



National Union of Special Police Officer (NUSPO), affiliated with LEOS-PBA

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Dear Brothers & Sisters

Welcome to the National Union of Special Police Officers NUSPO, affiliated with the Law Enforcement Officers Security & Police Benevolent Association LEOS-PBA. I am writing you to let you know about the benefits of becoming a member of our unions, and to inform you of your legal rights if you pass up this opportunity to join.

Union representation means that the union, on your behalf and with your full and active participation, negotiates and administers a legally binding contract known as a collective bargaining agreement that sets forth your wages, benefits and working conditions. Because all employees negotiate through the union, union members receive higher wages and better benefits than non-union workers in similar jobs. Strength in numbers makes this possible. You and your co-workers are the "Union".

The collective bargaining agreement which provides you with benefits and job security has a "union security" provision which requires you either to join the union, or pay an amount equivalent to the portion of union dues used for representational purposes unless you work in a "right to work" state. I will explain the service fee later in this letter.

First, however, I would like to inform you of the full benefits of becoming a full member of this Union. The vast majority of your co-workers throughout the country eligible for membership in this Union become members of the Union and enjoy the benefits available to members.

- Members of the Union may attend union meetings, vote in elections for union officials and run for office. Non-members may not.

- Members of the Union may attend union meetings during which the course of negotiations for the next collective bargaining agreement is discussed and decided upon. Non-members may not.
- Members of the Union vote on whether to ratify collective bargaining agreements. Non-members may not.

If you choose not to become a member, you are entitled to a reduction from the full union dues in an amount equal to the amount the Union spends in the limited number of areas considered non-representational. Based on the NLRB Office General Counsel MEMORANDUM GC 19-04 we have made a good faith determination that our Non-chargeable expenses are less than 2% as verified by our Certified Public Accountants based on the percentage of union dues received by the International Union spent on expenses chargeable to non-member service fee payers. Based on the above the International non-member service fee is set at 98% of dues. Thus, if under your contract your monthly dues are \$20.00, a non-member service fee payer is obligated to pay \$19.92, and does not enjoy the benefits of membership, including those listed above.

If you choose not to become a member of the Union, and prefer to pay the service fee only, you must notify the Union in writing that you choose to be a Service Fee Payer. The notice must contain your name, address, employer, job site location and Local Union number, if assigned. The notice must be filed with the International Secretary/Treasurer, LEOS-PBA. Lally and Misir, LLP, Attention Grant Lally 220 Old Country Road # 2, Mineola, NY 11501. Please Note: The Union will NOT accept email as service. Furthermore, in lieu of dues, you will be required to pay the Union the non-member service fee only.

I sincerely hope that you will choose to become an active member and strengthen the Union's ability to represent you and your co-workers, rather than weakening the Union and making it more difficult to represent you. In our democratic union, the decision as to whether to become a member and enjoy the rights of membership is yours.

In Solidarity

Brikener Jean-Gilles LEOS-PBA Secretary/Treasurer

BECK CALCULATIONS

- I. A Union's Obligation to Properly Notify Represented Employees of their General Motors/Beck Rights.**

The Supreme Court held in *General Motors*¹ and *Beck*,² respectively, that employees subject to a union-security clause have the right to be non-members, and that a union has a corresponding duty of fair representation that extends to not spending an objecting nonmember's dues and fees on non-representational activities. When a union initially seeks to collect dues and fees under a union-security clause, it must first inform employees of their right to be or remain non-members.³ It must also inform them of their Beck rights, namely, that nonmembers have the rights to: (1) object to paying for union activities not germane to the union's representational duties and to obtain a reduction in fees for such activities; (2) be given sufficient information to intelligently decide whether to object; and (3) be apprised of any internal union procedures for filing objections.⁴ These notices must be provided to an employee concurrently with the union's first attempt to collect dues from the employee and not, for instance, in a periodic publication.⁵

Additionally, a union's separate obligation to provide an annual notice to represented employees of their *General Motors/Beck* rights must be reasonably prominent and not "hidden in a lengthy publication." Under current law, the union need only apprise employees of the percentage of the Beck reduction if they decide to become Beck objectors. This information can always be found on our website @ <https://www.nuspo.org/beck-rights>

On February 22, 2019, the OFFICE OF THE GENERAL COUNSEL for the NLRB issued a MEMORANDUM GC 19-04

In the General Counsel's view, it is difficult for an employee to make an informed decision about whether to become a Beck objector without first knowing the amount of savings that would result from that decision. The General Counsel agrees with the D.C. Circuit that an initial Beck notice must apprise potential objectors of the percentage of

union dues chargeable to them in order for potential objectors to gauge the propriety of a union's fee. In *Penrod*, the D.C. Circuit found the question of initial Beck requirements to be "squarely controlled by" the Supreme Court's decision in *Chicago Teacher's Union, Local No. 1 v. Hudson*, 475 U.S. 292 (1986), where the Court said, in a case dealing with public sector employees, that "[b]asic considerations of fairness...dictate that the potential objectors be given sufficient information to gauge the propriety of the union's fee."¹⁰ In *Kroger*, the Board considered *Penrod* and acknowledged that "basic considerations of fairness" inform a union's duty of fair representation in providing sufficient Beck notice to employees, but nevertheless declined to follow the D.C. Circuit in requiring the additional information at the initial notice stage, finding that such a requirement was neither compelled by the earlier cases nor comprehended within the majority's view of a union's duty of fair representation.

It is the General Counsel's position that the analysis applied by the Board majority in *Kroger* was flawed, and failed to give appropriate weight to employees' Section 7 rights and related interests. One of the core purposes of the Act is to protect the right of employees to choose whether they will become or remain members of a labor organization. In this respect General Motors rights and Beck rights are inextricably intertwined, *Weyerhaeuser Paper Co.*, 320 NLRB 349, 350 (1995), *rev'd on other grounds, sub nom. Buzenius v. NLRB*, 124 F.3d 788 (6th Cir. 1997), *vacated*, 525 U.S. 979 (1998). Because under General Motors an initial discussion of membership, initiation fees (where applicable) and periodic fees falls squarely within a union's existing fiduciary obligation, it is appropriate that Beck adjustments also be made known at the same time, before an employee is effectively required by law to make a membership decision, as the reduction in periodic payments may be determinative of the employee's choice in that regard.

For these reasons, the Board should overrule *Kroger* and require that a union must provide the reduced amount of dues and fees for objectors in the initial Beck notice so that an employee can make an informed decision as to whether to become a Beck objector. It is

obvious that employees will be better able to make informed decisions about whether to become Beck objectors if they know the amount of savings that will result from that decision. It should not be burdensome for unions to provide that figure. In many cases, the union will have that amount easily at hand, because there is a Beck system in place and there are other objectors for whom the appropriate fee has been determined. **If the union does not yet have the exact fee calculated (because it has, as yet, no objectors), it can make a good faith determination as to what the amount will be.** This good faith determination need not be based on precise calculations or an independent auditor's report, but the union must have utilized a reasoned analysis to determine the figure and the union must explain to the employee how it derived the figure should the employee ask. Naturally the estimates must be reasonable. Employees do not need a precise or audited figure to make an informed decision about whether to object -- requiring such detail would be an expensive and time-consuming undertaking for a union that has not yet done it. See e.g., Kroger, 361 NLRB at 427 (describing the burden to unions in creating the calculations, especially for unions who have not previously had Beck objectors).

Details of Chargeable Versus Non-Chargeable Expenses

Chargeable Expenses

Chargeable expenses are those which relate to the Union's services with respect to matters which are germane to collective bargaining and representation, are justified by the government's vital policy interest in labor peace and avoid "free ridersn who benefit from union efforts without paying for union services and do not significantly burden free speech. The expenses of the following activities are chargeable:

- Governing the local union, including local union elections
- Gathering information in preparation for negotiating of collective bargaining agreements
- Gathering information from employees concerning collective bargaining positions
- Negotiating and ratification for collective bargaining agreements
- Handling grievances under a collective bargaining agreement
- Public advertising on the negotiations, or provisions in collective bargaining agreements, as well as on matters relating to representational interests in the collective bargaining process and contract administration

- Purchasing books, reports, and advance sheets used in matters relating to representation and contract administration
- Paying professionals in labor law economics, and other subjects for services used in negotiating and administering collective bargaining agreements; in processing grievances, arbitrations and civil service proceedings
- Defending the Local against efforts by other unions or organizing committees to gain representation rights in units represented by the Local or decertification proceedings
- Proceedings regarding the defense of the Local's jurisdiction
- Membership meetings and concentrations
- Publishing those portions of newspapers and newsletters, which concern matters for all represented workers
- Lawful impasse procedures and fact finding, mediation, arbitration, strikes, slow down, and work stoppages as they pertain to representation and collective bargaining.
- The prosecution or defense of litigation or charges to enforce rights relating to concerted activity, the duty of fair representation and collective bargaining as well as collective bargaining agreements, and litigation related to chargeable activities.
- Supporting and paying affiliation fees to state and other local councils, to the extent that such support and fees relate to the representational interest of the union in the collective bargaining process and contract administration
- Social and recreational activities open to all employees
- Payments for insurance, medical care, retirement, disability, and death-related benefit for persons paid for services in carrying out the representational interest of collective bargaining and contract administration
- Operating and administrative costs, i.e., rent, utilities, automobiles, etc.
- Organizing expenses that involve employees in the Local's competitive market
- Lobbying state or local legislative bodies to secure ratification of negotiated agreements

Non-Chargeable Expenses

Non-chargeable expenses are those which relate to political, ideological matters, organizing in non-competitive markets and members-only expenses, and do not relate to matters germane to collective bargaining or representation. The expenses of the following activities are non-chargeable:

- Training and voter registration, get-out-vote and political campaigns
- Supporting and contributing to charitable activities organizations
- Supporting and contributing to political organizations and candidates for public office
- Supporting and contributing to ideological causes and committees, including ballot measures not related to terms and conditions of employment
- Supporting and contributing to activities as to foreign affairs
- Supporting and contributing to rallies and parades not directly related to members
- Publishing those portions of newsletters which do not concern matters for all represented workers. This is estimated to be no more than staff non-chargeable time. All political-only publications are non-chargeable
- Members-only benefits
- Litigation not related to bargaining unit members, collective bargaining and representation
- Lobbying for collective bargaining legislation
- Organizing expenses involving workers outside the Union's competitive market

Based on the above Chargeable Versus Non-Chargeable Expenses the Union believes it has no Non-Chargeable Expenses based on the above Non-Chargeable Expenses category and if it should be determined that the Union does have Non-Chargeable Expenses, this would be very limited to less than 2% since we are a newly established Union and all costs are associated with Chargeable Expenses as outlined under Chargeable Expenses.

Based on the above, and after talking with our accounting firm we have made a good faith determination based on a utilized reasoned analysis to determine that 100% of the costs are Chargeable Expenses. However to be on the safe side we have set the rate at 98% chargeable and 2% as non-chargeable.

1 NLRB v. Gen. Motors Corp., 373 U.S. 734 (1963).

2 CWA v. Beck, 487 U.S. 735 (1988).

3 NLRB v. Gen. Motors Corp., 373 U.S. at 743; California Saw & Knife Works, 320 NLRB 224, 233, 235 & n.57 (1995), enforced, 133 F.3d 1012 (7th Cir. 1998).

4 California Saw, 320 NLRB at 233.

5 Id. at 235 & n. 57.