



Federal Court Fines Company Nearly \$200k For Failing To Negotiate In Good Faith

April 24, 2023 | [Labor And Employment, Union Organizing, Unions And Union Membership, National Labor Relations Board](#)



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When companies and unions sit down to negotiate a labor agreement, each has a duty to bargain in good faith. This often means the bargaining process can take [weeks, months, or longer](#) because each party is obligated to consider and evaluate the various proposals put on by the other. What happens if a party fails to honor their duty to bargain in good faith? A recent case shows the penalties can be steep.

Earlier this year, the U.S. Court of Appeals for the Seventh Circuit found that Neises Construction Corporation is required to bargain with the Indiana/Kentucky/Ohio Regional Council of Carpenters and pay a fine after allegedly avoiding bargaining.

According to a [press release](#) from the National Labor Relations Board (NLRB): “In 2018, the Seventh Circuit enforced a National Labor Relations Board decision ordering Neises to bargain in good faith with the Carpenters. Despite the order, Neises began what would become a years-long pattern of delay, legal maneuvering, and bad-faith negotiations with no sincere intent to reach agreement. Twice, in 2019 and 2020, Neises promised to bargain with the union to settle allegations that it was in violation of the Court’s order. Nearly as soon as the last settlement was reached in 2020, however, Neises took bargaining positions that were tantamount to retracting prior tentative agreements, including a provision that would bar the Union from taking any

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part in decision making about the hours and working conditions of its membership, as well as a grievance procedure that was essentially illusory.”

Based on that fact pattern, the NLRB determined Neises again failed to negotiate in good faith even after a federal court adopted the agency’s direction to the company to do so. As a result, the NLRB initiated contempt proceedings in front of the Seventh Circuit alleging Neises was in violation of the court order. The federal appellate court agreed.

In its ruling, the court said, “Parties must make reasonable efforts to comply with our orders, not engage in crafty feints designed to avoid court-imposed obligations. ... Neises significantly violated our unambiguous command to bargain in good faith with the Union and failed to make reasonable and diligent efforts to comply with that command.”

The court then went on to impose \$192,400 in contempt fines, awarded compensatory damages to the union, and awarded costs and attorney’s fees to the NLRB, as well as other non-monetary penalties, including a notice posting to employees.

The takeaway here is if you have a bargaining obligation, it’s important to take actions consistent with it and have evidence to back up that you have fulfilled the obligation. This case shows the penalties in this context can be significant.