



Pennsylvania Conference of Teamsters

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LEGISLATIVE ACTION ALERT

William Hamilton, President & Eastern PA Legislative Coordinator – Carl Bailey, Secretary-Treasurer & Western PA Legislative Coordinator -Tim O'Neill, Consultant – Dan Grace, Trustee & Legislative Advisor – Tom Kohn Legal Advisor - Thomas Felice, Staff

SUPREME COURT REJECTS NLRB'S STANDARDS FOR INJUNCTIVE RELIEF

Section 10(j) of the National Labor Relations Act (NLRA) authorizes the NLRB to seek a preliminary injunction from a federal district court in certain circumstances upon the filing of unfair labor practice charges. The Sixth Circuit Court of Appeals applied a two-part test that asked whether “there is reasonable cause to believe that unfair labor practices have occurred” and whether injunctive relief is “just and proper.” Under that standard, the Board could establish reasonable cause by simply showing that its “legal theory [was] substantial and not frivolous,” and relief would be deemed just and proper if it were “necessary to return the parties to [the] status quo pending the Board’s proceedings in order to protect the Board’s remedial powers under the NLRA.” Courts applying this standard included the Third Circuit, which has jurisdiction over Pennsylvania, New Jersey and Delaware.

On June 13, the Supreme Court, in *Starbucks Corporation v. M. Kathleen McKinney, Regional Director of Region 15 of the NLRB*, rejected that standard. Rather, it held that the NLRB must apply the more rigorous test that governs injunctions, generally. Under that standard, a plaintiff, such as the NLRB, must make a clear showing that it is likely to succeed on the merits, that it is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in its favor and that an injunction is in the public interest.

Since the Third Circuit had been applying the Sixth Circuit’s more liberal test, it will now be somewhat more difficult to obtain preliminary injunctive relief in cases brought by Locals within the Joint Council.

Thomas Kohn, Esquire
Markowitz & Richman
123 South Broad Street
Suite 2020
Philadelphia, PA 19109
215-875-3129

