who thinks that the union should fight the company on everything
- The member who thinks that the union isn't doing enough.

How to Avoid Challenges to Your Representation

Involvement

- Know what is going on in your shops
- Don't only rely on your stewards and chapel chairs
- Know when your contracts' window periods and expiration dates are
- Identify and work with leaders in the bargaining units

Communication

- Talk to your members about what they want in their contract and from their union
- Inoculate your members to the influences of outsiders
- Educate your members as to what they will lose if they vote out the union
- Keep your members informed about contract negotiations
- Meetings, one-on-ones, emails, text messages
- Create a database of member cell phone numbers and email addresses. Join your local Central Labor Council (CLC)

How to Avoid Challenges to Your Representation

Education

- Why the PPPWU best serves your and your family's needs
- Best contracts in the industry
- Experts in the industry
- Knowledgeable representatives

Benefits

- Why other unions threaten your contract
- Could lose your union and contract
- Delay receiving a wage increase or benefit improvements for months or years
- Financial consequences
- Won't be able to meet your needs.

Who Members Look to for Guidance and Information

- The union
- Coworkers
- The employer
- Family members
- Outsiders

Building Strength in the Plant

- Member Leaders in the plant
- Strong Committees across departments and shifts
- Involve Members in Union negotiations and activities
- Build Member solidarity in the plant
 - Union T-shirt/hat days
 - Parking Lot Rallies
 - Practice Picketing
- Communicate and Provide Information
 - Meetings, emails, texts, postings

Cemex Construction Materials Pacific, LLC

NLRB announced a new framework for determining when employers are required to bargain with unions without a representation election.

New NLRB rules in case of Cemex Construction Materials Pacific

- Union obtains more than 50% of authorization cards signed by workers in a bargaining unit.
- Union requests recognition from the employer on the basis that a majority of employees in a bargaining unit have designated the union as their representative.
- The employer must either recognize and bargain with the union or promptly file an RM petition seeking an election within two weeks of the union's demand for recognition.
- If an employer commits any unfair labor practice that would require setting aside the election, the petition will be dismissed, and—rather than re-running the election—the Board will order the employer to recognize and bargain with the union.
- If an employer does not file an RM petition within two weeks after receiving a union's demand for recognition based on majority support in an appropriate unit, the employer's bargaining obligation matures, and the employer's refusal to bargain and any subsequent unilateral changes will be found unlawful.

Quote from Cemex Construction Materials Pacific decision

The decision states, “If the employer commits unfair labor practices that invalidate the election, then the election necessarily fails to reflect the uncoerced choice of a majority of employees. In that situation, the Board will, instead, rely on the prior designation of a representative by the majority of employees by nonelection means, as expressly permitted by Section 9(a), and will issue an order requiring the employer to recognize and bargain with the union, from the date that the union demanded recognition from the employer.”

—*Cemex Construction Materials Pacific, LLC, 372 NLRB No. 130, slip op. at 26 (August 25, 2023)*

Issues remain in Cemex Construction Materials Pacific decision

- Unclear if Cemex applies when a bargaining representative is already in place.
- Strong argument that it does not.
- Shouldn't take chances, demand election if rival union claims majority status and makes a bargaining demand.
- File ULP and blocking charge if employer refuses to bargain with designated representative or recognizes another bargaining representative outside of the NLRB process.

Questions?

Editor's Note: This article is transcribed from a PowerPoint presentation given during the North American Newspaper Conference in 2024. The final frame asks for questions. There is no record of the questions asked at the gathering. The transcription was necessary because the PowerPoint was too large to load on website and would have been awkward to read.