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# A good case against Boeing

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**By Kate Bronfenbrenner, Published: June 22**

Business, politicians and the media have made much over the National Labor Relations Board's complaint against Boeing, but the outrage has been misdirected. The board was right to bring the complaint, because the law is on its side, and such complaints are a step in the right direction.

The National Labor Relations Act says that it is an unfair labor practice to retaliate against workers for union activity such as organizing and "protected concerted activity" such as striking. Some say that this case is about a company's right to set up shop where it can maximize profits. In this instance, Boeing built a $750 million plant in nonunion South Carolina to begin production of its new Dreamliner. The company has argued that starting pay in South Carolina is lower than in Washington state, where most of its aircraft are made, and that it has not shut its Washington operations but hired more workers — driving some to claim that the labor board, for political or other reasons, is infringing on the company's right to make money.

The labor board has a clear mission: to consider whether Boeing's production shift is retaliation for union activity. On that, Boeing is clearly in the wrong. But the board has also touched the third rail in labor law: management rights to open, close and move operations free from interference, even when the purpose of doing so is to avoid unionization.

Companies obviously want to maximize efficiency and profits. They have every right to do so — as long as profits are made in a manner that does not violate the law. Much as our society has decided that increased profits or competitiveness cannot justify a policy of age discrimination, it is against the law to retaliate against workers for engaging in protected concerted activity such as strikes, as the International Association of Machinists and Aerospace Workers local in Washington state did for nearly 60 days in 2008.

In its October 2009 quarterly conference call to shareholders, Boeing used unequivocal language when it proposed moving work on the 787 Dreamliner to South Carolina because of "strikes happening every three to four years in Puget Sound." In a videotaped interview with the Seattle Times in March 2010, Boeing executive



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Jim Albaugh said that "the overriding factor [in choosing South Carolina] was not the business climate. And it was not the wages we are paying today. … It was that we can't afford to have a work stoppage every three years."

The NLRB is not claiming, as columnist George F. Will has argued, that moving businesses to right-to-work states "constitutes prima facie evidence of 'unfair labor practices.'" Contrary to what Boeing chief executive Jim McNerney and others have said, the board is also not creating a world where it is unsafe for a business to open shop in a union state if it planned to operate anywhere else in the world that has lower wages or working conditions. Boeing's statements, made as threats before the move and then as explanations afterward, were clear violations of the law. The board had no choice but to act.

It's true that such NLRB actions are rare. But given the global trend among businesses, the country would benefit from more such complaints. Production shifts and threats of shifts have become one of the most pervasive and effective components of employer anti-union campaigns. In the 1980s, before the North American Free Trade Agreement was enacted, research that I conducted found that employers threatened to close plants in 29 percent of all NLRB-monitored election campaigns but followed through with closures in just 2 percent of facilities. By 2003, research I conducted found that plant closing threats were made in 57 percent of all NLRB-monitored union elections; in 15 percent of elections, plants were closed within two years of union victories. Plant closing threats are significantly higher in mobile industries such as aerospace production and now average as high as 74 percent for manufacturing industries overall.

Plant closures and threatened closings keep workers insecure and companies unaccountable. The mission of the NLRB includes discussing, and ruling on, employers' use of production shifts to retaliate against union activity. If the NLRB did not take on such cases, it would cede to employers unilateral control over a large swath of the U.S. workplace. In holding Boeing accountable, its members are taking on a trend that should have been dealt with long ago.

Kate Bronfenbrenner is director of labor education research at Cornell University's School of Industrial and Labor Relations and the author of "No Holds Barred: The Intensification of Employer Opposition to Organizing."



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