March 2020 Regulatory Update

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This report only contains information on issues that have changed since the last edition. To view all Clean Air, Clean Water, Occupational Hazard and Safety, and Employment Law issues being tracked by SLMA, log into your member profile on www.slma.org.

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CLEAN AIR ACT

Prepared by Kilpatrick Townsend.

Plywood and Composite Wood Products MACT & RTR

Recent Developments. None. On October 21, 2019, SLMA and its industry partners, including the American Wood Council, submitted comments on the Proposed Rule (discussed below) in support of EPA's decision to not change the program's requirements for the operation of lumber kilns.

Background. On August 22, 2019, EPA issued the Proposed Rule to update the PCWP Risk and Technology Review (RTR). As expected, it concludes that technology has not changed since the 2004 MACT was issued and that public health risks are acceptable within "an ample margin of safety." It also includes changes to the startup, shutdown and malfunction (SSM) provisions, testing and reporting requirements, as well as the issues the wood industry asked EPA to address concerning thermocouples, shutdown work practices, and biofilter averaging periods.

The Proposal did not address the remand MACT issues for lumber kilns for other equipment at wood product mills that will be addressed in a separate rulemaking at a later date. SLMA and its industry coalition have been engaging with EPA to discuss work practice standards that are flexible and reasonable for major source lumber producers.

Biogenic Carbon Emissions

Recent Developments. None. On December 17, 2019, the House passed the FY2020 Appropriations Bill. As with the FY19, the FY2020 Bill emphasized the key role that forests can play in addressing the energy needs of the United States. The Bill directed the DOE, DOA, and US EPA to ensure that Federal policy relating to forest bioenergy is consistent across all Federal departments and agencies and recognizes the full benefits of the use of forest biomass for energy, conservation, and responsible forest management. The Bill also directed the agencies to establish clear and simple policies for the use of forest biomass as an energy solution, including policies that reflect the carbon-neutrality of forest bioenergy and recognize biomass as a renewable energy source. It is expected that a rule will be issued sometime this Spring to formally adopt the carbon neutrality policy.

Proposed SSM SIP Call Rule

Recent Developments. None. Although the litigation continues to be stayed indefinitely, EPA has recently taken actions in Texas and North Carolina that could indicate a willingness to abandon the previously issued 2015 SSM Rule.

Background. On April 24, 2017, the D.C Circuit granted EPA's request to *indefinitely* delay oral arguments regarding the pending challenges to the SSM Rule. This move may indicate that EPA is planning to reconsider the Rule internally.

CLEAN WATER ACT

Prepared by Kilpatrick Townsend.

EPA/Corps Rule to Clarify Jurisdiction of "Waters of the US"

Recent Developments. On January 23, 2020, EPA published its final rule defining "Waters of the US" (WOTUS) over which EPA will have regulatory jurisdiction under the Clean Water Act. The Final Rule seeks to clarify and simplify the definition of WOTUS and was issued in response to the Obama era WOTUS Rule that was finalized in 2015 and broadly expanded the reach of the federal government under the Act. The 2015 Rule was repealed in late 2019, and the current action seeks to "replace" the prior rule.

The revised definition includes four simple categories of jurisdictional waters, provides clear exclusions for many water features that traditionally have not been regulated, and defines terms in the regulatory text that have never been defined before. The final regulation excludes from EPA jurisdiction a number of water features, including the following of particular importance to private forest management:

- Ephemeral streams defined as flowing only in direct response to precipitation,
- Manmade ditches that do not flow into a regulated water, and
- Wetlands that do not touch, i.e., are not "adjacent to," a regulated water of the US.

Background.

- The Final Rule to repeal (step 1 of the two-step "repeal and replace" plan) the 2015 WOTUS Rule was published in the Federal Register on October 22, 2019. Multiple environmental groups have filed legal challenges to the final rule.

- On August 21, 2019, a federal district court in Georgia found that the 2015 WOTUS Rule is both substantively and procedurally unlawful and exceeded the agencies' authority in scope and reach. This is the first court decision to address the substantive elements of the 2015 Rule. The Court remanded the rule back to the agencies for revisions in light of the ongoing rulemakings to replace the 2015 Rule.

- On May 28, 2019, a federal court in Texas ruled that the 2015 WOTUS Rule violated the procedural requirements of the Administrative Procedures Act. The Court further remanded the rule to the EPA for reconsideration of the notice and comment procedures. Unfortunately, this decision has limited nationwide effect as there is now a patchwork of litigation and court-ordered stays issued across the U.S. (see below). It is believed that this decision only affects the case involving the states of Texas, Louisiana and Mississippi (the WOTUS Rule had already been Stayed in these states).

- In October 2018, a District Court in Texas issued a Stay of the 2015 WOTUS Rule pending the ongoing appeal over its merits. The decision blocks any enforcement of the WOTUS Rule during litigation over its merits within the state of Texas, Louisiana, and Mississippi. These three states now join the 24 states listed below that have also received a Stay of the WOTUS Rule pending related litigation and rulemakings.

- On June 8, 2018, the U.S. District Court for the Southern District of Georgia issued a Stay of the 2015 WOTUS Rule pending the ongoing appeal over its merits. The decision blocks any enforcement of the WOTUS Rule during litigation over its merits within the states of Georgia, Alabama, Florida, Indiana, Kansas, North Carolina, South Carolina, Utah, West Virginia, Wisconsin and Kentucky. The decision joins another district court injunction that has been in force since 2015, which applies to 13 states -- namely, Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming.

ENDANGERED SPECIES ACT

Prepared by Kilpatrick Townsend.

ESA Regulatory Reform

Recent Developments. On January 10, 2020, the Trump Administration announced additional proposed revisions to the Act (see prior August 2019 revisions discussed below). The proposed revisions, which are open for public comment for 60 days, take aim at several regulatory reform items, but the most significant changes would address the role of climate change within the ESA review process. The proposed rules would substantially limit the consideration of the impact of a project on climate change by making the following changes to existing rules:

- The Proposed Rule would simplify the definition of "effects" which must be evaluated by striking specific references to direct, indirect, and cumulative effects. Under the new definition, effects must be reasonably foreseeable and have a reasonable causal relationship to the proposed action or alternatives. This means that an effect must have a proximate causal relationship to the agency action to require evaluation. The Proposed Rule clarifies that effects should not be considered significant if they are remote in time, geographically remote, or the result of a lengthy chain.

- The Proposed Rule changes current policy by stating that analysis of cumulative impacts is not required under NEPA. As such, only the reasonably foreseeable effects of the actual project in question should be considered in the NEPA analysis.

Together, these proposed revisions are expected to make it significantly easier for large energy projects, such as oil pipelines, to receive agency approval under NEPA.

In addition, on August 12, 2019, the Department of the Interior finalized a series of rules, to significantly revise the process and factors to be used when considering ESA listing decisions. Among other things, the rules would impact the following key issues within the ESA program:

- Agencies will be allowed to solicit and consider economic impact data as part of a species' listing decision;
- An agency's consideration of unoccupied areas as potential critical habitat for a species will be limited to situations where there is inadequate occupied habitat; and
- Species designated as "threatened" will no longer be required to receive the same level and types of protections as "endangered" species.
- The concept of the "foreseeable future" will be shortened in time and scope such that potential threats to a species such as climate change are no longer required to be considered.

The changes to the ESA would only impact *future listing* decisions. At least 17 states and multiple environmental groups have filed legal challenges to the recently issued final rule.

Proposed Listing of Northern Long-Eared Bat ("NLEB")

Recent Developments. On January 28, 2020, the D.C. Circuit issued its long-awaited Opinion on the challenges to the January 2016 listing of the NLEB as a "threatened" (as opposed to "endangered") species. Because the NLEB was listed only as threatened, the Agencies had issued a specially tailored rule under Section 4(d) of the Endangered Species Act that provided more flexibility to impacted landowners and industry. Multiple environmental groups challenged both the listing and the 4(d) Rule. The D.C. Circuit held that the Agencies failed to properly consider all available information and remanded the Rule back to the Agencies for further consideration. The Court also found that the Agencies did not follow the proper administrative procedures for the prior rulemaking process.

Importantly, the Court did not vacate the Rule but instead sent the Rule back to the Agencies for further review. This means that the current 4(d) Rule will remain in effect until such time that the Agencies issue a new rule on the NLEB. Ironically, the Agencies were already under a routine statutory deadline to "revisit" the Rule, and the timing of the Court-ordered remand will not significantly impact the schedule already in place.

Although it is too early to predict with certainty, because of the ongoing spread of the white-nosed disease that is decimating the NLEB population, many experts anticipate the Agencies will have little choice but to list the NLEB as endangered in the next rulemaking.

Background. On January 14, 2016, the USFWS published a Final Rule under Section 4(d) of the Act. The Final Rule authorizes certain incidental/unintentional "takes" (i.e., harm or death) including those association with "forest management activities" in certain areas. The USFWS acknowledges that the NLEB is threated due primarily to a disease known as "White Nose Syndrome" (WNS). As such, the Final Rule has differing restrictions depending on whether an area is within the WNS Zone or not.

OCCUPATIONAL HEALTH & SAFETY ACT

Prepared by Kilpatrick Townsend.

Reminder to Keep OSHA 300A Annual Summary Posted Until April 30

Recent Developments. At the end of each calendar year, all employers, except those who are exempt from OSHA's recordkeeping requirements, must create an annual summary of the injuries and illnesses using the OSHA Form 300A Summary or equivalent form. The OSHA 300A Summary must be signed by a *company executive*. The OSHA 300A Summary must be posted no later than **February 1, 2020** and must remain posted until **April 30, 2020**. Employers must create and post the OSHA Form 300A Summary even if there were no recordable injuries. The posting requirement is separate from the requirement to electronically submit OSHA Form 300A data to OSHA under the electronic reporting rule.

Workplace Injuries and Illnesses Recordkeeping

Recent Developments. None.

Background. Under OSHA's recordkeeping regulations (29 C.F.R. § 1904), covered employers must prepare an OSHA 301 Incident Report or equivalent form for certain work-related injuries and illnesses. Employers must also document each recordable injury or illness on an OSHA 300 Log. A separate OSHA 300 Log must be completed for each of your establishments. At the end of each calendar year, these employers must review their OSHA 300 Logs to ensure that they are complete and accurate and must correct any deficiencies. At the end of each calendar year, all employers, except those who are exempt from OSHA's recordkeeping requirements, must also create an annual summary of the injuries and illnesses using the OSHA Form 300A or equivalent form. Employers are required to retain these records for five years following the end of the calendar year that these records cover.

Recordkeeping citations are low-hanging fruit for OSHA. The Occupational Safety and Health Act states that "[n]o citation may be issued… after the expiration of six months following the occurrence of any violation." (29 U.S.C. § 658(c).

Workplace Injuries and Illnesses Reporting

Recent Developments. Covered employers must submit their 2019 OSHA Form 300A data electronically through the OSHA Injury Tracking Application at https://www.osha.gov/injuryreporting/index.html. The deadline to submit the OSHA Form 300A is **March 2, 2020.**

Background. As of January 1, 2015, all employers must report work-related fatalities to OSHA within eight hours of the incident resulting in the fatality and must report to OSHA all work-related in-patient hospitalizations that require care of treatment, all amputations, and all losses of an eye within twenty-four hours of the incident.

On May 11, 2016, OSHA issued the final rule requiring employers to electronically submit injury and illness data on an annual basis. The final rule originally required establishments with 250 or more employees to annually submit the OSHA 300 Log, OSHA Form 300A, and OSHA Form 301 Incident Reports, while establishments with 20 to 249 employees in certain industries (such as manufacturing) are only required to submit the OSHA Form 300A. On January 24, 2019, OSHA eliminated the requirement that large employers submit their OSHA 300 Logs and OSHA Form 301 Incident Reports. Covered employers are still required to submit their OSHA Form 300A on an annual basis. Beginning in 2019, covered employers must submit the prior calendar year's OSHA Form 300A data to OSHA by March 2.

The electronic reporting rule also expressly prohibits employers from retaliating against employees for reporting work-related injuries or illnesses. To that end, the rule requires employers to inform employees of their right to report work-related injuries or illnesses without retaliation. This notice requirement may be satisfied by posting the OSHA Job Safety and Health—It's the Law worker rights poster from April 2015 or later. In addition, the employer must ensure that its procedure for reporting work-related injuries and illnesses is reasonable and does not deter or discourage employees from reporting.

The OSHA Injury Tracking Application and additional information regarding the electronic reporting requirement are available at: https://www.osha.gov/injuryreporting/.

Amputations

Recent Developments. On December 10, 2019, OSHA revised the NEP targeting methodology. The updated NEP is available at https://www.osha.gov/enforcement/directives/cpl-03-00-022.

Background. On August 13, 2015, OSHA updated its National Emphasis Program ("NEP") on amputations to include the following targeted industries: "Sawmills," "Wood Preservation," "Wood Window and Door Manufacturing," "Cut Stock, Resawing Lumber, and Planing," "Other Millwork (including Flooring)," and "Wood Container and Pallet Manufacturing." If an employer in one of the targeted industries reports an amputation, it will be subject to an inspection under the Amputations NEP. The contents of the 2015 Amputations NEP are available at: https://www.osha.gov/enforcement/directives/cpl-03-00-019.

Combustible Dust Standard

Recent Developments. None.

Background. OSHA has been in the process of developing a comprehensive general industry standard to address combustible dust hazards since 2009. In 2017, the proposed standard was removed from the federal regulatory agenda. While a dedicated combustible dust standard is no longer a priority for OSHA at this time, the agency retains authority to cite employers for combustible dust hazards under the "general duty" to provide a workplace "free from recognized hazards that are causing or likely to cause death or serious harm," and housekeeping obligations set out in other OSHA standards, such as the recent Final Rule on walking-working surfaces and fall protection systems. Employers should also look to guidance from industry consensus standards, such as the 2017 edition of the NFPA Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities ("NFPA 664") and the 2019 edition of the NFPA General Standard on the Fundamentals of Combustible Dust ("NFPA 652").

Under NFPA 652, all facilities with combustible dust hazards must have a Dust Hazard Analysis ("DHA") completed by a professional safety consultant by **September 7, 2020**. Companies considering material modifications or system upgrades between now and September 2020 should confirm that they meet the specifications in NFPA 652 and 664. A DHA is a systematic review to identify and evaluate potential fire, flash fire, or explosion hazards associated with the presence of combustible dust in a process or facility and provide recommendations to manage the hazards (similar to OSHA's Process Hazard Analysis for hazardous chemicals). Once a hazard analysis is completed, OSHA generally expects facilities to implement the recommendations as soon as possible, but in any event, no later than one to two years after the hazard analysis is completed. Thus, at the conclusion of the DHA, if systems or equipment are found non-compliant with NFPA specifications, they must be upgraded. The DHA must be reviewed and upgraded every five years.

EMPLOYMENT LAW

Prepared by Wimberly & Lawson, P.C.

Race and Gender Pay Data Collection Over

Recent Developments. The efforts of the Equal Employment Opportunity Commission (EEOC) to collect information on race and gender pay data are finally over.

Background: The Trump Administration had blocked the collection of the race and gender pay data in 2017, but a federal district court judge in the District of Columbia ordered the Obama-era pay reporting requirement to continue. The judge's order is still being appealed, but in the meantime the judge has finally deemed the collection complete, with about 89% of all eligible employers having turned over the pay data.

No announcement has been made as to how the pay data already collected will be used, and there are no current plans to do race and gender pay data collection in this manner in the future. However, the matter is still being considered from a regulatory standpoint and conditions could change, of course, with a different administration.

Pro-Union Bill Passes in the House

Recent Developments. The Protecting the Right to Organize Act (H.R. 2474) on February 6, 2020 passed the U.S. House of Representatives by a vote of 224-194. Five Republicans voted for the bill and seven Democrats opposed it. It has been called the most pro-union legislation since the Wagner Act was passed in 1935. It is so pro-union, that many business interests have taken the legislation lightly, apparently feeling it could never pass. It ahs passed, at least in the House. There is a similar bill pending in the Senate (S. 1306), but Senator McConnell is unlikely to give it a floor vote.

Background. Among other things, the Pro Act modifies the Obama-era National Labor Relations Board (NLRB) rulings and policies regarding accelerated union elections, turning over worker information to labor organizers, classifying independent contractors as employees, and putting in a broad test classifying separate entities as joint employers. It would nullify state "right-to-work" laws and basically allow bargaining agreements to require all employees to pay fees to cover the costs of union activities as a condition of employment. It would stipulate that a strike or series of strikes could not be prohibited based on their "duration, scope, frequency, or intermittence," and prohibit employers from permanently replacing or discriminating against an employee who strikes. It would prohibit an employer from requiring employee attendance for work meeting unrelated to their job, prohibiting the so-called "captive audience" employer presentations regarding information about union organizing. It would repeal restrictions on unions engaging in "secondary boycotts."

In addition to normal lost wages, it would allow the NLRB to impose additional amounts as liquidated damages or penalties against employers. It would allow such damages even to workers whose employment violated federal law as being unauthorized workers. It would require federal courts to grant temporary injunctions to employees negatively affected by an employer's interference with their union rights, unless the court rules there is not a reasonable likelihood that the claim will succeed. It would allow employees to bring an action in court as well as going to the NLRB for relief.

The Pro Act would also remove employer standing in election proceedings before the NLRB and allow the Board to basically accept the union's proposed bargaining unit, and allow the Board to short-circuit the current process and require an employer to begin collective bargaining when a majority of employees voted in favor of the union or haven't voted in favor of the union because of election interference by an employer and who have signed union authorization cards. Following a union certification, the employer and union would have to meet and begin negotiations within ten (10) days of the union's written request, and if there is no agreed-upon contract after ninety (90) days of bargaining, the Federal Mediation and Conciliation Service would refer the dispute to a three-member arbitration panel, which could ultimately render a binding decision on a contract for two (2) years. The bill would also require an employer to continue engaging in collective bargaining even after employees hold an election to decertify a union.

The bill would codify the Obama Administration's "persuader rule" which requires employers to disclose arrangements with consultants or attorneys who give employers advice that might relate to persuading employees on their union rights or concerted activities. The language is so broad as to cover even the drafting or revising of employer personnel policies, identifying employees for disciplinary action, and include training and the planning of employee meetings. The bill would even undo the Supreme Court ruling in *Epic Systems vs. Lewis*, which had ruled that employers could enforce individual arbitration agreements with class-action waivers.

So how could a bill like this ever pass or become law? Well, it has already been endorsed by the leading candidates for the Democratic nomination, including Senators Bernie Sanders, Elizabeth Warren, and Amy Klobuchar, also former Vice President Joe Biden, and Mayor Pete Buttigieg. Unions have said that anyone wanting union support must vote for the bill. At least 38 Democrats in the Senate have already become co-sponsors of the Senate version of the bill.

The Pro Act has been called a "wish list" for unions, and is the most pro-union legislation proposed in the history of the federal labor law. Even the Employee Free Choice Act, which came close to passing in 2007, was not near as strong. That bill became known as the "card check" law. Many say the current pro-union legislation shows how political times have changed. In 2007, the Democrats backed off of the card check bill at the last moment, but no one is backing off at the present time.

Why The Joint Employer Issue Matters

Recent Developments. The various labor and employment agencies of the federal government, including the NLRB, the EEOC, and the U.S. Department of Labor, have all proposed regulations or other guidance limiting the use of the "joint employment" concept.

Background: Currently, there is a hodgepodge of various standards on who is a joint employer, but the one commonality is that the analysis generally addresses how much control a potential joint employer exerts, or has the right to exert, over the workers of the other entity. Many of the "poster boy" examples of the issue pertain to franchisors and those companies that rely on contract labor and staffing agencies. The famous *McDonald's* case is perhaps the most publicized, in which the NLRB contended that McDonald's and its franchisees were joint employers, while McDonald's contended that is was a separate and independent entity. That case was recently settled.

The most recent example of the issue and its importance occurred in January of this year, when CNN agreed to pay $76 million in back pay in a settlement agreement, the largest monetary remedy in the history of the NLRB. This backpay amount is larger than what the agency collects on average in a whole year. The dispute originated when CNN terminated a contract with a contractor that had been providing CNN video services. After terminating the contract, CNN hired new employees to perform the same work without recognizing or bargaining with the two unions that had represented the contractor's employees. The NLRB found that CNN was a successor to, and joint employer with, the contactor, and was obligated to bargain with the unions and provide back pay, but a court remanded the joint employer finding for further clarification.

Although this settlement is not a binding precedent, it shows the enormous potential liability on an alleged joint employer in dealing with a contractor's employees. The U.S. Department of Labor has already enacted a regulation that is set to take effect March 16, 2020, which indicates that regarding the joint employment relationship, any indirect control must be through mandatory instructions, rather than suggestions, and any reserved control must be accompanied by "some actual exercise" or control to support a joint employment relationship. The NLRB's proposed rule states that control must be "direct and immediate" to trigger joint employment.

Of course, should the House-passed Pro-Act ultimately become law, the standards for finding joint employment would be broader and more entities would be trapped into the "joint employer" network of responsibility and liability.

Union Membership at Record Low

Recent Developments. The share of American workers in labor unions fell to a record low last year, according to aa January 22, 2020 announcement from the U.S. Department of Labor.

Background: The number of union members fell by 170,000 in 2019, reducing the share of the workforce in labor unions to 10.3%, the lowest portion on record since the data has been kept in the present format since 1983. In 2018, unions represented about 10.5% of American workers, including both the public and the private sectors. Union membership in the private sector also fell, form 6.4% to 6.2% in 2018, also a record low. In 1983, the first year of comparable government data, union membership in the private sector was over 20%. The declines in union membership are said to reflect both the decline of organized labor, and also the reduction in employment in more unionized industries.

As a matter of fact, union membership has been on a steady decline each year over the past 36 years, with only a single year where union membership made gains during a time the economy was shedding jobs.

It is interesting that more than half of all union members in the U.S. live in just seven states. New York workers have the highest union membership right after Hawaii, about 21%. It is further interesting that Michigan had a larger drop in union membership than the U.S. as a whole, with its union membership falling by a percentage point during 2019. This is the same state where there was a contentious and lengthy strike at General Motors last year.

Review of Cases Under the Genetic Bias Law

Recent Developments. The Genetic Information Non-Discrimination Act (GINA) has been around since 2008, and is one of the many federal anti-discrimination laws.

Background: It is most notable in that more than 10 years the law has been in effect, there has not been a single successful lawsuit alleging discrimination by an employer using genetic information. Only 12 GINA cases have been filed by the EEOC in its history.

Some say this lack of successful litigation shows the success, not the failure, of this federal law. That is, it is likely to have worked effectively as a type of privacy law. The law makes it illegal for employers to access employees' private genetic information, in both health insurance and employment. As applied to employment, Title II of the law specifically outlaws businesses from requesting or obtaining a worker's genetic test results, the genetic test results of a worker's family members, or a worker's family medical history. While workers can voluntarily turn over genetic information in the context of wellness plans, employers are still prohibited from taking adverse employment actions against the worker based on that information. The cases that are brought under GINA generally relate to employers receiving workers' family medical histories. The EEOC sued Dollar General Stores in 2017 in this situation, and another case involving FIS Management Services involved a worker claiming his employer fired him because of biometric test results, administered as part of a voluntary employee wellness program, which showed his elevated cancer risk.

Another reason GINA is rarely used, at least in successful litigation, is that already-existing medical conditions would fall under the Americans with Disabilities Act (ADA). The ADA claims can be broader, partly because a plaintiff can sue whom is "regarded as" being disabled.

Firing Worker for "Bad Attitude"

Recent Developments. Firing a worker for a "bad attitude" is not necessarily illegal, but strategically it is not a strong legal reason for a termination.

Background: An example is a recent case in which a transgender employee claimed she was discharged for retaliation for her continued complaints to management about discrimination, that included being called the wrong name or pronoun. The fact that she was terminated shortly after her complaints, called temporal proximity, did not necessarily prove the causation as being illegal but combining that with the claim she was told she was being discharged because of her "bad attitude," caused a federal district court to deny a motion to dismiss the complaint.

One thing that made the use of the "bad attitude" reason for termination particularly suspicious, is that the plaintiff had been complaining of discrimination, and the court concluded that her "bad attitude" might relate to her discrimination complaints. The court also discussed the length of time between her complaints and her termination, citing cases indicating that a lapse of two months and two weeks between the protected activity and the adverse action is sufficiently long so as to weaken significantly the interference of causation. *Milo v. Cybercore Techs., LLC*, 2020 B.L. 1137, D. Md., 1/13/20.

Discrimination and Union Disputes at Civil Rights Group

Recent Developments. One of the stalwarts of the liberal image for protection of workers is the Southern Poverty Law Center (SPLC), the Alabama-based civil rights legal advocacy group.

Background: However, recently its long-standing president was dismissed and there were rumors of discrimination issues. More recently, in late 2019, an affiliate local union of the Communications Workers of American attempted to become a bargaining representative at SPLC, but SPLC's Board of Directors voted unanimously to proceed with the union vote rather than voluntarily recognize the union. Union organizers accused SPLC of hiring a "union avoidance" law firm to resist the unionization attempt, but the union won the final vote anyway. The union claimed that SPLC was acting counter to its traditional values.