THE BUILDERS’ ASSOCIATION TRAINING: HOW TO HANDLE UNION JOBSITE/STRIKE TACTICS

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TODAY’S AGENDA

- Potential Tactics
- Legal Limitations
- Dual Gates
- Strike Replacements
- Final Pay to Strikers
- Crossover Employees
PICKETING EXAMPLES
RELATED TACTICS: HANDBILLING
BANNERING
THE “RAT”
MASS PICKETING OR VIOLENCE
WHICH UNION “STREET ACTIVITY” IS LEGAL?

- **PICKETING**
  - Patrolling across entrances with or without signs, so long as they do not interfere with the rights of neutral parties, such as customers, other contractors, and the public.

- **HANDBILLING**
  - Peacefully handing out truthful fliers on public property.

- **BANNERING and THE RAT**
  - Stationary, non-confrontational signs
WHAT UNION ACTIVITY IS ILLEGAL?

- Trespass on private property
- False and defamatory statements
- Mass demonstrations, blocking entrances, or similar disruptive conduct
- "Secondary" picketing, i.e., coercing neutral customers/contractors (including noisy and residential picketing sometimes)
- Violence and Vandalism
LEGAL DO’S AND DON’TS

- DO make detailed notes of all picket line misconduct.
- DO photograph illegal activity.
- DO preserve evidence of vandalism or sabotage.
- DO interview anyone who was stopped or threatened while entering the job site.
- DO notify picketers of property boundaries and proper areas for picketing.
- DO exercise care when driving past picketers.
- DO call the police immediately in the event of vandalism, threats, or other unlawful activity.
- DO remain calm and professional at all times.
LEGAL DO’S AND DON’TS

- DON’T photograph or record lawful picketing activity.
- DON’T tell picketers they are not allowed to picket.
- DON’T debate the merits of the labor dispute.
- DON’T argue, bicker, or use profanity.
- DON’T physically touch anyone or engage in fights.
- DON’T make any threats.
- DON’T fire or discipline anyone.
- DON’T rely on “self-help” to enforce the law.
- DO retreat and call the police if the situation appears to be dangerous.
WINNING THROUGH COMMUNICATIONS

- Be ready to communicate with owners, generals, the media, and the public at large
EXAMPLE OF COUNTER-BANNERING
DUAL GATE SYSTEM
or reserve gates

GATE 1:
*Neutral Employer:*
sub not being picketed

v.

GATE 2:
*Primary Employer:*
sub being picketed
THE TWO GATE SYSTEM

GATE 2
Neutral

GATE 1
Primary

WORKSITE

Picketing is here

Protected from picketing

STOP
READ NOTICE
GATE 2

THIS GATE IS RESERVED FOR THE PERSONNEL, VISITORS AND SUPPLIERS OF CONTRACTORS BUT NOT FOR THOSE CONTRACTORS LISTED BELOW:

LIST PRIMARY SUBS HERE

The above listed contractors and their personnel, visitors, and suppliers must use gate no. 1

STOP
READ NOTICE
GATE 1

ALL OTHERS MAY USE GATE NO. 2
THE TWO GATE SYSTEM

- Prior written notice to the union forces the union to only picket the Primary Gate.
- The protections are undone when a primary taints the neutral gate by using it.
- If the Neutral Gate is tainted, the system can be re-established by a new notice.

Dear Union,

This gives notice that Reserve Gates have been established for the project.

Gate 1 is at 138 S. Main St. and is reserved for the Primary Sub, and its personnel, visitors, and suppliers.

Gate 2 is the neutral gate and is located at 140 W. State St. and is reserved for all others.

Any picketing at Gate 2, the neutral gate, violates the secondary boycott laws and will result in litigation.
THE DUAL GATE SYSTEM
Legal Restraints on Picketing

- Limited to Primary Employer’s property OR
- Places reasonably close to Primary Employer’s operations
- Pickets must clearly indicate the dispute is with the Primary Employer
- Pickets are not permitted on your private property
- Pickets are not permitted at your home
- Pickets cannot follow you
THE DUAL GATE SYSTEM
Unlawful Picket Conduct

- Picket Line Misconduct
  - ✔ Violence
  - ✔ Property Damage
  - ✔ Coercion
  - ✔ Threats or Intimidation
  - ✔ Sabotage
  - ✔ Stopping ingress or egress
THE DUAL GATE SYSTEM
Responding to Unlawful Picket Conduct

- Contact local police immediately
- Document incident
  - Assign a monitor to document misconduct
  - Photograph/Video Misconduct
  - Do not accept documents from pickets/Union
  - Do not provide information to pickets/Union
  - Role is to document misconduct & serve as a witness
- Do not use your own security or other Company personnel to address unlawful picket conduct
THE DUAL GATE SYSTEM
Documenting General Picket Conduct

- The Nature of the Picketing
- The Number of Pickets
- The Identity of the Pickets
- License Plate Numbers of Vehicles Carrying Pickets
- Wording of Picket Signs
- Conversations between Union Agents and Your Employees
- Time & Location of Picketing
# STRIKE LOG

<table>
<thead>
<tr>
<th>Person Reporting:</th>
<th>___________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Report:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Time of Report:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Date of Picketing:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Time Picketing Began:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Time Picketing Ended:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Location of Picketing (Describe in Detail):</td>
<td>___________________________</td>
</tr>
<tr>
<td>Number of Individuals Picketing:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Number of Company Employees Picketing:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Names of all Union Officers, Agents, Stewards Picketing:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Wording of Picket Signs (Describe in Detail):</td>
<td>___________________________</td>
</tr>
<tr>
<td>Union Buttons or Insignias Worn By Picketers:</td>
<td>___________________________</td>
</tr>
<tr>
<td>Description of Picketing Activities (were pickets standing still, massing in numbers, blocking entrances, shouting at customers, etc.)</td>
<td>___________________________</td>
</tr>
</tbody>
</table>

**NOTE:** This Report is to be filled out on a daily basis to record routine picketing activities. Incidents of picketing misconduct and violence will warrant filling out a Picketing Incident Report.
Hiring Replacements

If the Company intends to hire replacement workers, it should make the following determinations.

**Temporary or Permanent Replacements**
The Company must decide whether it is going to hire temporary or permanent replacements.

**Advertisements for Replacements**
Advertisements for hiring replacements must be prepared so as to comply with the law and should be reviewed by labor counsel. Advertisements should generally specify that the employee will be replacing workers who are out due to a labor dispute. The prepared advertisements should be run shortly before the strike. By the time the ads are run, the Company must have decided on a location where applications are to be taken and interviews conducted.
Hiring Replacements

**Signing of Acknowledgment**
Each replacement employee hired should execute an acknowledgment expressly recognizing his or her status as a temporary or permanent replacement.

**Wages and Benefits for Replacements**
The Company is free to compensate replacement employees (temporary or permanent) consistent with its last bargaining proposal. It is generally unlawful for the Company to provide either temporary or permanent replacements with an overall economic package, meaning wages and benefits, that is greater than the overall value of the economic package contained in the Company’s final offer to the Union.
Hiring Replacements

Training of Replacements

A fast-track training program for replacements should be developed. This training program should be implemented shortly before or at the beginning of the strike. If training begins before the strike, it should be conducted at a location where Union personnel are not working, if possible. Once the strike begins, training can be provided wherever most convenient.
Wages and Benefits for Strikers

- Paychecks should be mailed or direct deposited by regular pay date. If applicable, partial week’s pay may be included to cover all work up to day of strike. Consider notifying employees in advance of plan for paying final wages.

- All benefits prior to first day of strike should be handled normally. Once the strike begins, no additional benefits are to be paid.

- Strikers do not receive unemployment benefits unless the strike becomes an “unfair labor practice strike.” Be careful to keep this strike an “economic strike.”
Crossover Employees

- All bargaining unit personnel who report for work during the strike must be compensated as before the strike, unless impasse has been reached and the employer has announced implementation of its final offer.

- Union members who elect to cross the picket line should be advised that they may be fined by the Union unless they have submitted a written resignation to the local union office prior to working behind the picket line. DO NOT ENCOURAGE resignation from the Union. Simply notify the employees of their options.