

SAVE NLRB REGION 3!

As you may know, the National Labor Relations Board is considering a merger of Regions 3 (Buffalo) and 6 (Pittsburgh) to achieve certain savings, largely through the elimination of one Regional Director position. Based on an analysis of staffing and case intake, the NLRB has advised that a preliminary determination has been made that consolidation of the Buffalo and Pittsburgh Regional Offices may be appropriate. The Agency is now considering which Regional Office would serve the expanded Region and which one would be downgraded to a Sub-Regional Office.

The NLRB has solicited the views of the NYSBA's Section on Labor and Employment Law. On June 9, 2013, the Executive Committee adopted a motion authorizing the Committee on Labor Relations to advocate for maintaining the Buffalo Regional Office. As a first step in that direction, this "Fact Sheet" on the proposed consolidation has been prepared to give all upstate New York attorneys and others a starting point for communicating their opposition to the consolidation and, more importantly, their support for locating the Regional Office in Buffalo.

Your involvement in this effort is greatly appreciated. Letters and other communications should be sent to the National Labor Relations Board, to the attention of Anne Purcell, Associate General Counsel, Director of Operations-Management, 1099 14th St., NW, Suite 10200, Washington, D.C. 20570. If you prefer to email comments, you may do so by writing to feedback@nrlrb.gov. The NLRB has requested all comments by June 30. To enable us to track what is submitted to the Board, please send copies of all communications to pconrad@proskauer.com and/or abelovin@levyratner.com.

1. **Geography.** Region 3 encompasses the entire State of New York (except for the New York City Metropolitan area). Region 6 is comprised of Western Pennsylvania and a portion of West Virginia. There is no Resident Office in Region 6. However, there is one in Albany, in recognition of the size of the State in need for coverage throughout. Buffalo is approximately mid-way between Pittsburgh and Albany, facilitating supervision and contact throughout an expanded Region. To locate the Regional Office in Pittsburgh would be to place it at almost one extreme end of the area covered. This will make it more time consuming and more expensive for the staff to travel, which would disserve the financial objectives of consolidation. It also would result in substantially increased costs and inefficiency to the parties to travel from upstate New York to Pittsburgh. Buffalo on the other hand, is close to Erie and only a 4 hour drive from Pittsburgh.
2. **Population Centers Served.** Region 3 is not only spread out, it also encompasses many separate and distinct population centers, including Buffalo, Rochester, Syracuse, Albany, Binghamton, Poughkeepsie, Utica, Ithaca, Watertown, Cortland, Corning, Massena, Plattsburg, Olean, Jamestown, Dunkirk. The Region 6 population centers are not nearly as geographically separated. Preserving the Regional Office in Buffalo would be more efficient (from both a time and cost perspective) to service all population centers.
3. **Case Handling.** Region 3 has a greater case load (both R-cases and C-cases) than Region 6. Although precise case handling statistics are not generally available, locating the Regional Office in Buffalo would be more efficient for the handling of the greater case load. While there may be projections of increased intake in Pittsburgh, they are nothing more than

projections at this point and they appear to be based on union activity at one Pittsburgh area employer: UPMC.

4. **Regional Management/Supervision.** The current management structure favors locating the Regional Office in Buffalo. Buffalo already has in place its experienced management structure, including the Regional Director, Regional Attorney and Assistant to the Regional Director, as well as a Resident Officer in Albany. By contrast, the Pittsburgh Regional Office presently has no Regional Director -- Rhonda Ley is Acting Regional Director in Region 6 while continuing to serve as Regional Director in Region 3 -- no Regional Attorney and only an Acting Deputy Regional Director. If Pittsburgh was designated to be the Regional Office, either the Buffalo management team would have to relocate to Pittsburgh, or continue to work out of Buffalo. Neither approach makes sense. Nor can we imagine any justification for creating a new management structure in Pittsburgh when the Agency already has a highly regarded Regional Director, Regional Attorney and Assistant to the Regional Director in Rhonda Ley, Michael Israel and Paul Murphy. On the other hand, the Acting Deputy Regional Director in Pittsburgh, Suzanne Bernett, easily could be transitioned to Officer-in-Charge of a new Pittsburgh Sub-Regional Office.
5. **Outreach and Service.** Currently, Region 3 is very proactive in reaching the constituencies that it serves through periodic sessions for discussions with the Regional Director, Regional Attorney and/or Assistant to the Regional Director in both Western New York and Eastern New York. With the Regional Office located some distance from the area serviced in New York State, such sessions are unlikely as a practical matter to continue.
6. **Unionized Population Serviced.** Currently Region 3 services an area in Western New York that has a greater penetration of union represented employees than the Pittsburgh area. For example, 14.5% of the private sector employees in the Buffalo area are union represented, while in Pittsburgh only 7.5% of the private sector employees are union represented.

The following arguments have been made by our counterparts in Pittsburgh:

1. Close working relationship with the Regional Director and Regional Office staff that “simply cannot be found in every region.”
2. Region 6 is distinguished by its “very high legal and ethical standards and evenhandedness” as well as its “ready accessibility to practitioners and their clients.”
3. Region 6 has played “a crucial role both in the history and continuing development of labor law under the Act;” Pittsburgh is the “cradle of labor law.”
4. Region 6 has been a “leader in innovative programs to settle cases” and has set “the standard for excellence in the efficient management of cases.” Pittsburgh’s “reputation for quality has won it the confidence and acceptance of both labor and management.”
5. The area served by Region 6 remains “economically vibrant” and “we anticipate increasing demand for Board services due to the growth in a variety of industries in which union activity is on the rise.”

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