

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEDCO HEALTH SOLUTIONS OF LAS VEGAS, INC.)	
)	
Petitioner/Cross-Respondent)	
v.)	
)	Nos. 11-1282
NATIONAL LABOR RELATIONS BOARD)	11-1321
)	
Respondent/Cross-Petitioner)	
and)	Board Case Nos.
)	28-CA-22914
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO, CLC, LOCAL 675)	28-CA-22915
)	
Intervenor)	

JUDGMENT

Before: Rogers and Kavanaugh, Circuit Judges, and Williams, Senior Circuit Judge

THIS CAUSE came to be heard upon a petition filed by the Medco Health Solutions of Las Vegas, Inc. to review a July 26, 2011 Order of the National Labor Relations Board in Board Case Nos. 28-CA-22914 and 28-CA-22915, and upon a cross-application filed by the National Labor Relations Board to enforce said Order. The United Steel Workers, Local 675 intervened to oppose the corporation's petition for review. The Court heard argument of the parties and has considered the briefs and agency record filed in this cause. On December 14, 2012, the Court being fully advised in the premises, handed down its opinion granting the Corporation's petition in part and granting in part the Board's cross-application for enforcement. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Medco Health Solutions of Las Vegas, Inc., Nevada, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:
 - (a) Changing the dress code rules without first allowing the Union an

opportunity to bargain on the matter.

- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

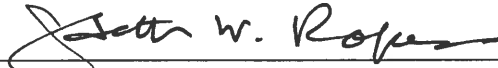
- (a) Upon request of the Union, rescind the unilateral change that it made to the dress code on January 1, 2010, without first bargaining with the Union.
- (b) Before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of employees in the following bargaining unit:

All regular full-time and part-time staff registered pharmacists at its pharmacy located at 6225 Annie Oakley Drive, Las Vegas, Nevada 89120; but excluding all other pharmacy employees, customer service personnel, inventory control clerks, and supervisors, managers, confidential and administrative employees and guards, as defined in the National Labor Relations Act.

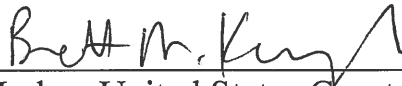
- (c) Within 14 days after service by the Region, post at its Las Vegas, Nevada facility, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current

employees and former employees employed by the Respondent at any time since August 22, 2009.

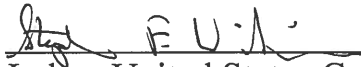
- (d) Within 21 days after service by the Region, file with the Regional Director a sworn certificate of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.



Judge, United States Court of Appeals
For the District of Columbia Circuit



Judge, United States Court of Appeals
For the District of Columbia Circuit



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For the District of Columbia Circuit

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT change the dress code rules without first allowing the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, Local 675 an opportunity to bargain on the matter.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights set forth above.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following bargaining unit:

All regular full-time and part-time staff registered pharmacists at its pharmacy located at 6225 Annie Oakley Drive, Las Vegas, Nevada 89120; but excluding all other pharmacy employees, customer service personnel, inventory control clerks, and supervisors, managers, confidential and administrative employees and guards, as defined in the National Labor Relations Act.

WE WILL, on request by the Union, rescind the change that we made to the dress code, unilaterally, on January 1, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ David Habenstreit
David Habenstreit
Assistant General Counsel
National Labor Relations Board
1099 14th Street, NW
Washington, DC 20570
(202) 273-2960

Dated at Washington, D.C.
this 3rd day of January, 2013