

ACI's National Advanced Forum on

# LABOR-MANAGEMENT RELATIONS

STRATEGIC APPROACHES FOR ADDRESSING  
UNION AND NON-UNION LABOR CHALLENGES

October 28-29, 2010

The Helmsley Park Lane Hotel | New York, NY

*This conference is the only one of its kind on adequately representing management in the new labor relations arena, featuring sessions on:*

- How recent changes to the NLRB will impact labor-management relations
- New and impending decisions made by the NLRB: Which prior decisions are likely to be overturned, and what the impact of such reversals will be
- The latest on union organizing tactics, including responding to corporate campaigns
- Strategies for managing risks during business restructurings, including plant closings, relocations, and workforce reductions
- Proactive approaches for maintaining positive employee relations and preserving non-union status
- How to approach collective bargaining negotiations in the current environment
- The impact of Healthcare Reform on the collective bargaining process
- The latest on the Employee Free Choice Act and other legislative initiatives affecting workforces
- Effectively preventing and responding to unfair labor practice charges

Hear from:



**Michael Eastman**  
Executive Director of Labor Policy  
U.S. Chamber of Commerce



**Ronald Meisburg**  
Proskauer Rose LLP  
(former General Counsel of the  
National Labor Relations Board  
in Washington, D.C.)



**John N. Raudabaugh**  
Nixon Peabody LLP  
(former member of the National  
Labor Relations Board)



**Jerry M. Hunter**  
Bryan Cave LLP  
(former General Counsel of the  
National Labor Relations Board  
in Washington, D.C.)



**Mary Theresa Metzler**  
Ballard Spahr LLP  
(former attorney at the Pittsburgh  
office of the National Labor  
Relations Board)

Plus, register for the  
Post-Conference Workshop:

**Bankruptcy Boot Camp: Understanding  
the Key Issues Labor Lawyers Face When  
Their Company or Client is Forced  
to Restructure**

October 29, 2010 | 3:00 p.m.-5:00 p.m.

Learn from and network with leading in-house labor officials and counsel, including:

**Paul Ades**  
SVP - Labor Relations  
Hilton Worldwide

**Mark W. Engstrom**  
SVP and Assoc. General  
Counsel - Labor and  
Employment Relations  
CBS Broadcasting Inc.

**Scott B. Feldman**  
Senior Counsel/Labor  
Relations & EEO  
Gannett Co., Inc.

**Monique G. Gibson**  
Attorney  
Bell Helicopter Textron

**Thomas S. Grow**  
Senior Counsel  
Federal Express Corp.

**Brett J. Leibsker**  
Director, HR and  
Labor Relations  
Rexam Beverage  
Can North America

**Frank Lopez**  
VP Human Resources  
Ryder System, Inc.

**Martin Mulloy**  
Vice President -  
Labor Affairs  
Ford Motor Company

**Neal A. Murphy**  
Counsel  
Aetna Inc.

**Bruce Olin**  
Director, Labor Relations  
Volvo Parts North America

**Ron Peppe**  
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**Jeffery E. Robertson**  
Senior Counsel  
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The premier conference devoted entirely to the unique challenges companies face when dealing with both union and non-union work forces, led by an unparalleled faculty of the nation's most experienced in-house counsel, labor officials, and management-side law firms

**W**ith the recent changes to the National Labor Relations Board (NLRB), labor-management relations have become a central concern for companies with both union and non-union workforces. Under the Bush Administration, the NLRB issued a number of decisions which many believed favored employers. However, under the Obama Administration, there looks to be a decided shift, and the relationship between labor forces and management will be greatly impacted. Through the Board's rulemaking authority under the National Labor Relations Act (NLRA), as well as through future caselaw and the overturning of prior "pro-management" decisions, the new NLRB stands to drastically alter the labor relations landscape.

Many other factors also impact the relationship between management and their employees. A down economy has forced many businesses to make difficult decisions, often resulting in work force reductions, hour cuts, plant relocations, and plant closings. These decisions greatly affect collective bargaining agreements. Complicating matters further, the impact of healthcare reform looms large on the horizon. At the same time, non-union companies are presented with different, but no less complicated challenges, including responding to corporate campaigns, maintaining positive employee relations in the face of increased unionizing, and responding to claims of unfair labor practices.

How should management respond in the face of these difficult challenges? Arguably, a company's most important relationship is that between management and employees. Failing to effectively maintain this relationship can and will prove costly. **It is thus imperative for employers and their counsel to understand and prepare for the difficult challenges presented by changes affecting labor-management relations, whether union or non-union.**

ACI's **National Advanced Forum on Labor-Management Relations** will provide you with the information and tools necessary to successfully respond and adapt to this evolving area. Maintaining and cultivating the complex but important relationship between management and employees should be the number one priority of any organization. Only this event can fully prepare you for the challenges companies will face given the drastic changes impacting labor-management relations.

Our diverse faculty of experts, including counsel and labor officials from **Ford, Hilton, FedEx, CBS, Volvo, Gannett, Bell Helicopter, Ryder, Aetna, Rexam, Canam, US Chamber of Commerce, and outside counsel skilled in traditional labor matters**, will provide in-depth analysis of all the critical issues affecting the labor-management relations. Gain insight on:

- The impact of recent NLRB changes on labor relations
- What to expect in terms of NLRB rule-making, caselaw, and reversals
- Responding to union organizing tactics, including corporate campaigns
- Effective techniques for handling business restructuring
- Insights on the collective bargaining process, including the impact of healthcare reform
- Best practices for preventing and defending against claims before the NLRB
- When and how to properly engage in the decertification, deauthorization, or the withdrawal of recognition process

... and much more. Ensure you are prepared for the full impact of the recent changes to the NLRB and how this will impact labor-management relations. This conference offers the unique opportunity to learn from the best in the field and network with senior practitioners.

**Plus, be sure to also register for the Post-Conference Workshop:**

**Bankruptcy Boot Camp: Understanding the Key Issues Labor Lawyers Face When Their Company or Client is Forced to Restructure**  
October 29, 2010 | 3:00 p.m. - 5:00 p.m.

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## DAY ONE: Thursday, October 28, 2010

### 7:45 Registration and Continental Breakfast

### 8:30 Co-Chairs' Opening Remarks



*Gregory J. Utken*  
Partner  
Baker & Daniels LLP



*John N. Raudabaugh*  
Counsel  
Nixon Peabody LLP  
(former member of the National Labor Relations Board)

### 8:45 In-House Counsel and HR Officials Roundtable on Labor Management Relations: Adapting to the New NLRB, Containing Costs, and Managing Workforces Through a Difficult Economy

*Paul Ades*  
SVP - Labor Relations  
Hilton Worldwide (McLean, VA)

*Mark W. Engstrom*  
SVP and Associate General Counsel -  
Labor and Employment Relations  
CBS Broadcasting, Inc. (New York, NY)

*Scott B. Feldman*  
Senior Counsel/Labor Relations & EEO  
Gannett Co., Inc. (McLean, VA)

*Monique G. Gibson*  
Attorney  
Bell Helicopter Textron (Fort Worth, TX)

*Brett Leibsker*  
Director, HR and Labor Relations  
Rexam Beverage Can North America (Chicago, IL)

*Frank Lopez*  
Vice President, Human Resources  
Ryder System, Inc. (Miami, FL)

*Martin Mulloy*  
Vice President - Labor Affairs  
Ford Motor Company (Detroit, MI)

*Neal A. Murphy*  
Counsel  
Aetna Inc. (Hartford, CT)

#### Moderator:



*Brian S. Arbetter*  
Partner  
Baker & McKenzie LLP (Chicago, IL)

#### Political and Economic Conditions

- Adapting to a more union-friendly Obama Administration
- Preparing for the impact of the "new" NLRB
- Managing labor relations in down economic times, including how to handle reductions in hours and work forces

- Concerns over EFCA – where we stand
- Managing employees within the bounds of the National Labor Relations Act and Railway Labor Act

#### Expertise and Coordination

- Efficiently and effectively coordinating with national/regional counsel and experts who have specialized in labor relations
- Hiring dilemmas
  - when to stay in-house and when to go with outside counsel
  - balancing quality of outside counsel with costs
  - when to use national counsel

#### Managing Costs

- Managing the cost of preventing and defending against claims and NLRB proceedings
- Managing outside counsel through realistic budgets
- What new billing arrangements exist?

### 10:15 Morning Coffee Break

## EMPLOYERS AND THE NATIONAL LABOR RELATIONS BOARD: CASELAW, POLICY, ULP, AND BEYOND

### 10:30 New and Expected NLRB Decisions and Rulings: What They'll Mean for Employers and the Labor-Management Relations Landscape



*Ronald Meisburg*  
Partner  
Proskauer Rose LLP  
(former General Counsel of the National Labor Relations Board)



*Kenneth Jenero*  
Partner  
Holland & Knight LLP (Chicago, IL)



*T. Jeff Wray*  
Partner  
Fulbright & Jaworski LLP (Houston, TX)

While many concepts under federal law labor are well established, their application is dynamic and often changing. Knowing the current position of the NLRB on issues of importance to employers is necessary to stay in compliance and minimize risk. Learn how recent NLRB rulings affect labor-management relations, including new and expected decisions on:

- The right to an election after employees agree to a card check (*Dana/MetalDyne*)
- Protected employee activity
- Reinstatement issues
- Employee use of company email for union organizing (*Register Guard*)
- Determining supervisory status (*Oakwood Healthcare*)
- *Weingarten* rights as they apply to union and non-union workers, and the right to representation during disciplinary interviews
- Remedies when dealing with the prevention of fair elections, including *Gissel* bargaining orders
- Binding arbitration
- Union access to corporate "captive employee meetings"
- Other cases and issues likely to be impacted by NLRB decisions

11:45 **Assessing the Impact of the Board's Changing Composition and the Status of Labor Law Reform Initiatives**

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*Michael Eastman*  
Executive Director of Labor Policy  
US Chamber of Commerce (Washington, DC)



*Tom A. Jerman*  
Partner  
O'Melveny & Myers LLP (Washington, DC)



*Mary Theresa Metzler*  
Partner  
Ballard Spahr LLP (Philadelphia, PA)  
(former attorney at the Pittsburgh office of the National Labor Relations Board)



*Patricia Costello Slovak*  
Partner  
Schiff Hardin LLP (Chicago, IL)

Through the Board's rulemaking authority under the National Labor Relations Act (NLRA), as well as through new case decisions and reversals, the NLRB is entering a new era, which stands to dramatically change the labor-management relations landscape. In order to maintain positive union and employee relations, companies and their counsel must prepare and adapt to a likely shift in policy:

Policy Shift

- What the shift in Board ideology/policy means to employers and how management should prepare for anticipated changes
- What to expect in terms of Board rulemaking as allowed under the NLRA
- A look at the current makeup of the Board and how individual viewpoints will impact labor-management relations
- The impact of decisions made by the two-person NLRB
- The role of the NLRB's General Counsel in determining which matters come before the Board

Labor Law Reform Through NLRB Rulemaking or Decisions?

- The latest word on the Employee Free Choice Act (EFCA)
- Monitoring NLRB implementation of EFCA objectives through its own actions, including policy
- The Railway Labor Act, and how it relates to the NLRA and current changes under the NLRB
- EFCA-type initiatives and how they would affect labor relations
- Other new and pending legislation and regulations which will impact labor-management relations

1:00 **Networking Luncheon for Speakers and Delegates**

2:15 **Successful Approaches for Avoiding and Defending Against Unfair Labor Practice Claims and Other Charges Before the NLRB**

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*Linda M. Doyle*  
Partner  
McDermott, Will & Emery LLP (Chicago, IL)



*Jerry M. Hunter*  
Partner  
Bryan Cave LLP (St. Louis, MO)  
(former General Counsel of the National Labor Relations Board in Washington, D.C.)

Both union and non-union employees have rights under the NLRA and can file unfair labor practice charges. Those charges are the result of employer actions and can result in trials before federal administrative law judges. Hear experienced practitioners outline their approaches to preventing charges and defending against charges when pursued by the NLRB.

- Strategies for ensuring compliance with the National Labor Relations Act and preventing claims of Unfair Labor Practices (ULP)
- Best practices and procedural advice for defending against claims before the NLRB and Administrative Law Judges
- Successfully managing ULP cases before the NLRB
- Understanding what employer activity will lead to ULP charges
- Working with regional field offices and the General Counsel following the filing of ULP claims
- Determining if and when to settle claims

3:15 **Afternoon Refreshment Break**

3:30 **Managing Labor Risks in Business Restructurings, Including Layoffs, Reductions in Hours, Plant Closings, and Consolidation of Facilities**

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*Lawrence J. Baer*  
Counsel  
Weil, Gotshal & Manges LLP (New York, NY)



*Jack Gallagher*  
Partner  
Paul, Hastings, Janofsky & Walker LLP (Washington, DC)



*Philip A. Miscimarra*  
Partner  
Morgan, Lewis & Bockius LLP (Chicago, IL)  
Senior Fellow at the Wharton School,  
University of Pennsylvania



*Gregory J. Utken*  
Partner  
Baker & Daniels LLP (Indianapolis, IN)

Fundamental business changes - once regarded as extraordinary developments - have become part of almost every company's day-to-day operations in our global economy. Employers with unionized workforces have faced among the most pressing challenges caused by the financial crisis and economic downturn. For these reasons, many employers have had to make difficult changes to their workforces, including layoffs, relocations, plant closings, consolidation of facilities, and outsourcing. In making these hard but necessary decisions, companies and their counsel must navigate among the NLRA's most complex requirements and onerous potential liabilities. All employers must understand the applicable requirements, potential legal challenges and practical strategies that will both accomplish business objectives and adequately protect against stiff penalties and years of costly litigation. Presenters will provide key insights on major issues, including:

- Managing difficult business decisions within the bounds of the NLRA
- Understanding and protecting against the legal implications of:
  - Improvements in technology
  - Subcontracting and outsourcing
  - Alternative work schedules

- Layoffs
- Plant closings
- Sales and “successorship” issues
- Changing direction – “green business” transformations
- Consolidating work among union and non-union facilities
- Dealing with pre-existing labor contracts
- Practical strategies for avoiding the biggest mistakes
- Contract negotiations, labor agreement restrictions, arbitration, and injunctive relief

5:00 Day One Of Conference Concludes

## DAY TWO: Friday, October 29, 2010

8:15 Continental Breakfast

8:45 Co-Chairs’ Recap and Remarks

### EMPLOYERS AND UNIONS

9:00 **Protection of Non-Union Status: Proactive Strategies for Maintaining Positive Employee Relations**

*Bruce Olin*

Director, Labor Relations

Volvo Parts North America (Jacksonville, FL)

*Jeffery E. Robertson*

Senior Counsel

Federal Express Corp. (Memphis, TN)



*Stanley L. Goodman*

Partner

Fox Rothschild LLP (Roseland, NJ)

As an employer, not having to deal with union issues begins with doing those things that will result in your employees never believing they have a need for one. This involves a creative mix of employee treatment, employee education, proactive supervisors, effective human resources, established policies and knowledge of all the applicable legal parameters. This session will provide management and their counsel with key strategies for maintaining positive employee relations and protection of a company’s non-union status, including:

- Effectively communicating with employees and maintaining positive relations
- Core legal issues involving protection of non-union status
- Adapting to anticipated NLRB changes when protecting non-union status, including shortened election time frames, facility access, and more frequent findings of unfair labor practices
- The core legal issues involving protection of non-union status
- Can and should non-union employers have a published stance on unionization, and how to adhere to Section 8(c) of the NLRA
- Non-discriminatory limits on solicitation and distribution, including bulletin board postings and use of employer email systems
- A look at Department of Labor initiatives and reporting requirements regarding “persuader activity”

10:00 **Responding to Corporate Campaigns and Increased Organizing**

*Thomas S. Grow*

Senior Counsel

Federal Express Corp. (Memphis, TN)



*Harold P. Coxson, Jr.*

Shareholder

Ogletree, Deakins, Nash, Smoak & Stewart, P.C. (Washington, DC)



*Harry I. Johnson, III*

Partner

Arent Fox LLP (Los Angeles, CA)

- Corporate campaign efforts – working to deal with pressure from outside forces
- Anticipating and effectively responding to pressure from political forces and customers
- Which are the most active unions?
- What areas and industries are most impacted?
- Preparing for concerted employee activity against employers, including picketing, strikes, lockouts and other economic tactics
- Monitoring the success and impact of the “Change to Win” campaign as relating to labor-management relations
- Recognizing and responding to the increased usage of technology such as social networking in gaining union support

11:00 **Morning Coffee Break**

11:15 **Bargaining With Unions: Effective Techniques for Today’s Unique Issues, Including Healthcare Reform**

*Ron Peppe*

VP Legal and Human Resources

Canam Steel Corporation (Point of Rocks, MD)



*Mark E. Brossman*

Partner

Schulte Roth & Zabel LLP (New York, NY)



*John N. Raudabaugh*

Counsel

Nixon Peabody LLP (Washington, DC)

(former member of National Labor Relations Board)

The most important document in an employer–union relationship is their labor contract. That makes the negotiation or renegotiation of a labor contract a very significant event for employers, particularly in this economic climate and with new healthcare legislation. The presenters will provide practical guidance on how to approach today’s key issues and improve your opportunity to achieve your bargaining goals.

- Identifying and planning for realistic collective bargaining goals
- Preparing for contract expiration
- How and when you get to an impasse, and preparing for the next step
- The role of the Federal Mediation & Conciliation Service (FMCS) in the collective bargaining process

- Achieving strong management rights and flexibility while controlling costs
- Strategies based on changes to the law and bargaining trends
- Managing the administration of collective bargaining agreements, including contract interpretation, grievances, and arbitration
- The impact of the Pension Protection Act
- A focus on Healthcare Reform, and other benefit concerns in the collective bargaining process
  - The impact of Health Care Reform on the collective bargaining process
  - Managing rising costs of traditional employee benefits
  - Navigating FAS-106
  - Understanding accounting rules covering benefits to retirees
  - Implementing a VEBA to help reduce costs

12:30 **What to Do When Employee Support for a Union Wanes: Decertification, Deauthorization and Withdrawal of Recognition**



*Richard O. Brown*  
Partner  
Constangy, Brooks & Smith LLP (Birmingham, AL)



*Brian West Easley*  
Partner  
Jones Day (Chicago, IL)



*Jeanne M. Phelan*  
Partner  
DLA Piper LLP (Baltimore, MD)

As circumstances change, so too can employees' views on being in a union. Often, employees are unaware of what they can do in such instances. At the same time, many employers are unsure about what, if anything, they can do when they realize a changed sentiment among their employees. Learn the ins and outs in this session, including

- Understanding when decertification or deauthorization are in an employer's best interest
- Maintaining positive relations and effectively and openly communicating with employees during deauthorization and decertification campaigns
- The role of employers in the deauthorization and decertification campaigns
- When withdrawal of recognition is appropriate and the proper methods to go about it

1:40 **Conference Ends – Luncheon for Workshop Participants**

**Who You Will Meet**

- ✓ In-House Counsel and labor & employment officials from the nation's leading companies
- ✓ Human resource officials
- ✓ Law Firm Attorneys Specializing in:
  - Management-side labor relations/traditional labor
- ✓ Consultants focusing on management, labor and employment concerns

**Post-Conference Workshop:**  
3:00 p.m. - 5:00 p.m.  
(registration begins at 2:45 p.m.)

**Bankruptcy Boot Camp:  
Understanding the Key Issues Labor  
Lawyers Face When Their Company  
or Client is Forced to Restructure**



*Lawrence J. Baer*  
Counsel  
Weil, Gotshal & Manges LLP (New York, NY)



*Jack Gallagher*  
Partner  
Paul, Hastings, Janofsky & Walker LLP (Washington, DC)



*Tom A. Jerman*  
Partner  
O'Melveny & Myers LLP (Washington, DC)

It is the unfortunate reality that companies must sometimes face the harsh reality of bankruptcy and restructuring. In the event of this, labor contracts will often need to be revisited, often straining labor-management relations.

This session will provide participants with detailed information and a practical analysis of the impact of bankruptcy and reorganization as it relates to labor issues, including the effect on collective bargaining agreements. Counsel must be prepared to navigate this complex area of law and work within the US Bankruptcy Code. Participants will come away from this workshop with a firm grasp of the issues associated with bankruptcy proceedings and corporate restructurings as they impact labor law, as well as proactive strategies for dealing with such scenarios.

*Topics will include:*

- Understanding the fundamentals of bankruptcy and restructuring as they impact labor relations
- An overview of relevant federal legislation, including Section 1113 of the US Bankruptcy Code
- Insights on the impact of bankruptcy and restructuring on collective bargaining agreements, including:
  - damage claims stemming from the rejection of collective bargaining terms during bankruptcy proceedings
  - What proof is required to allow rejection of such terms as fair and necessary
- Jurisdictional differences in interpretation of code sections
- Worker retention concerns in the face of bankruptcy
- Reaching a consensual resolution with unions and managing employer-employee relations during the restructuring process
- Early considerations to take into account before bankruptcy is filed, including timing considerations and the likelihood in prevailing on efforts to reject a collective bargaining agreement
- Procedural tactics to accomplish organizational goals, while adhering to the Bankruptcy Code

*and much more . . .*

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**Wendy Tyler**

Head of Sales

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You are required to bring your state bar number to complete the appropriate state forms during the conference. CLE credits are processed in 4-8 weeks after a conference is held.

ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

Questions about CLE credits for your state? Visit our online CLE Help Center at [www.americanconference.com/CLE](http://www.americanconference.com/CLE)



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The complimentary ACI Alumni Program is designed to provide returning delegates with unique networking and learning opportunities beyond the scope of their conference experience.

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STRATEGIC APPROACHES FOR ADDRESSING UNION AND NON-UNION LABOR CHALLENGES

October 28-29, 2010  
The Helmsley Park Lane Hotel | New York, NY

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October 29, 2010 - 3:00 p.m.-5:00 p.m.

### Registration Fee

The fee includes the conference, all program materials, continental breakfasts, lunches, refreshments and complimentary membership of the ACI Alumni program.

### Payment Policy

Payment must be received in full by the conference date. All discounts will be applied to the Conference Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization.

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