The National Labor Relations Board (NLRB) dismissed a union’s push to organize a micro-unit of 87 employees at a Nissan assembly plant in Tennessee based on the traditional community-of-interest standards for determining whether a unit is appropriate. *Nissan North America, Inc.*, 10-RC-273024 (June 11, 2021).

The International Association of Machinists and Aerospace Workers (UAW) filed a petition to represent a unit of Tool and Die Maintenance Technicians. However, the employer asserted the only appropriate unit had to include all production and maintenance employees — a total of about 4,300 employees. The Acting Regional Director agreed with the employer, finding the only appropriate unit included all production and maintenance employees, not just the Tool and Die Maintenance...
Technicians.

The union argued that the Tool and Die Maintenance Technicians should stand alone as a craft unit because the employees had specialized skills that other plant employees could not perform. The employer maintained that these employees were not sufficiently distinct from other plant employees to warrant separate representation.

The Acting Regional Director agreed with the employer, finding the Tool and Die Maintenance Technicians were not journeyworker craftsmen and thus not a craft unit. Further, she found they share a community of interest sufficiently distinct from employees excluded from the proposed unit to warrant a separate appropriate unit. Relying on *PCC Structurals, Inc.*, 365 NLRB No. 160 (2017), in which the NLRB returned to the traditional community-of-interest standards for determining whether a unit is appropriate, the Acting Regional Director found the Tool and Die Maintenance Technicians shared a community of interest with the remaining plant employees and the only appropriate unit was a plant-wide unit of production and maintenance employees. Under NLRB rules, a petition must be supported by employee signatures amounting to at least 30 percent of the unit. Once the unit was expanded to 495 times the originally requested size (in this instance), the union could not show adequate support, and the petition was dismissed.

It was not always thus. For several years, under *Specialty Healthcare*, 357 NLRB 934 (2011), employers seeking to challenge the scope of the proposed unit had to “demonstrate that the additional employees the proponent [sought] to include share[d] an overwhelming community of interest with the petitioned-for employees, such that there is no legitimate basis upon which to exclude certain employees from the petitioned-for unit because the traditional community-of-interest factors overlap[ped] almost completely.” In many cases this proved to be an insurmountable threshold and enabled unions to organize smaller groups of employees, giving rise to the term “micro-units.”

Unions have argued against the traditional community of interest standard and seek a return to the standard under *Specialty Healthcare*. Here, the UAW has stated it will file a request for review with the NLRB. If it does, the case might not come up for consideration until there is a more union-friendly Biden NLRB Board that may be willing to return to the *Specialty Healthcare* standard.

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