

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC

And

Case No. 5-CA-31882

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES
& TECHNICIANS, COMMUNICATIONS WORKERS OF
AMERICA, LOCAL 31, AFL-CIO

And

Case No. 5-CA-33125
(formerly 2-CA-36129)

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES
& TECHNICIANS, COMMUNICATIONS WORKERS OF
AMERICA, LOCAL 11, AFL-CIO

CHARGING PARTY'S MOTION TO EXPEDITE DECISION

Charging Party, the National Association of Broadcast Employees and Technicians – Communications Workers of America (“NABET-CWA”), hereby moves the National Labor Relations Board (“Board”) to hear the present case on an expedited basis and respectfully requests that this case be given priority over all other cases pursuant to Section 102.95 of the Board’s Rules and Regulations and in the interests of justice. In support of this motion, NABET-CWA offers the following:

1. On March 5, 2004, NABET-CWA, Local 11 filed a charge in Case No. 5-CA-33125 (Formerly 2-CA-36129) against CNN America, Inc. d/b/a CNN News Network (“CNN”). Subsequently, this charge was amended on April 28, 2004 to add Team Video Services (“TVS”) as a respondent. On March 22, 2004, NABET-CWA, Local 31 filed a charge in Case No. 5-CA-31828 against CNN and TVS. Both charges allege that the Respondents violated §§ (8)(1), (3) and (5) of the Act as joint employers for failing and refusing to bargaining with the Union over

an extensive list of mandatory subjects of bargaining. NABET-CWA Local 11 and NABET-CWA Local 31 are chartered Locals of the Communications Workers of America, AFL-CIO (“CWA”), the international Union with which NABET-CWA is affiliated. Because of the actions taken by CNN and TVS challenged in the various charges, 86 employees lost their jobs as professional and technical employees in December 2003 and January 2004. (2008 WL 6524258 at 5) Another 118 employees were the victims of CNN’s “widespread and egregious misconduct...and general disregard for the employees’ fundamental rights.” (*Id.*, at 5 & 97) As noted, *infra*, NABET-CWA makes this Motion in the interests of justice, given the enormous delay that has occurred in this matter and the extraordinary importance of the issues involved and scope of the relief ordered below.

2. On April 4, 2007, the Regional Director for Region 5 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Case No.s 5-CA31828 and 5-CA-33125 (formerly 2-CA-36129). Two Amended Consolidated Complaints and Notices of Rescheduled Hearing were issued on August 1, 2007 and again on November 6, 2007.

3. On November 7, 2007, an administrative hearing commenced before Administrative Law Judge Arthur J. Amchan to determine whether the allegations reflected in the Consolidated Complaint, as amended, were meritorious.

4. On November 19, 2008, after 82 hearing dates and numerous rulings on procedural matters, many of which were appealed to the Board after preliminary rulings by the ALJ, Judge Amchan issued his decision, finding that CNN violated the Act in nearly every manner alleged in the Amended Complaint. (2008 WL 6524258 at 97-98) Judge Amchan found, *inter alia*, that CNN and TVS were acting as joint employers at the time of the disputed actions, that CNN became a successor employer to TVS once it terminated its subcontracting

agreements with TVS, that CNN had unlawfully refused to bargain with NABET-CWA about terms and conditions of employment for the professional and technical employees being hired by CNN to replace the former TVS employees, that CNN had unlawfully discriminated against NABET-CWA members who had previously worked at TVS based on their union affiliation and/or support in violation of the National Labor Relations Act. Judge Amchan found that CNN was obligated to provide make whole relief to a significant number of these individuals. (2008 WL 6524258 at 96) Judge Amchan also rejected CNN's contention that the professional and technical employees at issue were supervisory employees excluded from the Act's protection. All parties have filed appropriate exceptions and cross-exceptions with the Board. (*Id.*)

5. Judge Amchan issued a wide-ranging and comprehensive cease and desist order, and directed CNN to take certain affirmative actions necessary to effectuate the policies of the Act. CNN was ordered to cease and desist from refusing to hire former bargaining unit employees of TVS because of their union-represented status; refusing to recognize and bargain in good faith with NABET-CWA Locals 11 and 31 as the exclusive collective bargaining representatives of its employees in the bargaining units recognized by TVS; unilaterally changing the wages, hours, and other terms and conditions of its former TVS bargaining unit employees; contracting out and/or outsourcing bargaining unit work without providing NABET-CWA with the opportunity to bargain over such work; and interfering with, restraining and coercing employees in the exercise of rights guaranteed by Section 7 of the Act. (2008 WL 6524258 at 97). Judge Amchan ordered CNN to affirmatively take certain actions to effectuate the policies of the Act, which included, in part, bargaining with NABET-CWA; rescinding any departures from the prior terms and conditions of employment in CNN's New York and Washington, D.C. bureaus; making certain former unit employees whole for lost earnings and

benefits; restore contracted out, or outsourced work to the bargaining unit; remitting to NABET-CWA, with interest, any dues required under the parties' collective bargaining agreements. CNN was also ordered to comply with the decision's required notice postings at CNN's New York and Washington, D.C. bureaus. (2008 WL 6524258, at 98)

6. It has been almost twenty-three months since Judge Amchan's decision and remedial order issued. It has been almost eight years since Respondents engaged in the conduct leading to the charges and to the ALJ's ruling. More than 204 individuals are due significant remediation as mandated by Judge Amchan's decision yet there has been no action by the Board on these matters; thus, none of the remedies ordered (or those under review pursuant to the Parties' exceptions) has been implemented. This continuing delay harms the Charging Parties: bargaining unit members' employment status continues to be in a state of uncertainty and some members have abandoned their hopes of ever returning to their former workplaces and have sought employment elsewhere. This ongoing delay also has a corrosive and detrimental effect on both bargaining units by undermining confidence that the important protections set forth in the Act have substance.

7. In addition, this type of extraordinary delay also fuels the public's perception that the statutory remedies set forth in the Act are not significant and that the agency given primary authority to enforce the Act's guarantees is unable or unwilling to do so. Such a negative public perception, in turn, makes it more difficult to convince workers or other individuals subjected to violations of the Act to take action to pursue legal remedies and it emboldens employers and others who violate the Act to engage in additional unlawful conduct and in tactics designed to obstruct and delay enforcement of these crucial legal rights. As has been noted in other circumstances involving lesser delays: "[t]he saying that 'justice delayed is justice denied' has

particular relevance to violations of the National Labor Relations Act.” *Aramark Corp. and Hotel, Motel & Restaurant Employees Int’l Union*, 1999 WL 33452895 (N.L.R.B. Div. of Judges March 25, 1999).

In order to preserve and maintain the important public perception of the Board as an agency that is fully able to effectively and fairly administer and enforce the important rights and obligations set forth in the National Labor Relations Act, and to fully effectuate the spirit and mission of the Act, it is hereby requested that a decision in the above-referenced matter be issued without further delay.

Respectfully submitted,

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AFFIDAVIT OF SERVICE

Kathleen Morrone, being duly sworn, deposes and says as follows:

1) I am over 18 years of age, am not a party to this proceeding, and am employed by Communications Workers of America's Legal Department, 501 3rd Street, N.W., Washington, D.C. 20001-2797.

2) On the 14th day of October, 2010, I filed by E-file Charging Party's Motion to Expedite Decision with Henry S. Breiteneicher, Associate Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570.

3) On the 14th day of October, 2010, I served a copy of the foregoing Charging Party's Motion to Expedite Decision via regular mail on the following counsel of record:

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Kathleen Morrone

Sworn to before me this 14th day of October, 2010:

Notary Public

My Commission expires: _____