

MARBA MATTERS

GRIEVANCES AND ARBITRATIONSⁱ

Mid-America Regional Council of Carpenters Arbitration Demands

MARBA has received no arbitration demands since the last MARBA Matters was published.

Laborers Joint Grievance Committee

The next regularly scheduled JGC is to be held on October 25, 2022, at Laborers Burr Ridge office, provided there are any cases set to go forward.

Operating Engineers Joint Grievance Committee

The next regularly scheduled JGC meeting is scheduled for October 5, 2022, at the Operators offices in Countryside. There are currently twelve (12) grievances on the docket.

Teamsters Joint Grievance Committee

The Teamsters JGC met on September 29, 2022, at the Teamsters office in Burr Ridge beginning at 9:00 a.m. to hear one grievance involving an allegation that an Employer was incorrectly assigning covered work to a different trade. The Union argued the work in question involved a piece of equipment mounted to a two-axle truck. Two axle trucks are listed in the agreement while the specific piece of equipment mounted to the truck is not listed in the agreement. The Employer argued it had given a written letter of assignment to another trade which the Employer was signatory to that also claimed the work. The JGC, after hearing the testimony of both parties and reviewing the evidence submitted by both parties, voted to uphold the grievance. As a remedy, the JGC awarded the Union eight (8) hours of wages and fringes which was what the other trades member received the day the piece of equipment was utilized. The next regularly scheduled Teamsters JGC will be held on October 27, 2022, pending any cases that need to go forward.

COLLECTIVE BARGAINING/LABOR ISSUES

Union Support Increases to Highest Level Since 1965

In 2009, Americans support for labor unions was at 48%. It has since rebounded to 71% according

to a Gallup poll. Union support has been on an upward trend since 2016 (there was a slight dip in 2016). The last time labor unions enjoyed this much support was 1965. The all-time high of union support was back in 1953 when 3 out of 4 Americans polled said they supported them. The Gallup poll can be found by clicking [here](#).

INDUSTRY NEWS

Senator Manchin Introduces Permitting Reform Legislation

On September 21, 2022, Senator Joe Manchin (D-W. Va.) introduced a permitting regulator bill that would look to streamline the process for projects in the pipeline and power transmission line segment of the industry. Sen. Manchin’s permitting reform bill was conditioned on this support and vote for the Inflation Reduction Act which was approved by a vote of 51-50 in the Senate (Vice President Harris broke the tie).

Senator Manchin’s legislation would seek to apply permitting changes agreed to in 1998 (and again in 2012, 2015, and 2021) for transportation projects (roads, highways, bridges, rails, and transit) to the pipeline and power transmission line projects including a more limited National Environmental Policy Act (NEPA) review. The Manchin legislation would also set a 150-day timeline for court challenges.

It is unclear whether the permitting legislation will pass the evenly divided Senate as several Democrats have objected to the legislation. Republican Senator, Shelley Moore Capito (W. Va.) threw Senator Manchin a lifeline recently when she indicated she would support the legislation. As Congress looks to pass a stopgap spending bill, Senator Manchin’s permitting legislation may not be called for a vote. A summary sheet issued by Senator Manchin’s office can be found by clicking [here](#).

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	August 2022 U.S. 3.7% (July 3.5%) Illinois 4.5% (47 th)
Labor Participation Rate	August 2022 = 62.4%, July 2022 = 62.1%
CPI All Urban Consumers	August 2022 over August 2021 = 8.26% Half 2022 over Half 2021 = 8.30%
CPI Chicago All Items	August 2022 over August 2021 = 8.82% Half 2022 over Half 2021 = 7.72%

CPI Midwest All Items	August 2022 over August 2021 = 8.12% Half 2022 over Half 2021 = 8.50%
Union Membership	2021 10.3% (Private Sector 6.1%), 2020 = 10.8% 2021 Rate of Unionized Construction Workers = 12.6% 12.7% (2020), 13.6% (2019), 13.8% (2018)
30 Year Fixed Mortgage	August 5.22%, down 0.19% (July 5.41% Annual Average 2.96% (2021), 3.11% (2020)
15 Year Fixed Mortgage	August 4.56%, down 0.05% (July 4.61%) Annual Average 2.27% (2021), 2.61% (2020)
Brent Crude Oil	\$83.83 per barrel (as of September 26, 2022, at 11:03 a.m.) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	10% below revised July rate 14.4% below August 2021 rate
Privately Owned New Housing Starts	12.2% above revised June rate (+/-14.9%) 0.1% below August 2021 rate (+/-9.6%)
GDP	Q2 2022 (2 nd) -0.6% Q1 2022 (3 rd Reading) -1.6%
DJIA	29,235.10 as of September 29, 2022 (4 p.m.) 32,202.70 as of August 29, 2022 (4 p.m.) 32,841.71 as of July 29, 2022 (4:00 p.m.)

JANIK'S J.D. – AN UPDATE ON LABOR/CONSTRUCTION LEGAL ISSUES
AARON JANIK – EXECUTIVE DIRECTOR MARBA

Publishing Company Ordered to Pay Legal Fees Incurred by Union During Bargaining

In a case out of California, the 9th Circuit ordered a newspaper publisher to pay expenses incurred by a Teamsters local that arose during the parties bargaining sessions. The case began in 2006 when employees of Ampersand Publishing (doing business as the Santa Barbara News-Press) voted to unionize with a Teamsters Local. After various objections were filed regarding the election process, the National Labor Relations Board voted to certify the elections. After the elections, the parties met several times over the course of the next two years (November 2007 to April 2009) to engage in collective bargaining.

Along the way, the Union filed several unfair labor practices (ULPs) against the Employer for a variety of reasons, some of which included ending a merit pay raise system, transfer of bargaining unit work to non-union temporary employers without notice, discharging two employees, and bad-faith bargaining. The Union consulted with outside counsel on many of the matters, causing it to incur legal fees. A consolidated hearing was held on the ULP charges, and an Administrative Law Judge (ALJ) found the Employer violated Sections 8(a)(1), 8(a)(3), and 8(a)(5) of the NLRA. A three-member panel of the NLRB upheld the full ALJ findings. The Board found that the Employer engaged in aggravated misconduct. As such, it ordered the Employer to reimburse the Union for the cost and fees it incurred during the collective bargaining process. The case was appealed to the D.C. Circuit where it was upheld, and an order was issued enforcing the Board's decision.

The parties were unable to agree upon an amount for the remedies, including the amount to reimburse the Union. The Region 27 Director issued a specification detailing their calculations for the remedies. The Employer then responded to the specifications. At that point, the NLRB General Counsel filed a partial motion for summary judgment arguing the Employer's response to the specification was not specific enough under Board rules and it also attempted to relitigate matters already decided in the underlying case. The Board granted the GC's motion and ordered the ALJ to determine the reimbursement amounts and the backpay owed to the two employees. The ALJ awarded the full amount sought by the Union. The Employer filed exceptions to that award and the three-member panel affirmed the ALJ's decision. The Board sought an enforcement order from the 9th Circuit.

The Employer argued that the NLRB lacks the power to order the reimbursement of legal fees. The cases cited by the Employers dealt with litigation. The 9th Circuit, however, found the case at bar dealt with conduct during bargaining. As such, the Court held the Board has "broad discretion to impose remedies for unfair labor practices." It further held, "the Board may take any 'affirmative action' that will 'effectuate the policies of the Act'". The Court further held, because the conduct in the underlying ULP charges had already been adjudicated, the remedy ordering reimbursement is directly targeted at the Employer's violation. Although the attorney representing the Union during bargaining also represented them during the litigation, the Court found the cases were distinguishable as the attorney assigned the matters different internal case numbers. Thus, the fees for bargaining were readily ascertainable. The Court thus found that the NLRB did not abuse its discretion in awarding the reimbursement fees to the Employer and it issued an order enforcing the NLRB award.

Although this case began back in 2006, it aligns closely with General Counsel Abruzzo's stated desire to find ways to incorporate consequential damages in settlement agreements which have included remedies such as interest payment on loans and covering the cost of baby formula. The [case](#) is *NLRB v. Ampersand Publishing, LLC* No. 21-71060 (9th Circuit 2022).

UPCOMING SEMINARS/EVENTS

MWCC HIRING, FIRING, AND DISCIPLINE VIRTUAL EVENT

Join the MWCC Board and Attorney Stanley Niew as they cover hiring, firing, and discipline

Date: October 5, 2022
 Time: 8:00 a.m.
 Location: Virtual
 Cost: Free, must be a member of MWCC or a MARBA Association
 Contact: Andrea Harney at office@midwestwallandceilingcontractors.org or click [here](#)

MEN WHO COOK

MARBA executive director, Aaron Janik, will join over 50 cooks to benefit the Will County Children’s Advocacy Center. He will be making his world-famous Bacon Wrapped Dates Stuffed with Chorizo.

Date: October 22, 2022
 Time: 6:00 p.m. to 9:00 p.m.
 Location: Joliet Junior College Weitendorf Center
 17840 Laraway Road
 Joliet, IL 60433
 Cost: \$40 per person, \$75 per Couple, \$10 per Child Ages 6-12 (5 & Under Free)
 Contact: cac@willcountyillinois.com or click [here](#) for tickets

CALENDAR

OCTOBER 5	8:30 A.M.	OPERATING ENGINEERS JGC (COUNTRYSIDE)
OCTOBER 7	7:00 P.M.	CARPENTERS APPRENTICESHIP DINNER (LOMBARD)
OCTOBER 18	6:00 P.M.	INFRASTRUCTURE RENEWAL BANQUET (COUNTRYSIDE)
OCTOBER 20	12:00 P.M.	WELLNESS CENTER MEETING (CAROL STREAM)
OCTOBER 25	9:00 A.M.	LABORERS JGC (BURR RIDGE)
OCTOBER 27	9:00 A.M.	TEAMSTERS JGC (BURR RIDGE)

Information for MARBA Matters was obtained from the following sources: BNA Construction Labor Reports, Crain’s Chicago Business, Northwest Times of Indiana, Chicago Tribune, and Sun-Times, CDQ, and the BLS, as well as various websites and other publications.

Did You Know?

According to folklore, if deer are in a gray coat in October, expect a hard winter. Much rain in October means much wind in December. Also, according to folklore, a warm October means a cold February.

NHL PUCK DROPS OCTOBER 7, NBA TIPS OFF OCTOBER 18