

1956

P. S. Guss dba Photo Sound Products
Manufacturing Company v. Utah Labor Relations
Board and United Steelworkers of America, CIO :
Addendum to Brief of Respondents

Utah Supreme Court

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IN THE SUPREME COURT

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STATE OF UTAH

JAN 26 1955

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Utah Supreme Court, Utah

P. S. GUSS, dba PHOTO :
SOUND PRODUCTS MANU- :
FACTURING COMPANY, :

Appellant, : ADDENDUM TO RESPONDENTS'

vs : BRIEF

UTAH LABOR RELATIONS : Case No. 8393
BOARD and UNITED STEEL-
WORKERS OF AMERICA, CIO, :

Respondents, :

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Since filing Respondents' Brief in the above action,
a significant development and judicial precedent has recent-
ly been laid down by the California Supreme Court.

Deciding two cases involving the very question present-
ed in this appeal, namely: The power of a State Court to
exercise jurisdiction when the National Labor Relations
Board declines to assert jurisdiction, the California Supreme
Court lays down these rules:

1. A State Court has jurisdiction to enjoin picketing
of an employer doing interstate business, even though the

picketing is a violation of the Federal Labor-Management Relations Act where the N. L. R. B. had previously refused to assert jurisdiction of a proceeding involving the employer. See Garman, vs. Building Trades Council, decided December 2, 1955 291 Pac. 2d 1.

2. Where there has been no refusal by the N. L. R. B. to take a case involving the employer on jurisdictional grounds, the State Court does not have jurisdiction in such a case. See Benton, Inc. vs. Painters Local 333, decided in a companion decision to Garman case, December 2, 1955 291 Pac. 2d 13. Under these late California decisions the critical point appears to be whether the N. L. R. B. actually has declined to accept the case on jurisdictional grounds. In the Garman case, in which State Jurisdiction is up-held, the N. L. R. B. had refused to assert jurisdiction over a representation proceeding involving the employer. The California Court considered this tantamount to a refusal of jurisdiction to a complaint alleging unfair practice involving the picketing. In the Benton case there also was a prior representation proceeding involving the employer, but it was dismissed by the N. L. R. B. on the ground that the unions named in the Petition did not claim to represent the units for which

the election was sought. This was not a refusal to take jurisdiction, the Court said, but only a declaration that the Petitioner was not entitled to an election.

These two recent holdings fully support Respondents' views on this case and constitute persuasive precedence for this Honorable Court.

Dated this _____ day of January, 1956.

Respectfully submitted,

E. R. CALLISTER
Attorney General

RAYMOND W. GOE
Assistant Attorney General

A. W. SANDACK

By _____

A. W. Sandack
Attorneys for Respondents
1122 Continental Bank Bldg.
Salt Lake City, Utah