



## II. PARTIES

2. The Attorney General of Texas is charged with the civil enforcement of the state laws prohibiting requirements of membership or nonmembership in a Union as a condition of employment. The Attorney General brings this action pursuant to Texas right-to-work laws delineating unlawful employment practices against persons based on their right to not participate or contribute to Unions. The Attorney General has the authority to prosecute for violations of Texas right-to-work laws. Tex. Lab. Code Ann. §§ 101.121, .122, .124(2), .301, .302 (Vernon 2006).

3. The Attorney General of Texas has the authority under the Texas Labor Code to file a civil action seeking relief on behalf of the public's interest. Tex. Lab. Code Ann. §§ 101.122, .124(2), .301, .302 (Vernon 2006).

4. Asset Protection & Security Services, L.P., a Corpus Christi based company, provides security services at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas (also known as the Immigration and Customs Enforcement Port Isabel Service Processing Center). ASSET may be served by and through its Registered Agent, Scott Mandel, at 5502 Burnham Drive, Corpus Christi, Texas 78413.

5. The International Union, Security, Police and Fire Professionals of America (SPFPA), is a national union organization operating through local chapters in Texas, with headquarters at 25510 Kelly Road, Roseville, Michigan 48066, and may be served with process by serving its attorney, Mark L. Heinen, at Gregory, Moore, Jeakle, Heinen & Brooks, P.C., 65 Cadillac Square, Suite 3727, Detroit, Michigan 48226-2893.

6. SPFPA Local 727 may be served with process by serving its attorney, Mark L. Heinen, at Gregory, Moore, Jeakle, Heinen & Brooks, P.C. 65. Cadillac Square, Suite 3727, Detroit, Michigan 48226-2893.

### III. VENUE AND JURISDICTION

7. This Court has venue and jurisdiction of this suit. Tex. Lab. Code Ann. §§ 101.121, .122, .124(2), .301, .302 (Vernon 2006).

### IV. PUBLIC INTEREST

8. Plaintiff, State of Texas, has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth below. Plaintiff, State of Texas, has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss and damage to the State of Texas and its citizens by impacting their livelihood by enforcing provisions contrary to Texas right-to-work laws. The Defendants are engaged in an unlawful compulsory unionism agreement which requires bargaining unit employees to join the Union or pay a fee as a condition of employment in violation of Texas right-to-work laws. Therefore, the State of Texas believes that these proceedings are in the public interest.

### V. FACTS

9. Effective February 1, 2005, Defendants ASSET, SPFPA and Local 727 entered into a collective bargaining agreement (CBA) with an expiration date of September 30, 2008. The CBA contains a “Union Security” clause at Article 27, Section 1, which requires ASSET employees to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization.

10. By way of example of the public impact of the CBA on Texas citizens, Carlos Banuelos, a security officer employee of ASSET, received correspondence from ASSET dated December 8, 2006, advising that he was not in compliance with Article 27 of the CBA which required compulsory payment as a condition of employment, and that if he were not in compliance within 48 hours the Union would be able to demand his termination and ASSET would be required to comply with their demand. Because of this compulsory unionism as a condition of employment, Banuelos complied with the demand in order to avoid termination and continues to abide by the requirements of the CBA currently in place. (**Exhibit 1 - Banuelos' Affidavit**).

11. Other similarly situated employees are subject to the enforcement of this illegal provision and are at risk of being terminated for failure to pay union dues or a service fee in violation of state laws. These Texas citizens should not be forced to join the Union or pay the Union fees as a condition of employment.

12. The union security provision in the CBA, and its enforcement, deny Texas citizens employment based on membership or non-membership in the Union in violation of state law. Tex. Lab. Code Ann. §§ 101.052, .111, .301 (Vernon 2006).

#### VI. COUNT I-SPFPA AND LOCAL 725 VIOLATIONS OF TEX. LABOR CODE § 101.111

13. Under the Texas Labor Code, a union or its agent(s) are prohibited from collecting, receiving, or demanding, directly or indirectly, a fee as a work permit or as a condition for the privilege to work from a person who is not a member of the union. The Attorney General is empowered to enforce this subchapter. SPFPA and Local 727 are subject to a civil penalty for violations of the section of up to \$1,000 per violation and injunctive relief.

14. Defendants are in violation of Texas right-to-work laws by requiring employees to

contribute to the Union as a condition of the privilege to work.

VII. COUNT II - DECO AKAL JV, SPFPA AND LOCAL 725 VIOLATIONS OF  
TEX. LABOR CODE § 101.301

15. Section 101.301 of the Tex. Lab. Code Ann. generally prohibits interference with a person's right-to-work. Specifically, the statute prohibits a person from denying or abridging a person's right-to-work due to membership or nonmembership in a labor union. Tex. Lab. Code Ann. § 101.301(a) (Vernon 2006). The prohibition includes "threats, force, intimidation, or coercion." *Id.* at 301(b). As such, ASSET, SPFPA and Local 727 are subject to this section by entering into the CBA. Defendants are liable to a person who suffers from a violation of this subchapter for all resulting damages. *Id.* at 301(c). The Attorney General has the authority to bring this action in district court to enjoin a violation of this subchapter. *Id.* at 302(a).

16. ASSET, SPFPA and Local 727 are acting in violation of these Texas right-to-work provisions. They should be enjoined retroactively and prospectively from being able to enforce the provisions of their CBA that require employees to join the Union, pay the Union fees, or donate an amount equal to the service fee to a charitable organization. Moreover, the provisions in Article 27 of the CBA should be void as they are in direct violation of Texas laws.

VIII. DAMAGES

17. Pursuant to Tex. Lab. Code Ann. §§ 101.111 and .301(a) (Vernon 2006), Defendants violated Texas right-to-work laws and the State of Texas is entitled to recover all costs incurred and seek injunctive relief including resulting damages to Texas citizens. Tex. Labor Code Ann. §§ 101.121, .122, .124(2), .301, .302 (Vernon 2006).

## IX. APPLICATION FOR TEMPORARY INJUNCTION

18. Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated the laws as set forth herein. Unless restrained by this Honorable Court, Defendants will continue to violate the laws of the State of Texas and cause immediate, irreparable injury, loss and damage to the State of Texas and to Texas citizens subject to the unlawful compulsory unionism provisions in the CBA.

19. Plaintiff, the State of Texas, asks the Court to issue a temporary injunction immediately requiring Defendants to cease and desist from continuing to enforce contract clauses that make payment of union dues a requirement of employment against employees of ASSET.

20. Further, the State of Texas, asks the Court to order Defendants to void the CBA as it contains language that is in violation of Texas laws. Tex. Labor Code Ann. § 101.053 (Vernon 2006).

21. The State of Texas asks the Court to order Defendants to make payments for any losses or damages incurred by aggrieved persons, including but not limited to Carlos Banuelos, who were required to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization as a condition of employment.

22. If the State of Texas's application is not granted, harm is imminent because Defendants will continue to require employees to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee as a condition of employment, in violation of Texas laws, and at the expense of former, current and future employees, including Carlos Banuelos', livelihood and ability to provide for their families.

23. The harm that will result if the temporary injunction is not issued is irreparable because employees will feel required to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization as a condition of employment, in contravention of the rights of Texans to work free from being obligated to pay unions in exchange for employment.

24. The State of Texas has no adequate remedy at law because the ongoing violations of Texas laws that deprive Texas citizens of their livelihood if they refuse to pay union dues or a service fee pose incalculable injuries to these former, current and future employees, and it is in the interest of the citizens of the State of Texas for these unlawful practices established by Defendants to be prohibited.

#### X. REQUEST FOR TEMPORARY AND PERMANENT INJUNCTION

25. Plaintiff asks the Court to set its application for temporary injunction for hearing, and, after the hearing, issue a temporary injunction against Defendants.

26. Further, because the Defendants have engaged in the unlawful acts and practices described above, Defendants have violated the laws as set forth herein. Unless restrained by this Honorable Court, Defendants may continue to violate the laws of the State of Texas and cause additional injury, loss and damage to its Texas employees. Plaintiff, the State of Texas, respectfully requests that after notice and hearing this Court issue a permanent injunction restraining and enjoining Defendants, Defendants' agents, servants, employees, attorneys, and any other person in acting in active concert or participation with Defendants from violating Texas right-to-work laws by voiding the CBA.

XI. ADDITIONAL RELIEF REQUESTED

27. Plaintiff seeks all equitable and injunctive relief to which it is entitled, including, but not limited to, attorneys' fees and court costs for the prosecution of this case, and injunctive remedies, including returning illegally obtained monies to Texas citizens, and prohibiting Defendants from engaging in violations of the Texas right-to-work laws in the future.

28. The State of Texas, its agents, political subdivisions, citizens, residents, and former, current and prospective employees seeking the right to employment have been deprived of their right-to-work without conditions of Union participation or payments. As a result, Plaintiff has suffered injuries and damages from Defendants' disregard of the laws of the State of Texas. Texas citizens will continue to suffer such injuries if Defendants continue to engage in unlawful employment practices and disregard of the laws of this state.

29. Plaintiff, therefore, requests that upon final hearing, the Court enter a permanent injunction enjoining Defendants from engaging in violations of Texas right-to-work laws. Further, Plaintiff prays that the Court permanently enjoin Defendants from in any way, requiring employees to either join the Union, pay the Union service fee, or donate an amount equal to the service fee to a charitable organization, and be enjoined from interfering with such employees' right-to-work free of such requirements as a condition of employment.

30. Plaintiff further requests that the Court order payment of all necessary and reasonable attorneys' fees, reimbursement of investigative expenditures, costs of court, and any and all affirmative relief set forth in Tex. Lab. Code Ann. §§ 101.121, .122, .124(2), .301, .302 (Vernon 2006).

XII. JURY REQUEST

31. Plaintiff requests a jury trial pursuant to Tex. R. Civ. P. 216.

XIII. REQUEST FOR DISCLOSURE

32. Under Tex. R. Civ. P. 194.3a, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Tex. R. Civ. P. 194.2.

PRAYER

WHEREFORE, the State of Texas, on behalf of all aggrieved persons in Nueces County, including Carlos Banuelos, and the State of Texas who have suffered from violations of Texas right-to-work laws request the following judgment and relief against Defendants, jointly and severally:

The Court ISSUE a Temporary Injunction against Defendants, prohibiting them from committing further violations of the Texas right-to-work laws, by requiring that the CBA that requires employees to either join the Union, pay the Union service fee, or donate an amount equal to the service fee to a charitable organization as a condition of employment, be void retroactively and prospectively, so that it is not enforced against employees;

That the Court ORDER a Permanent Injunction against Defendants, prohibiting them from committing further violations of the Texas right-to-work laws, by requiring that the CBA that requires employees to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization as a condition of employment be void;

That the Court ORDER Defendants to provide notice to all employees of their rights under Texas right-to-work laws;

That the Court ORDER Defendants to cease and desist from threatening employees, including but not limited to, Carlos Banuelos, with termination if they do not pay the Union dues or fees;

That the Court ORDER Defendants to return the payment of the Union dues or fees to employees who were forced to join the Union, pay the service fee, or donate an amount equal to the service fee to a charitable organization as a condition of employment, including but not limited to Carlos Banuelos;

That the Court GRANT Plaintiff all costs of suit, including attorneys' fees, investigative costs and costs of Court;

That the Court GRANT civil penalties against SPFPA and Local 727 of \$1,000 per violation; and

That the Court GRANT Plaintiff such other and further relief, at law or equity, to which it may show itself and the aggrieved persons justly entitled.

Respectfully submitted,

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