

Pittsburgh Paper's Labor Remedies May Be Tough To Execute

By **Braden Campbell**

Law360 (November 18, 2025, 7:56 PM EST) -- The Third Circuit's ruling affirming that the Pittsburgh Post-Gazette bargained in bad faith before imposing a regressive contract on newsroom workers in 2020 highlights the complexity of effectuating the National Labor Relations Board's remedies, which are often enforced years after the violations they address.



The Third Circuit panel upheld a ruling by the NLRB, which found that the Post-Gazette sabotaged negotiations for a new contract with newsroom employees before declaring an impasse in July 2020 and unilaterally imposing regressive terms the workers had resisted. (Photo By Raymond Boyd/Getty Images)

The ruling comes three years after workers began striking over changes implemented by the newspaper more than five years ago. On Nov. 10, the **Third Circuit affirmed** that those changes violated workers' rights under federal labor law.

The ruling requires the company to unwind these changes, bargain with the workers in good faith and make them whole for any costs they've incurred, though this may be more easily said than done.

"That's the order, but practically speaking, 'How do you put Humpty Dumpty back together again?' is the question," said management-side labor lawyer Edward Bonett of Genova Burns LLC.

The Third Circuit's ruling vindicates workers who hope to soon end the longest-running strike in the

country, though they face an uncertain path forward even with the court's backing.

The unanimous panel upheld **a September 2024 ruling** by the NLRB, which found that the Pittsburgh Post-Gazette sabotaged negotiations for a new contract with newsroom employees represented by the NewsGuild-CWA before declaring an impasse in July 2020 and unilaterally imposing regressive terms the workers had resisted. These changes included a move to a new healthcare plan with higher costs for employees, the elimination of short-term disability leave and greater power for the company to cut workers' hours.

The NewsGuild also represents Law360 editorial staff through its New York local.

In October 2022, about 55 of the roughly 100 employees in the Post-Gazette newsroom bargaining unit began a strike to protest the company's continued adherence to the challenged terms, according to a ruling by an NLRB judge in a related case. Twenty-seven workers remain on strike, with the rest having gotten new jobs or crossed the picket line, the union said.

In the unanimous ruling last week, the Third Circuit panel found that the evidence backed the board's finding that the Post-Gazette bargained in bad faith by insisting on changes that would have left workers worse off than they'd be without an active contract.

The panel also affirmed the board's finding that the impasse declaration was premature because the company had stalled the negotiation, upholding the board's order for the Post-Gazette to rescind the changes, make workers whole for their losses and bargain for a new deal. And the court upheld the board's order directing the company to compensate workers for the "direct or foreseeable pecuniary harms" of the violations despite circuit precedent holding that these heightened remedies were outside the board's power to order, finding the Post-Gazette botched its challenge to this part of the ruling.

Striking photojournalist Alexandra Wimley said the ruling is heartening for workers who have gone without steady paychecks for more than three years. The union provided strike pay, and a healthy stream of donations to the workers' strike fund ensured they could continue paying rent and meeting other critical obligations during the strike, but the strikers are ready to get back to work, she said.

"It's been affirmed that we were right in our opinion — now the fact — that this company has been breaking federal labor law for at least these five years they've been imposing conditions on us," Wimley said. "On a more emotional level, it's made the past three years worth it."

On Monday, Wimley and the other remaining strikers **offered to return to work** Nov. 24. The company, which has said it intends to challenge the panel ruling, had not responded as of Tuesday, Wimley said.

Because the workers struck to protest unfair labor practices, they are entitled to return to their jobs even if the company has reassigned or hired other workers to fill their roles, and they are entitled to back pay if the company does not reinstate them.

The company can assert that it has business reasons not to reinstate the workers; for example, it could argue that its business has changed and their jobs no longer exist. But it risks mounting back pay awards if it can't ultimately make that case, said Michael Duff, a labor law professor at Saint Louis University School of Law and a former NLRB attorney whose work involved effectuating remedies.

Otherwise, the company must restore the status quo by reverting workers' job conditions to those that existed before it implemented the 2020 changes. Ideally, the parties would agree on what reversion looks like, but "I've seen lots of cases where that didn't happen," Duff said.

"What happened was that we then go into [the compliance stage at the NLRB] ... because there's some dispute about what it means to return to the status quo," Duff said.

The order also obligates the company to return to the negotiating table at the union's request. The duty the NLRB's order imposes on the Post-Gazette carries somewhat more force than the general bargaining obligation the National Labor Relations Act imposes because the board ordered the parties to submit progress reports to the agency. But the company is not obligated to agree to any particular proposal, such as to maintain workers' health insurance as it existed under the old deal.

Peter Spanos, a partner at Offit Kurman Attorneys At Law who advises employers on dealing with unions, said the parties' hopes of reaching a new deal appear dim even with this renewed obligation to bargain in

good faith. The contract expired in 2017, the talks broke down in 2020 and the workers have been on strike since late 2022, with the litigation looming in the background for the last several years, Spanos noted.

"There's quite clearly a major gulf between the employer and the union in this case, one that hasn't been resolved for a very long time," Spanos said.

The Third Circuit's enforcement of the NLRB's order requires the Post-Gazette not only to rescind the changes it made in 2020, but to compensate workers for the losses those changes caused. While the company is not obligated to pay the wages workers forewent while on the picket line, it must compensate them — and the other members of the bargaining unit — for any reductions in pay the changes caused and any increased costs workers had to bear because of the changes to their insurance.

This process can go two ways: The parties can hash out a deal to pay workers certain amounts, or they can each make their case to NLRB agents in what's known as the compliance process. Bonett said the former path is much cleaner given the number of variables that have likely accumulated across the last five years.

That the Post-Gazette has signaled plans to challenge the panel ruling suggests it might not be ready to play nice, he noted. But given the strength of the Third Circuit's ruling, "this might be the time to sort of say the fight is over, and let's see if we can work this out," Bonett said.

"You could fight the good fight and hate each other for many, many years, but there are times in good labor relations that you just put all that aside and shake hands for the benefit of going forward together," Bonett said.

Wimley acknowledged that the sides may harbor some hard feelings after the acrimony of the last several years, but the strikers at least are willing to bury the hatchet. This means not only dealing with a company that defended its aggressive approach to negotiations through years of litigation, but returning to work alongside colleagues who did not join the strike and welcoming workers the company brought on over the last three years.

"Once we're back in the newsroom, we're going to begin the process of rebuilding," Wimley said. "We want this union to be as strong as possible going forward, so we can continue working on everything we fought for over the past three years."

This possible end to the strike and a return to negotiations comes after a long legal process. Practitioners' opinions vary on whether this process is effective.

Ira Gottlieb, a partner at union-side Bush Gottlieb, said the ruling highlights the weakness of the NLRA "because there's such a long wait between violation and remedy."

The board intends its remedies to make workers whole for violations of their rights and facilitate productive negotiations by returning the parties to the status quo before those violations. But the passage of time and the changes within the unit mean it's not often feasible to unwind the effects of illegal changes, Gottlieb said.

"You end up with at least arguably some dissipation of union strength, and a different outlook once the operation returns to something close to normal," said Gottlieb, who represents California newspaper workers in **an ongoing labor conflict** that dates back to 2009. "And in the newspaper business, ... it's always on this continuing downturn, so that may exacerbate things further."

But as long as the NLRB's process can take, it still tends to be quicker than other types of litigation, Spanos noted. Getting to a trial before an NLRB judge is particularly quick, and parties often agree to resolve their differences during this process, he said.

"What we have here is not a typical case that would show there's something generally wrong with the system," Spanos said. "What we have here is an extreme case."

--Editing by Abbie Sarfo and Nick Petruncio.

