

ACME MANUFACTURING CASE

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THE UNION CAMPAIGN

Acme Inc. is a manufacturing company of automotive parts. It is a primary subcontractor to Ford and Daimler-Chrysler. It has four manufacturing locations; one in Cleveland and one in Detroit; two in Tennessee. The Cleveland and Detroit facilities are old plants each with about 300 hourly employees. The two plants in Tennessee were built six years ago to handle increased orders from Ford and to supply the Mercedes-Benz production of the ML 320 (SUV) model in the United States. The Cleveland and Detroit plants were organized 25 years ago by the UAW. The workforce has remained stable with seniority averaging 15 years of service. New business has been mostly channeled to the new operations. The current labor agreement expires next year. The contract's no strike clause does not prohibit sympathy strikes nor does it follow the Silver States Disposal case and prohibit employees from striking. It states that the Union will not strike during the term of the agreement and the Company will not lock out. The grievance and arbitration procedure requires the union and company to submit all disputes to arbitration.

The two Tennessee plants are non-union. Plant A has 350 hourly employees and Plant B, which supplies parts to the Mercedes-Benz assembly plant has 600 employees. It has seen considerable growth in the last two years as the ML has captured more of the SUV market.

Plant A, the older of the Tennessee operations has not enjoyed the expansion of plant B. They have had layoffs and the plant management used the reduced work to "weed out" some of the unproductive employees. The supervisors at plant A were transferred in from the Cleveland and Detroit plants as a start up team. Acme employed people from the area which was a farming community. Young people sought employment at the plant as it paid better than farming.

Plant B was established to support the ML 320 plant. The management team was transferred from the Cleveland operation, but supervisors were taken from those in the area that showed up in pre-employment screening as potential for team leader positions. The plant has had one expansion since initial start up.

The UAW has threatened several times to organize the two Tennessee plants and at the last contract negotiations the subject of "neutrality" and card check with respect to Acme's position to union organization efforts at the Tennessee plants was a major union demand. Acme negotiated the contract without acceding to this demand, however the union put Acme on notice that "it will organize the Tennessee plants." Ford and Mercedes Benz have been contacted by the UAW to require all suppliers to them to have contracts with the UAW covering the employees of suppliers.

Acme has an employee relations philosophy that expresses its desire to remain union free in non union operations, but to deal fairly with unions where they have labor agreements. The Tennessee plants, some 50 miles apart, operate under the same human resource policies, wage rate structure and benefit plans. The plant managers at each operation report to a regional vice president. Each plant has its own human resource department which reports to the respective

plant manager with a functional relationship to the vice president of human resources at the Cleveland headquarters. The human resource policies which are referred to informally in the Acme Employee Handbook contains a "union free" statement and a formal "No Solicitation-No Distribution Policy"

On July 1st a UAW notice appeared on the bulletin board in Plant A's shipping room. The notice stated that a meeting was scheduled on the next Thursday at 6:00PM to discuss the UAW contracts at the Cleveland and Detroit operations of Acme. It invited all employees in manufacturing, assembly, maintenance and shipping to attend to get information about the pay and benefits negotiated at the Cleveland and Detroit operations. The headline on the notice read, "Employees At The Tennessee Plants Are Being Short Changed. You Need The UAW." The same notice appeared a few days later at Plant B.

The shipping room foreman at Plant A removed the notice from the bulletin board and notified human resources of his action. That afternoon the foreman posted two notices on the same bulletin board. One informing employees of the annual company picnic and the second alerting employees that the "Country Camping" store would be in the cafeteria for its annual discount sales of camping supplies. This same notices were posted in other departments of Plant A.

The human resource director was concerned over the union notice and thought it important to find out more about the meeting. Since she knew most of the employees in the plant, she felt comfortable in asking several if they were going to the meeting. She found three that planned to attend. She asked them to give her "feed back". The next morning when she did not hear from the employees, she called one of them into her office and asked, "What went on at the meeting last night?" The employee remarked that he felt uncomfortable discussing the meeting and left her office.

Friday morning following the union meeting several flyers were found throughout the plant. The flyers enumerated several employee issues brought up at the union meeting, compared the wage and benefit structures of the Cleveland and Detroit plants with Plant A and raised the question, "Why won't Acme give you the same wages and benefits as they have in their plants up North?" "Ask your supervisor why?" Supervisors were instructed to gather up the flyers and destroy them. Friday afternoon union organizers appeared at the plant parking lot gates handing out the same flyers. The plant security director took video film of the organizers. One of the supervisors observed an employee handing out authorization cards in the employee locker room. He confiscated the cards and warned the employee that he was violating the "No Solicitation-No Distribution Policy".

The Cleveland headquarters flew its labor relations director in over the weekend and on Monday instructive meetings on union avoidance were conducted with managers and plant supervisors. The subject of solicitation and use of plant bulletin boards was a major topic and there was general confusion among the supervisors as to what was allowed under the No Solicitation-No Distribution Policy. It was pointed out that the policy was in line with NLRB rulings on solicitation. However, it became clear in the meetings that application of the policy

was inconsistent. A letter was sent out clarifying enforcement of the policy and reminding all employees of its existence.

On Tuesday the Plant Manager issued a letter to all employees advising them that Acme believed that a union was unnecessary and to not sign authorization cards until they had "All the Facts" and promised to give those facts to them over the next few weeks.

The human resource director scheduled employee meetings to determine issues and look for resolutions. In one meeting employees were very vocal about the wage comparison raised by the union. Realizing this had to be defused, she told the group, "Yes, but we are not in Cleveland and Detroit, however, we are looking into this and will do something about it if we can prove our case to Cleveland. Just give us time." She proceeded to invite employees to tell her their grievances and she recorded them on a flip chart so they could be reviewed and resolved.

Following this meeting the plant manager contacted Cleveland and requested that the annual general wage increase normally scheduled for the following month be accelerated. Considering the intensity of the wage issue, Cleveland authorized a wage increase, but instead of the planned 3% increase which had been given in each of the two previous years, authorized a 4% general increase for both Plants A and B. An announcement of the increase was made to all operation employees immediately.

Upon learning of the wage increase the union immediately filed an Unfair Labor Practice claiming that the wage increase was implemented to blunt the organizing campaign and that it could have the effect of destroying the laboratory environment necessary for the union to conduct its campaign

Acme took the position that the increase followed the pattern of increases made in previous years; was based upon survey data that supported the increase and that even though a union campaign was being conducted, Acme was well within its rights to grant a timely wage increase.

The campaign heated up during the next several days. Union handbills appeared in the plant with the headline "WHO REALLY GOT YOU THE 4% INCREASE? VOTE IN THE UAW AND YOU'LL GET MORE!"

Within two weeks time the union petitioned the NLRB for an election claiming it had a sufficient showing of interest in a defined unit. A meeting was held at the NLRB regional office to determine the appropriate unit. It was verified that the union had the required signed authorization cards. In fact the union claimed that 60 percent of the employees in the unit had signed cards. In preparing for the meeting Acme considered including Plant B as part of the unit since information from Plant B management indicated the employees were very much against unionization. The union had not petitioned for the employees at Plant B. Acme decided not to include Plant B as part of the unit. The election concerned Plant A only.

At the meeting the union included the "lead person" in the unit. Acme claimed that the "lead person", while working about 65% of the time as a team member was a team leader with

the authority to give direction to team members anytime the supervisor was working with other teams. The union claimed that at any one time you could not differentiate between a team member and the "lead person". It was left unclear as to the status of the "lead person". Acme indicated it would not include them on the Excelsior list. The union insisted that the lead person be included in the unit. Union organizers felt the employees in the lead person classification were sympathetic to the union. The Board advised both parties that if a lead person attempted to vote it would challenge the ballot.

The formal campaign was conducted over a five week period. During that time Acme continued to conduct group meetings with employees to get the "Acme Story" to employees. Employees began wearing UAW buttons and supervisors tried to get employees to remove them stating that employees could not wear the buttons in the workplace and warned several employees who continued to wear the buttons. In the third week of the campaign supervisors offered "VOTE NO" buttons to employees and distributed them in the work place. One employee hand billing employees in the parking lot at the beginning and end of the shift was suspended for violating the No Solicitation Policy. Another off duty employee was barred from the cafeteria and parking lot when she tried to handout union authorization cards.

The union filed unfair labor practice charges for the following incidents: 1. Removing union flyers from plant bulletin boards. 2. Warning an employee for distributing authorization cards in the employee locker room. 3. Interrogation. 4. Making implied promise of a wage increase to a group of employees. 5. Granting a wage increase during the union campaign. 6. Demanding employees remove union buttons. 7. Distributing "VOTE NO" buttons to employees in the work place. 8. Suspending an employee for hand billing in the parking lot and cafeteria. 9. Video taping a union member while hand billing. 10. Surveillance. 11. Solicitation of grievances. 12. Interrogation of employees.

Two days before the scheduled election the plant manager delivered an impassioned speech to employees on the first and second shifts stating that no union was necessary. He stressed the long standing philosophy of working together and solving problems directly. The evening before the election supervisors handed out letters summarizing the plant managers speech. In the shipping department, where the union organizers were most vocal, the supervisor held a department meeting during the last day before the election to discuss specific problems and how they might be "dealt with". The union filed another ULP as a result claiming that Acme was negotiating with the employees and making promises of benefits and violating the 24 hour rule.

The union had filed 13 ULP's by election day.

The election results were as follows: No Union-157. For Union-168. Challenged Ballots-10(lead person). Not Voting -15. The union won the election. Since the 10 challenged ballots would not have affected the outcome, they were left sealed.

Questions for discussion:

1. Acme asked employees to hold off signing authorization cards for a few weeks. For what purpose? Is this lawful?
2. Why do you think Plant A was vulnerable to a union organizing campaign?
3. What about the human resource director's attempt to get information about the union meeting? Was it lawful or unlawful conduct? Why?
4. What are the problems you can have with a No Solicitation/No Distribution Policy?
5. Was the human resource director's comment on wages lawful or unlawful? Why? Was there anything unlawful about asking employees to list their grievances on a flip chart?
6. The supervisor in the shipping department held a meeting to "deal with" problems. Why was that meeting the basis for an unfair labor practice charge?
7. What was wrong with video taping the employee hand billing in the parking lot?
8. Did Acme have a strong position when it implemented the wage increase? Why?
9. What is a ULP? Who can file a ULP? Who conducts the investigation of an unfair labor practice charge? What can be the effect of ULP's on the outcome of the election?
10. Do you think Acme should have included Plant B as part of the bargaining unit at the meeting with the NLRB. What would be the advantage or disadvantage of such a strategy? What conditions would have to exist for Plant B employees to have the same community of interest? Does the separation of Plant B from Plant A make it more difficult for the union to include Plant B as part of the unit? Why?
11. Do you think that the "lead person" position fit the NLRA definition of supervisor? Why?
12. There were 15 employees who did not vote. What possible effects could their vote have made on the outcome of the election? Discuss the importance of "getting out the vote."
13. What affect could the 13 ULPs have on the forthcoming contract negotiations?
14. Think of your own company. What strategies should you have in place to minimize or avoid the Acme situation?

For purposes of discussion reverse the outcome of the election: For the Company 6 175. For the Union 6 150. Challenged Ballots 6 10 (Lead Man). Not Voting 6 15. The Company won the election. The union had filed 13 ULPs with the NLRB during the campaign. For what purpose could the ULPs serve during the campaign? For what purpose after the campaign? What course of action does the union have?