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A recent board decision dealt with the interaction between an employer implemented grievance system and the protections of the National Labor Relations act. In an April 3, 2017 decision called *T-Mobile v. Communication Workers of America*, the Board held that T-Mobile had violated the National Labor Relations Act by implementing an internal employee grievance system during an ongoing organizing drive.

Under the National Labor Relations Act, section 8(a) (2), an employer is prohibited from controlling, dominating, or interfering with a labor organization. The act's definition of labor organization encompasses Unions but also any organization that employees participate in which deals with their employer concerning terms and conditions of employment. It is also a violation of section 8(a) (1) for an employer to interfere with employees in the exercise of their rights under the Act. This includes a promise and granting of certain benefits during an ongoing Union campaign.

In this case, since 2009, the Communications Workers of America had engaged in ongoing efforts to organize the Customer Service Representatives at T-Mobile call centers. During the ongoing organizing drive in June of 2015, T-Mobile established a nationwide program called T-Voice—an internal process for addressing what the company referred to as “pain points.” Some of these issues were customer complaints while others addressed employee grievances regarding the terms and conditions of their employment.

T-Mobile provided complete financial support to the T-Voice program, handpicked employee “representatives” for the program and paid them for their work and training with T-Voice. Call service workers selected by management to be T-Voice representatives were lauded by management as advocates for their peers. Alongside customer complaints, T-Voice also dealt with employee complaints regarding paid time off, employee loyalty and rewards programs, evaluation for wages increases, problems with shift scheduling, and education or training benefits amongst other issues related to the terms and conditions of employment for customer service representatives.

The Board held that T-Voice constituted a labor organization because employees participated actively in the organization and T-Voice existed to “deal with” the employer



regarding terms and conditions of employment. Furthermore, the Board ruled that T-voice was an employer dominated organization in violation of the act because T-Mobile created the T-Voice organization, management determined the structure and function of the T-voice organization and management controlled the continued existence of T-Voice. T-Mobile also violated the act because the company promised and granted benefits during an ongoing union campaign by soliciting employee grievances and promising to remedy these grievances during the CWA's campaign to organize the T-Mobile workplace. Conferring these benefits may have induced employees to vote against the Union.

The legal protections of the National Labor Relations Act are critical not only for the unionized workplace but also for non-unionized workers. If an employer is controlling or dominating a labor organization, especially during an ongoing organizing campaign, that employer may be committing an unfair labor practice and unlawfully influencing employees to vote against Union representation.

Respectfully submitted,

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