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Labor Relations - Unfair Labor Practices - Court Sees Union Picketing of Domestic Importer as Valid Expression of Opposition to Export and Labor Policy of Foreign State: Danielson v. Fur Dressers Local No. 2F, Amalgamated Meat Cutters and Butchers Workmen of North America, AFL-CIO

Leslie Gradet

LABOR RELATIONS — UNFAIR LABOR PRACTICES — COURT SEES UNION PICKETING OF DOMESTIC IMPORTER AS VALID EXPRESSION OF OPPOSITION TO EXPORT AND LABOR POLICY OF FOREIGN STATE.

Danielson v. Fur Dressers, Local No. 2F, Amalgamated Meat Cutters and Butchers Workmen of North America, AFL-CIO, 411 F. Supp. 655 (S.D.N.Y. 1975).

South American Fur and Skin Co., Inc. (South American) imported furs and skins from Argentina in accordance with an Argentinian statute which restricted export of raw or unprocessed skins to 20 percent of total exports by a particular company.[1] In April and May of 1975, the president of the Joint Board of Fur, Leather and Machine Workers and representatives of Locals 2F and 3 warned the President of South American that if the importation of a high percentage of dressed furs and skins continued, the Union would voice its disapproval publically by picketing the Company. When South American neither curtailed the importation of the processed skins, nor acted upon various union suggestions concerning employment practices, the Respondents formed picket lines across the company's doors. The stated objective of the picketing was to preserve and create jobs for union members who were involved in the fur processing industry.

1. South American Fur and Skin Co., Inc. (New York) imports furs and skins from Southern Trading Corp. (Argentina) and then sends the imported dressed skins to Mirode Co. (New Jersey) for additional processing before sale to manufacturers.

The Regional Director of the National Labor Relations Board (NLRB) sought an order in the U.S. District Court for the Southern District of New York to enjoin the union from picketing South American, alleging that the picketing was an unfair labor practice under § 10(1) of the National Labor Relations Act.[2]

The court considered two issues in deciding whether to grant the injunction. First, the court questioned whether the disagreement constituted a "labor dispute."[3] The NLRB argued that the National Labor Relations Act had been violated since the picketing sought to prevent one company from doing business with another manufacturer.[4] The court resolved the issue by stating that if a labor dispute did exist, the union attacked South American as a primary rather than a neutral target. Therefore, the picketing would have been protected nevertheless by the primary picketing proviso, an exception to illegal activity prohibited by the National Labor Relations Act.[5]

The court discussed only briefly the international legal aspects of whether a United States labor organization could voice

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2. A preliminary investigation must be made as soon as possible after any person is charged with having engaged in any unfair labor practice.

> If, after such investigation, the officer or regional attorney to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the Board, petition any United States district court within any district where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter.

National Labor Relations Act, § 10(1), 29 U.S.C. § 160(1) (1970).

3. National Labor Relations Act, § 2(9), 29 U.S.C. § 152(9) (1970).

> The term 'labor dispute' includes any controversy concerning terms, tenure or conditions of employments, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

4. The Act provides, in relevant part, that it is an unfair labor practice for a union:

> (ii) to threaten, coerce, or restrain any person . . . where in either case an object thereof is . . . (B) forcing or requiring any person to cease . . . dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person. . . . *Provided,* That nothing contained in this clause (B) shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing.

5. National Labor Relations Act, § 8(b)(4)(ii), 29 U.S.C. § 158(b)(4)(ii)(B) (1970).

its opposition to the law and policies of a foreign government. The court determined that international lobbying and the right to voice opposition to Argentinian law was founded in the Bill of Rights,[6] and, therefore, an injunction to restrain this activity would not lie. This decision gives a union the right to object to a foreign law by exerting its power against the manufacturer whose conduct is governed by that foreign law.

Thus, the court concluded that the union's activities were either a legally sanctioned method of dealing with a labor dispute or a constitutionally sanctioned method of expressing dissatisfacton with the policies of a foreign government. For these reasons, the court denied the NLRB petition for injunction and the case was dismissed.

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6. U.S. CONST. amend. I–X. Similarly, the court in N.L.R.B. v. International Longshoremen's Association, 332 F.2d at 999 stated:

> The First Amendment affords protection not merely to the voicing of abstract opinions upon public issues. It also protects implementing conduct which is in the nature of advocacy. Union members need not mount a platform to voice their moral revulsion against Castro; if they deem it more appropriate, in their circumstances, to express their sentiments by refusing to assist a vessel that trades with him, they are at liberty to do so. Nothing in our labor laws speaks to the contrary.