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Sean Penn's letter to staff did not violate labor law

Administrative Law Judge Lisa D. Ross wrote that Penn's message to CORE disaster response staff was a rallying cry in the wake of the organization's efforts during their work battling COVID, not a threat.

By Douglas Saunders

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A judge in Los Angeles dismissed a case filed by the National Labor Relations Board against a disaster relief organization Sean Penn co-founded -- Community Organized Relief Effort -- over a letter the actor sent staff that NLRB said threatened the staff in violation of labor laws.

Administrative Law Judge Lisa D. Ross, who presided over the matter, wrote that Penn's message to CORE disaster response staff was a rallying cry in the wake of the organization's efforts during their work battling COVID, not a threat. Community Organized Relief Effort, 31-CA-272228, (Los Angeles, filed Feb. 03, 2021)

"We are pleased by Judge Ross' very thoughtful, law-based decision granting our motion to dismiss the case. It is obviously a great win for Sean Penn and CORE, but it is a battle we should never have been forced to fight," Greenberg Traurig attorney Mathew S. Rosengart said Friday. "The NLRB and its general counsel have broad power, but in this case, they clearly overstepped and abused that power, while also seeking to infringe upon Mr. Penn's First Amendment rights."

Rothner, Segall & Greenstone partner Daniel B. Rojas, the charging party in the

matter, said in an email Friday that "It is worth noting that the judge described her decision as a 'close call' and I believe the Board will see the situation differently."

CORE's employees quickly mobilized at Dodger Stadium in partnership with the City of Los Angeles and the Los Angeles police and fire departments to administer millions of tests and vaccinations.

Anonymous complaints alleged that former Mayor Eric Garcetti ordered CORE staff to work 18-hour days were posted in the comment section of a news article covering the organization's work during the emergency COVID-19 response campaign, and how quickly they transformed Dodger Stadium in Los Angeles from a testing site to a vaccination site.

The negative comments inspired Penn to write an impassioned, elaborate email in which he criticized the commenters but also praised those who joined the fight to save lives.

"The Occupational Safety and Health Administration has an essential role in all workplaces, and while CORE does everything in its power to comply not only with the protocols of OSHA but also the basic laws of common sense, we must accept that we have taken on jobs that push the envelope virtually as far as is reasonably allowable," Penn wrote in his letter to staff. "What's unique about all of you is that you rose up from the ranks of common citizenship and sbuilt a

citizen army into a heroic one. Please support each other in continuing this mission. You are the beginning of a once-in-a-century generation."

Penn's letter did not imply retaliation or disparagement of employee rights under the National Relations Act, but merely praised the staff for enduring the hardships they had been experiencing in times when many Americans were afraid to leave the confines of their homes, Rosengart explained.

"It was a supportive mission statement to praise, support, and thank CORE staff for their extraordinary dedication to disaster relief and emergency services and, consistent with his First Amendment rights, to correct inaccurate assertions by anonymous critics," Rosengart said.

The NLRB acknowledged CORE's work "in saving lives and strengthening communities impacted by or vulnerable to crisis" but felt certain language in Penn's letter was in violation of the law.

"As we have said all along, the charge and the complaint was ill-advised from the very outset," Rosengart said. "This case exemplified federal overreach into protected First Amendment freedoms, which was particularly egregious in view of CORE's heroism during a national emergency."

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