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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

<http://oversight.house.gov>

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Opening Statement Rep. Carolyn Maloney Committee on Oversight and Government Reform Field Hearing on "Unionization Through Regulation: The NLRB's Holding Pattern on Free Enterprise"

June 17, 2011

Thank you, Mr. Chairman, and welcome to our witnesses.

We are gathered here today at a time when employment is the most crucial issue facing our country. Roughly thirteen and a half million Americans are unemployed. The labor force participation rate is still at a low not seen in over a generation. The focus of our inquiry today should be how can Republicans and Democrats work together to encourage businesses to invest and put Americans back to work, in South Carolina and everywhere else in the country.

But that is not what we are here to consider. Instead this hearing actually concerns the economic consequences of a potential illegal act allegedly committed by the Boeing Company, and the legitimate law enforcement action taken this week by the National Labor Relations Board to sanction it.

At issue in the Boeing case is whether Boeing illegally retaliated against American workers for engaging in activity that Congress has chosen to protect since 1935. We have a society built upon the rule of law. If you operate within the law, you can prosper, and the fruits of your business decisions are legitimate. But if you break the law, as Boeing is alleged to have done, the benefits earned from the law-breaking are fruits of a poison tree. They are not valid. No worker benefits from allowing a Company to explicitly break the law. Just as it is illegal to discriminate against workers based on their race or gender, to employ children in dangerous jobs, to steal from worker retirement funds, it is also illegal to make business decisions that discriminate against workers for exercising their legal rights. The protected rights at stake in the Boeing case apply to workers regardless of whether or not they are unionized, whether they live here in South Carolina or anywhere in this great nation, and, of course, regardless of politics.

Boeing is a very important company to this Country. With its workers, they make great products. I support creating great jobs for the residents of South Carolina and reducing unemployment across the United States. But I also believe that Boeing is not above the law, and as Members of Congress, we should not set aside the law to give preferred treatment to any one company. The NLRB is part of our justice system, and it should be given the opportunity to do

justice in the Boeing case. That is the only way to ensure that all workers – even those here working for Boeing in South Carolina – are protected.

That is why I am very concerned about the timing of this hearing and the Chairman's insistence that Mr. Lafe Solomon, the General Counsel and chief prosecutor of the case, testify while the Boeing hearing is underway. His testimony today raises serious concerns about the due process rights of litigants and the integrity of the Boeing proceeding.

Mr. Chairman, as you know I am a strong believer in the importance of Congressional Oversight. But I do not believe that we should interfere with active prosecutions under the guise of oversight. We must act prudently today and respect the judicial process. I hope that you will exercise your discretion as Chair of the Committee and direct the Members today to avoid asking questions of Mr. Solomon which could in any way put a fair trial and due process at risk. If you do not, I believe you may, intentionally or not, permit the legal process to be tainted by political interference. This simply does not serve any legitimate goal of this Committee or of the U.S. Congress.

If, however, you take steps to protect the integrity of the legal process and prevent interference, then I am confident that today's hearing can shed some light on how to ensure that all workers – whether in South Carolina, or anywhere else in the country – can find employment and continue to have the ability to bargain for rights and engage in protected activity.

Today, the middle class is in serious decline, with wages for the majority of workers stagnant or falling, and increasing numbers of workers without access to health insurance and pensions benefits. I believe unions have contributed to there being a middle class in this country, and to revitalize the middle class, we will need the unions again. We can debate that, of course, but there is considerable evidence proving my position. For instance, according to the federal Bureau of Labor Statistics, union workers are more likely than nonunion workers to be covered by health insurance, and to receive pension benefits and paid sick leave. Now, at a time when the percentage of private sector workers covered by collective bargaining agreements is at its lowest point since the NLRA became law, our middle class is in jeopardy. We cannot ignore the critical role that unions have played in building the middle class in this country by helping improve the wages and working conditions of union and nonunion jobs alike.

In closing, I want to emphasize again that this hearing risks trying to use politics to influence the work of an independent federal Agency – to intimidate it in order to affect the outcome of a judicial proceeding. This is very dangerous to our democracy. If we believe in the rule of law, we have to be governed by the due process institutions that we have created to resolve these issues in a fair manner.

Contact: Jennifer Hoffman, (202) 226-5181 or (202) 579-6504 (cell)