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Ouch: Union Dinged By Federal Court For Disrespectful Remarks To Resigning Member

April 20, 2020 | [Labor And Employment, National Labor Relations Board, Unions And Union Membership](#)

The U.S. Court of Appeals for the Sixth Circuit recently upheld *United Auto., Aerospace & Agric. Implement Workers of Am., Local 600, AFL-CIO v. Nat'l Labor Relations Bd.*, where the National Labor Relations Board (NLRB) found, in part, that UAW Local 600 statements toward a member who requested withdrawal from the union were in bad faith and violated its duty of fair representation.

After paying union dues for 24 years to UAW Local 600, an employee at Ford's Dearborn, Michigan, facility decided to call it quits in February 2018 and resign his membership. The parties' collective bargaining agreement required the employee to send a signed letter to the union's financial secretary, who would then notify Ford's human resources manager to stop deducting union dues from the employee's paycheck. Due to an alleged clerical error, however, the employee's union dues continued to be deducted for two months and remitted to the union.

The employee reacted by filing an unfair labor practice charge with the NLRB alleging that the union violated the National Labor Relations Act by failing to process his resignation and revocation and by continuing to accept dues deducted from his wages. In response to the charge, UAW Local 600 sent a letter to the employee stating, in part:

"[I]f you had contacted me, as you did so many times in the past, ... I could've reimbursed you within a week." And, that if Ford deducted any further dues, "you can contact me for prompt reimbursement, or you can continue to contact the NLRB and they will let me know."

The court found that these two comments "tipped the balance from neutral to noxious," in that "these statements could be read as sending the message

that members who exercise their right to contact the Board will be punished with delay. The first is mildly intimidating, the second is snotty.” The court held that the union’s conduct toward the employee was in bad faith and supported a finding of a violation of the union’s duty of fair representation.

Despite wide latitude for unions to make their own rules regarding check-off revocation, within limit, here the union’s conduct crossed the line. The decision is a positive reminder for employees wishing to exercise their right to choose whether to be in a union or not. Particularly in right-to-work states where employees have the right to resign or stop paying dues, this case shows that a union’s attempt to impede the exercise of those rights can be unlawful.