

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 07-10772-RGS

CLEAR CHANNEL OUTDOOR, INC.

v.

INTERNATIONAL UNION OF PAINTERS AND  
ALLIED TRADES, DISTRICT COUNCIL NO. 35;  
INTERNATIONAL UNION OF PAINTERS AND  
ALLIED TRADES, LOCAL 391; RALPH HARRIMAN, individually;  
JOSEPH ITRI, individually; CHARLES FOGELL, individually;  
and UNIDENTIFIED JOHN AND JANE DOES

MEMORANDUM AND ORDER ON  
PLAINTIFF'S MOTION TO SHOW CAUSE

September 7, 2007

STEARNS, D.J.

This case arises out of a contentious collective bargaining dispute between plaintiff Clear Channel Outdoor, Inc. (Clear Channel), and two bargaining agents, the International Union of Painters and Allied Trades, District Council 35, and the International Union of Painters and Allied Trades, Local 391 (collectively, the Unions). Clear Channel seeks a finding of contempt and the imposition of sanctions against the Unions for alleged misconduct in violation of the temporary restraining order (TRO) issued by Judge Gorton on May 11, 2007, and continued by this court on May 16, 2007. The TRO specifically prohibits, *inter alia*, "blocking access to or egress from Clear Channel's facilities."

According to Clear Channel, on at least five occasions since August 15, 2007, the Unions have violated the TRO by blocking Clear Channel vehicles at the entrances and exits to company facilities in Stoneham, Massachusetts, and Dorchester, Massachusetts.

During the first four incidents at Stoneham, the Unions are alleged to have acted in concert with members of the International Brotherhood of Electrical Workers, Local 2222 (Local 2222). On August 17, 2007, after the second of these incidents, Clear Channel sent letters of protest to counsel for the Unions and Local 2222. On August 21, 2007, Local 2222 responded with a letter admitting that its members took part in the blocking incidents, but claiming that as non-parties, its members were not prohibited from doing so by the express terms of the TRO. But see Gemco Latinoamerica, Inc. v. Seiko Time Corp., 61 F.3d 94, 99 (1st Cir. 1995). The following day, the Unions responded with a letter disclaiming responsibility for the conduct of Local 2222 and denying any involvement by their members in the blocking incidents. That same day, Local 2222 members again engaged in blocking tactics at the Clear Channel facility in Stoneham. A fourth blocking incident at Stoneham occurred on August 24, 2007.

The Unions do not deny that these blocking incidents occurred. Instead, the Unions argue that none of their members were present during the incidents and that they had no prior knowledge of, nor did they authorize, the actions of Local 2222. However, it appears that at least one identified member of Local 2222, union steward Steve Smith, had engaged in disruptive conduct in concert with Union members as early as May 2, 2007. Further, two of the blocking incidents occurred after the August 17, 2007 letter from Clear Channel to the Unions notifying them of the activities of Local 2222.

Finally, on September 6, 2007, a fifth blocking incident directly involving members of the Unions occurred at a Clear Channel facility in Dorchester, Massachusetts. The

Unions do not deny involvement in this incident. They simply dispute that their members actually succeeded in blocking any Clear Channel vehicles from leaving the facility.

As the court warned at the May 16, 2007 evidentiary hearing,<sup>1</sup> it would not take an incremental view of further contemptuous conduct on the part of the Unions. It is therefore ORDERED that a hearing be held at 4:00 p.m., Wednesday, September 12, 2007, to afford the Unions an opportunity to show cause why an immediate fine of \$300,000 should not be imposed, as well as penalties of a similar magnitude for acts undertaken in defiance of the TRO that occur subsequent to the date of this Order.

SO ORDERED.

/s/ Richard G. Stearns

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UNITED STATES DISTRICT JUDGE

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<sup>1</sup>As the court stated:

[i]f the union insists, I will enter specific findings beyond the general ones I've just outlined. I would suggest, Mr. Feinberg [the Unions' counsel], that may be a dangerous course at this time, because with specific findings, based on the evidence I have heard, a very substantial financial penalty might follow as a result.

I do not believe in incremental fines. When it comes to matters of disobedience of a court order, it will be a substantial, substantial fine that will be imposed on the first incident in which I enter specific findings that a serious violation of a court order has occurred.

What I'm going to do is continue the temporary restraining order to give the parties time to reflect. . . . If there are violations, I guarantee you a preliminary injunction will, at that point, issue with the findings that are being requested.

Hearing Tr. of May 16, 2007, at 110.