

## A Dancer With an Attitude? Fired Vegas Show Dancer Pursues Workers' Rights

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Many of my recent posts have focused on what I am dubbing the “new” unions. From Uber drivers to college athletes, the collection of workforces seeking to unionize and assert labor rights is growing more and more diverse (in spite of – or maybe as a result of – the shrinking number of unionized workers overall).

While scrolling through cases in search of such examples, I quickly stumbled on [\*David Saxe Productions LLC et al. v. National Labor Relations Board\*](#) (NLRB). Just last month, the employer, a Las Vegas show production company, asked the U.S. Court of Appeals for the D.C. Circuit to reverse an NLRB ruling finding that a dancer had been unlawfully discharged. The dancer, Anne Tracey Carter, alleged that she had been fired after taking a lead role in a staff meeting to discuss working conditions. The appeal is currently pending.

The staff meetings had been held at the request of the dancers, who expressed their desire to have someone at the company to approach with employee problems. Carter, speaking at the meeting on behalf of herself and others, told the CEO morale was low and the dancers wanted someone in the company to receive their concerns. Dancers also raised various wage issues, including requests to be paid for rehearsal time and holidays. According to the NLRB's decision, the CEO's response to Carter was focused on how all she did was complain.

A week later, dancers met with the CEO about their contract renewals and Carter had not been notified about the meeting. She inquired about her contract in an email to the CEO and he responded to tell her that her contract would not be renewed due to her negative attitude and constant complaining.

There are a few lessons to take from this somewhat familiar dispute in an unfamiliar setting. Employers in traditionally non-union industries are hardly free of the risk of receiving an unfair labor practice charge. Employers who have never been unionized are still within the board's reach. In addition, the board has handed down countless rulings involving employee behavior and attitude issues, and it is difficult to fully separate an employee's bad behavior from his or her complaints about working conditions.

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