Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

International Publications | Key Workplace Documents

9-30-1996

Final Report : The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

Kate Bronfenbrenner
North American Commission For Labor Cooperation

Follow this and additional works at: http://digitalcommons.ilr.cornell.edu/intl

Part of the Human Resources Management Commons

This Article is brought to you for free and open access by the Key Workplace Documents at DigitalCommons@ILR. It has been accepted for inclusion in International Publications by an authorized administrator of DigitalCommons@ILR. For more information, please contact jdd10@cornell.edu.

Final Report : The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

Keywords
Key workplace documents, federal, ILR, Catherwood, effects, plant closing, right, workers, organize, union, NLRB, labor, international, document

Disciplines
Human Resources Management

Comments
International Documents

This article is available at DigitalCommons@ILR: http://digitalcommons.ilr.cornell.edu/intl/1

Key Workplace Documents

Federal Publications

Cornell University *Year* 1996

Final Report: the Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

Kate Bronfenbrenner
North American Commission For Labor Cooperation,

This paper is posted at DigitalCommons@ILR.
http://digitalcommons.ilr.cornell.edu/key_workplace/160

Final Report

The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

Submitted to
The Labor Secretariat of the North American Commission for Labor Cooperation

by Kate Bronfenbrenner
Director of Labor Education Research
New York State School of Industrial and Labor Relations
Cornell University

September 30, 1996

The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

---

Follow-up Interviews
on
Plant Closing Threats
and
Plant Closings:

Withdrawals

The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

---

Follow-up Interviews
on
Plant Closing Threats
and
Plant Closings:

First Contracts

The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

---

Follow-up Interviews
on
Plant Closing Threats
and
Plant Closings:

DOCUMENTARY EVIDENCE

EXECUTIVE SUMMARY

Final Report:

The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize

Submitted to the Labor Secretariat of the North American Commission for Labor Cooperation

by Kate Bronfenbrenner, Cornell University

In July 1994, Sprint shut down their Hispanic marketing division in San Francisco, La Conexion Familiar, just one week before workers there were scheduled to vote in an NLRB election for representation by CWA. While the case slowly made its way through the NLRB process, the Mexican Telephone Workers Union, on behalf of CWA, filed a complaint under the NAFTA labor side agreement, charging that Sprint's actions violated the rights of their employees to organize under U.S. labor law.

As an outgrowth of the Sprint case, the tri-national Labor Secretariat of the Commission for Labor Cooperation was directed by the Labor Ministries of the U.S., Mexico, and Canada to conduct a study "on the effects of the sudden closing of the plant on the principle of freedom of association and the right of workers to organize in the three countries." As part of this study, the Labor Secretariat asked Kate Bronfenbrenner, Director of Labor Education Research at Cornell University's School of Industrial and Labor Relations, to conduct a study of the effects of plant closing or threat of plant closing on the right of workers to organize in the United States.

The study was begun May 15, 1996, with the final report submitted to the Secretariat September 30, 1996. The Secretariat then incorporated the findings from the Cornell study into their larger report "Plant Closings and Workers Rights" which also includes research analyzing court and labor relations agency cases relating to plant closings and the threat of plant closings during organizing drives in the U.S., Canada, and Mexico. As specified in the agreement that came out of the Ministerial Consultations between the Secretaries of Labor of U.S. and Mexico, the Secretariat's report was submitted to the labor departments of the three countries in early October for their prompt comment and review. Within the 45 days allotted for review, Canada and Mexico approved the report pending a few minor revisions. Based on their recommendations, a revised report was submitted to the three labor departments on December 17, 1996. Now, more than a month after they submitted the revised report, and more than three months after submitting their original report, the Secretariat still awaits a response from the U.S. Labor Department before it can release the report.

The Cornell portion of the study involves an in-depth examination of the role played by plant closings and threats of plant closings in private sector union organizing and first contract campaigns over the three year period from January 1, 1993 through December 31, 1995. Through surveys, personal interviews, documentary evidence, and the use of electronic databases, the Cornell researchers were able to collect detailed data on the extent and nature of plant closings and plant closing threats in more than 500 organizing campaigns and 100 first contract campaigns.

What the study found is that, although Sprint's behavior at La Conexion Familiar was extreme, it was not an aberration. The majority of private sector employers threaten a full or partial shutdown of their facilities during organizing campaigns, and a significant minority proceed to shut-down the facility after the union wins the election. The findings for the study can be summarized as follows:

•Where employers can credibly threaten to shut down and/or move their operations in response to union activity, they do so in large numbers. Overall, over 50 percent of all employers made threats to close all or part of the plant during the organizing drive. The threat rate is significantly higher, 62 percent, in mobile industries such as manufacturing, transportation, and warehouse/distribution, compared to a 36 percent threat rate in relatively immobile industries such as construction, health care, education, retail, and other services.

•In the 40 percent of the campaigns where the union won the election, 18 percent of employers threatened to close the plant rather than bargain a first contract with the union, and 12 percent of the employers followed through on threats made during the organizing campaign and actually shutdown all or part of the plant before a first contract was reached. Another 4 percent of employers closed down the plant before a second agreement was reached. This 15 percent shutdown rate within two years of the certification election victory is triple the rate found by researchers who examined post-election plant closing rates in the late 1980s, before NAFTA went into effect.

•The study found that not only are threats of plant closing an extremely pervasive part of employer campaigns, they are also very effective. At 33 percent, the election win rate associated with campaigns where the employer made plant closing threats is significantly lower than the 47 percent win rate found in units where no threats occurred.

•Threats of plant closing were found to be unrelated to the financial condition of the company, with threats no less likely to occur in companies in a stable financial condition than those on the edge of bankruptcy. Instead threats seemed to be primarily motivated out of anti-union animus by employers. Over 80 percent of the campaigns where threats occurred also involved aggressive legal and illegal employer behavior such as discharges for union activity, electronic surveillance, illegal unilateral changes in wages or benefits, bribes, promises of improvement, and promotion of union activists out of the unit.

•Not surprising, given that direct unambiguous threats to close the plant in response to union organizing activity are clearly in violation of the law, most of the employers chose to make their threats indirectly and verbally. Still 19 percent of the election campaigns with threats included specific unambiguous written threats ranging from attaching shipping labels to equipment throughout the plant with a Mexican address, to posting maps of North America with an arrow pointing from the current plant site to Mexico, to a letter directly stating the company will have to shut down if the union wins an election. Another 44 percent involved specific and unambiguous verbal threats such as the employer stating clearly in captive audience meetings that, if the employees voted in favor of union representation the plant might shut down, to supervisors telling individual workers that their involvement in the union campaign might mean a loss of jobs for everyone in the workplace.

•In more than 10 percent of the campaigns with threats, the employer directly threatened to move to Mexico if the workers were to organize. In other cases the threat to move to Mexico was less direct, either expressed as "moving South," or that "given NAFTA we may need to reconsider our options."

•The study found that the ripple effect from the plants which actually closed went well beyond the units where the closings occurred. Photographs, newspaper clippings, and video news stories of units which had shutdown during or after an organizing drive were one of the most common means by which other employers expressed a plant closing threat during organizing campaigns in their workplaces.

The study concludes that NAFTA has created a climate that has emboldened employers to more aggressively threaten to close, or actually close their plants to avoid unionization. The only way to create the kind of climate envisioned by the original drafters of the NLRA, where workers can organize free from coercion, threats, and intimidation, would be through a significant expansion of both worker and union rights and employer penalties in the organizing process both through substantive reform to U.S. labor laws and by amendments to the North American Agreement on Labor Cooperation.

Table of Contents

Introduction 1

Previous Research on Certification Election and First Contract Campaigns 2

Research Methods 6

The Extent and Nature of Plant Closing Threats 9

Company Structure and Characteristics 16

Unit Characteristics 19

Employer Behavior 20

Plant Closing Threats and First Contract Campaigns22

Plant Closings During First Contract Campaigns 25

Employer and Unit Characteristics and First Contract Outcome 27

Employer Practice and Behavior Prior to and During the First Contract Campaign 28

Final Status of Units in the First Contract Study 30

Conclusion 31

References 36

Table of Tables

Table 1: Total Surveys Received 37

Table 2: Total Surveys Received by Election Outcome 38

Table 3: Total First Contract Surveys Received 38

Table 4: Industrial Sector and Election Outcome 39

Table 5: Nature of Plant Closing Threats During Organizing Campaign 40

Table 6: Reasons for Withdrawing Petition 41

Table 7: Company Structure and Organizing Campaign Outcome 42

Table 8: Company Characteristics and Organizing Campaign Outcome 43

Table 9: Unit Characteristics and Election Outcome 44

Table 10: Company Practice Two Years Before Petition Filed 45

Table 11: Employer Behavior and Plant Closing Threats During Organizing Campaign 46

Table 11a: Unfair Labor Practices Filed on Employer Behavior 47

Table 12: Final Status of Units in Organizing Survey 48

Table 13: Nature of Plant Closing Threats During First Contract Campaign 49

Table 14: Industrial Sector and First Contract Outcome 50

Table 15: Company Structure and Characteristics and First Contract Outcome 51

Table 16: Unit Characteristics and First Contract Outcome 52

Table 17: Company Practice Before and After the Election 53

Table 18: Employer Behavior and Plant Closing Threats During First Contract Campaign 54

Table 19: Final Status of Units in First Contract Survey 56

In July 1994, Sprint shut down their Hispanic marketing division in San Francisco, (La Conexion Familiar), just one week before workers there were scheduled to vote in an NLRB election for representation by CWA. An NLRB judge found Sprint guilty of more than fifty different egregious labor law violations, but held that the shutdown itself did not violate labor law. On behalf of CWA, the Mexican Telephone Workers Union filed a complaint under the NAFTA labor side agreement, charging that Sprint's actions violated the rights of their employees to organize under U.S. labor law.

As an outgrowth of the Sprint case, the tri-national Labor Secretariat of the Commission for Labor Cooperation has been directed by the Labor Ministries of the U.S., Mexico, and Canada to conduct a study "on the effects of the sudden closing of the plant on the principle of freedom of association and the right of workers to organize in the three countries." As part of this study, the Labor Secretariat asked Kate Bronfenbrenner, Director of Labor Education Research at Cornell University's School of Industrial and Labor Relations, to conduct a study of the effects of plant closing or threat of plant closing on the right of workers to organize in the United States. The study, begun May 15, 1996, is an in-depth examination of private sector union organizing and first contract campaigns over the three year period from January 1, 1993 through December 31, 1995. Its purpose is to learn as much as possible about the role played by plant closings and threats of plant closings during the certification election and first contract process.[1]

Previous Research on Certification Election and First Contract Campaigns

In the last twenty years the U.S. labor movement has undergone a dramatic reversal of fortune in its efforts to win representation rights for American workers. Union density among private sector workers in the United States has plummeted from a high of 37 percent in the late 1940s to less than 11 percent today. Where twenty years ago more than 300,000 new workers

---

[1] Research assistance for the study was provided by Katie Briggs, Nicole Lindstrom, Clay Samford, Megan O'Brien, Chad Apaliski, Cara Beardi, Beth Berry, Jason Coulter, and Becky DeMarinis. Tom Juravich provided consultation on research design.

gained union representation through NLRB elections each year, today, fewer than 100,000 workers are organized each year. This is far fewer than the number of unionized workers lost through layoffs, plant closings, and attrition.

While there is little disagreement about the serious implications that declining organizing success has for American unions, there is considerable debate as to why these changes have taken place. Some see these numbers as clear evidence that unions are no longer relevant to a rapidly changing workforce in the new and ever-evolving world economy. Many trade unionists and academics, however, point to the explosion of illegal and legal employer anti-union behavior as a major determinant of labor's decline.

Freeman (1985), for example, suggests that from 1960 to 1980 the number of workers fired by their employer for union activity and then reinstated by the NLRB rose five times. Freeman goes on to suggest that these increases in unfair labor practices, or ULPs, led directly to the decline in the union win rate. Similarly, Cooke (1983) suggests that ULPs reduce union win rates by as much as 10 percent.

However, because these studies are limited to unfair labor practice charges reported in NLRB data, they tend to underestimate employer behavior during the certification process. First, they capture only reported illegal behavior by employers. In cases where illegal behavior destroyed a campaign before it was viable, there may be no union left to file charges. Many union charges are also lost or never filed because of the difficulty in supplying corroborating evidence and bringing supportive witnesses in a climate of fear and intimidation. Also, because penalties for employers found to be committing unfair labor practices are inadequate and because ULP charges can delay elections and first contracts for months, if not years, unions are often hesitant to file charges, even in the most egregious cases. Furthermore, ULPs cannot capture some of the most aggressive and intimidating employer campaigns which, although technically inside the law, stretch the law far beyond its original intention.

For the last eight years I, along with my colleague Tom Juravich, have conducted a series of studies which move beyond NLRB unfair labor practice data to examine union and employer

behavior in the organizing and first contract process by collecting comprehensive national survey data on certification election and first contract campaigns (Bronfenbrenner 1994, Bronfenbrenner and Juravich 1995, Bronfenbrenner 1997, Bronfenbrenner and Juravich 1997). These studies have consistently found that the overwhelming majority of private sector employers studied engage in aggressive anti-union tactics, including some combination of discharge for union activity, captive audience meetings, supervisor one-on-ones, promises of improvements, anti-union committees, leaflets, and letters. Individually, most of these tactics were associated with win rates 10 to 20 percent lower than in units where they were not utilized. When combined into an aggressive full-force employer campaign, these tactics were found to cut union win rates in half. In addition, when included in a regression equation controlling for the influence of election background, bargaining unit demographic, and union tactic variables, these individual employer actions were found to decrease the probability that the union would win the election by between 3 percent and 22 percent.

Under the "free speech" provisions of the NLRA, employers have virtually unlimited opportunities to aggressively communicate with their employees during union campaigns. At the same time, union access is tightly circumscribed, if not totally restricted. These employer communications can and often do include distortion, misinformation, threats, and intimidation, with very little chance of censure or penalty by the Board or courts. My research found that union win rates decline dramatically as the number of employer meetings and letters increase, from a higher than 40 percent win rate for campaigns where no captive audience meetings are held or letters sent, down to an 18 percent win rate where the employer holds twenty or more captive audience meetings and a 37 percent win rate where the company sends more than five letters during the campaign. The results further suggested that the probability of winning the election declines one percentage point for every additional letter or meeting.

In these letters, leaflets, meetings, and one-on-one communications, employers focus on three primary issues: strikes; union dues, fines, and assessments; and the threat of plant closing. In fact, my earlier research shows that close to 30 percent of all employers involved in

certification election campaigns make the threat of plant closing a primary focal point of their campaigns (Bronfenbrenner 1994). In some cases, such as La Conexion Familiar, the threat is clear and direct. In other cases, it is more subtle, with management pointing out other divisions of their company or other companies that shut down in the aftermath of a union organizing victory. But the impact is consistently negative, resulting in a 41 percent win rate in units where employers made the threat of plant closing a primary focus of their campaigns, compared to a 59 percent win rate where plant closings were not the primary focus of the employer campaign.

This aggressive anti-union behavior does not stop when the union wins the certification election campaign. In fact, the majority of private sector employers continue to resist union efforts to bargain a first contract by using a broad range of legal and illegal tactics. These include captive audience meetings, discharges for union activity, threats, and surveillance, as well as an absolute refusal to bargain, surface bargaining, or extremely hard bargaining on issues vital to the union. In my earlier research, I found that all of these actions were associated with first contract rates 10 percent to 30 percent lower than in units where they were not utilized. When the influence of other contract campaign variables was controlled for, the probability of winning a first contract declined by between 13 percent and 33 percent in campaigns that used one or more of these tactics.

During the first contract campaign, a substantial number of the employers also engaged in more directly coercive behavior such as threatening plant closings, forcing strikes, or organizing decertification campaigns. In one quarter of the units, employers threatened a full or partial plant closing directly in response to the union winning the election. In 4 percent of the units, the employer actually shut down the plant or division rather than bargain a first agreement with the union.

These data do not include the cases such as La Conexion Familiar, where an election is never held because the employer initiates a full or partial plant shutdown before the election takes place. Nor does this research actually measure the nature and extent of plant closing threats, because it only measures campaigns where threats were the primary issue the employer

focused on during the campaign. Given the devastating impact that plant closings and threats of plant closing can have on workers, their families, and their communities, there is a critical need for more in-depth analysis of the role played by plant closings and threats of plant closings in the organizing and first contract process.

This study was designed to build on my earlier research on employer behavior in certification and first contract campaigns, with a specific emphasis on collecting detailed data on plant closings and threats of plant closings during the organizing and first contract process. With this information we can then examine these threats in the context of company structure and characteristics and other employer behavior during the organizing and first contract process.

Research Methods

The three-part study involves surveys of lead union organizers and negotiators from random samples of 400 withdrawals and 600 certification elections. The samples were based on a database including the entire population of NLRB certification election campaigns in units over 50 which took place in 1993-1995.[2] Lead organizers in these campaigns were mailed surveys asking them a series of questions about bargaining unit demographics, employer characteristics, and employer tactics during the organizing campaigns, including questions about plant closings and the threat of plant closings. For all of the elections in the sample where the union won the election, a follow-up questionnaire was sent to the union representative responsible for the first contract campaign to collect additional data on employer behavior during the first contract process.

Follow-up phone interviews were conducted for all cases where plant closings or threats of plant closings were reported by the organizers and/or union representatives to have played a role in the withdrawal, election, or first contract process. In these interviews organizers were asked detailed questions about the nature of the plant closing threats, how the threats were

---

[2] Because of lengthy delays in NLRB reporting systems, the database used for this study was provided by the AFL-CIO Organizing Department which scans and enters every petition, tally of ballots, withdrawal, and certification issued by the Board. It is currently the most complete and up-to-date source for NLRB certification election campaign data.

carried out, the frequency of the threats, and the availability of any documentary evidence. Supporting documentation was collected from lead organizers, whenever possible, in cases where there were direct unambiguous threats made during either the organizing or the first contract campaign. Computerized database searches were used to collect company ownership and revenue data for all the cases in our sample involving the threat of plant closing or an actual plant closing.

In the short time period provided by the Secretariat for this study, we were able to collect surveys on 376 election campaigns, 149 withdrawals, and 112 first contract campaigns. The election campaign sample represents a response rate of 63 percent, and at 376 campaigns, is the largest comprehensive database on union organizing campaigns to date. The withdrawal response rate is 44 percent. In part this is due to the fact that the original withdrawal database was much less reliable than the election database. More than a third of the withdrawals in our original sample had to be deleted because they were duplicate filings, accretions, decertifications, or multi-union elections. These were then replaced with a supplementary random sample, out of which the same number had to be deleted. Because of the strict timetable set for this project, the large replacements lowered the response rate for the withdrawal sample. Still others were not completed by organizers because the withdrawals had occurred within a few weeks or days of filing the petition, before the employer or the union had been able to launch a campaign.

The first contract sample was based on the 155 campaigns in the election sample where the union won the election or a follow-up second election and the 18 campaigns in the withdrawal sample where the union withdrew the petition after the employer voluntarily recognized the union. First contract surveys were only mailed out after we received a completed organizing campaign survey. Thus although the study began four months ago, we had only two months to collect first contract data. The 112 surveys we have received to date represent a 65 percent response rate.

A comparison of the elections and first contract campaigns where we have survey responses with the total sample indicates no bias in terms of industry, unit, union, or

geographical distribution when compared to the total population of single union certification elections in units over 50 for petitions filed in 1993-1995. As with the total population, the elections are concentrated in production and maintenance units in the manufacturing sector, as well as service and maintenance, non-professional, and wall-to-wall units in health care and other services. Because of the significantly higher win rate in health care and other service sector units, the first contract sample, like the population, is more concentrated in those industries. The overall win rate for the election sample is 40 percent, which is consistent with the population win rate for units over 50. The overall first contract rate is 60 percent. However, since a third of the campaigns in the study were based on petitions filed in 1995, nearly a quarter of the campaigns surveyed are still bargaining for the first agreement, which will probably bring the final first contract rate up to 70 percent, which is consistent with previous research on first contract rates in units over 50 (Cooke 1985, Bronfenbrenner 1994).

The Extent and Nature of Plant Closing Threats

Prior to this study we knew from reports from organizers that significant numbers of employers use veiled and direct threats of plant closings during both organizing and first contract campaigns. We also knew from my earlier research that nearly a third of employers made the threat of plant closings a primary focus of their anti-union campaign. What we have not known until this study is the extent and nature of all plant closing threats during organizing and first contract campaigns and the number of actual closings which take place.

As we can see from Tables 1 through 3, plant closing threats are an extremely pervasive and effective component of employer anti-union strategies. According to our findings, employers threatened to close the plant in 50 percent of all elections and 52 percent of all withdrawals. In another 18 percent of the campaigns, the employer threatened to close the plant during the first contract campaign after the election was won. In 1 percent of the withdrawals the employer actually closed the plant before an election could take place. However, the employer went on to close the plant in 12 percent of the units where the union won the election.

Yet these overall percentages actually underestimate the extent employers use plant closing threats since they include industries and sectors of the economy where threats to shut down and move facilities out of state and/or out of the country are much less likely and carry less weight simply because the industry or product is less mobile. For example, as we can see in Table 4, plant closing threats occurred in only 25 percent of health care industry units and 27 percent of retail industry campaigns, compared to 65 percent of manufacturing units and 50 percent of transportation units. Although hospitals, nursing homes, and retail stores can shut down, they cannot realistically threaten to move out of state or out of the country and still serve their customers. When we limit our analysis to mobile industries such as manufacturing, transportation, and warehouse/distribution, we find that the percentage of campaigns with plant closing threats is 62 percent, compared to only 36 percent in relatively immobile industries such as construction, health care, education, retail, and other services (Table 4). Thus, where employers can credibly threaten to shut down and/or move their operations in response to union activity, they do so in large numbers.

The nature of the plant closing threats is examined in more detail in Table 5. Overall, we find that in both elections and withdrawals approximately 40 percent of employers made veiled verbal threats, while 15 percent of the employers in the withdrawals and 22 percent of the employers in the election campaigns made specific unambiguous verbal threats. At least 13 percent of the employers made veiled written threats in both elections and withdrawals, while 6 percent of the employers in the withdrawals, and 10 percent of the employers in the elections made specific unambiguous written threats.

Not surprisingly, given that direct unambiguous threats to close the plant in response to union organizing activity are clearly in violation of the law, most of the employers chose to make their threats indirectly and verbally. Thus, between 77 percent and 78 percent of the withdrawal and election campaigns where threats were made involved veiled verbal threats, while 29 percent of the withdrawal campaigns with threats and 44 percent of the election campaigns with threats involved specific and unambiguous verbal threats. Whether specific or veiled, verbal threats are

extremely difficult to document and prove in an unfair labor practice case, particularly when they are made as part of a one-on-one meeting with supervisors or other managers. Still 19 percent of the election campaigns with threats included specific unambiguous written threats, which are much easier to document and are more likely to be found in violation of the NLRA.

In our follow-up interviews with organizers in campaigns where plant closing threats occurred (the summaries of which are attached to this report), we learned that specific unambiguous threats ranged from attaching shipping labels to equipment throughout the plant with a Mexican address, to posting maps of North America with an arrow pointing from the current plant site to Mexico, to a letter directly stating the company will have to shut down if the union wins the election.

In some of these cases, the plant manager or company official stated clearly in captive audience meetings that, if the employees voted in favor of union representation, they would lose their jobs. This kind of threat was made often in building trades and contracting jobs where the employer claimed it could easily hire non-union replacement workers.

More than 10 percent of the organizers we interviewed reported that the employer directly threatened to move to Mexico if the workers were to organize. The most blatant example of this involved ITT Automotive in Michigan, where the company parked thirteen flat-bed tractor-trailers loaded with shrink-wrapped production equipment in front of the plant for the duration of the campaign with large hot-pink signs posted on the side which read "Mexico Transfer Job." The equipment came from a production line they had closed down over the weekend without warning. The same company also flew employees from their Mexican facility to videotape Michigan workers on a production line which the supervisor claimed they were "considering moving to Mexico." Another company provided statistics in a captive audience meeting on the average wage of a Mexican auto worker, the average wage of their U.S. counterparts, and how much the company stood to gain from moving to Mexico. They also provided an overhead visual with a large red arrow pointing from Michigan to their plant near Mexico City. Still others simply posted maps with arrows pointing south.

Companies also made direct threats to move their facilities to other locations within the U.S.. One company official stated in a captive audience meeting that, if the employees voted in favor of the union, it would give him the long-awaited reason to close the facility and move it closer to his home to avoid a tedious one-hour commute. Another CEO, the President of AJM Packaging and Roblaw Industries, stated, in a captive audience meeting speech during the Teamsters organizing campaign, a more subtle but no less direct unambiguous threat:

> [W]hat brings me here today is the current union organizing drive which I understand is underway. I say it is unfortunate because we've been here in Folkston going on 10 years, we've enjoyed the stay in Folkston. Our company is growing. . .by leaps and bounds and I guess it is unfortunate because we can't, it looks like now that we can't count on Folkston to be part of those future plans and part of that future growth. But nothing is said and done and the fat lady hasn't sung yet and quite frankly we won't know what's gonna happen around here, I guess until May 12 [the date of the certification election vote] (IBT 1995).

Ambiguous verbal and written threats tended to focus on examples of union facilities that had closed down, or implications that the company would lose business if the union were organized. Examples included showing videos in captive audience meetings with footage from closed union factories, providing data and statistics on the number of union plants that have closed in the past to prove that unionization causes job loss, reminding workers that only the company could provide job security, and arguing that a union would make it impossible to stay competitive in a "changing economy." For example, during ACTWU's campaign at the Tultex plant in Martinsville, Virginia, the company showed a videotape in captive audience meetings which provided graphic footage of former ACTWU plants in New Jersey with boarded windows and padlocked gates, implying that the plants all had shut down in the aftermath of violent strikes which are inevitable if a union comes in. The company then had the same video shown on the local cable access station.

In other cases the threats were much less complicated. In one campaign in the Texas Rio Grande Valley, the company posted yard signs in the community that said, "Keep Jobs in the Valley. Vote No." The company also hung a banner across the plant that warned, "Wear the Union Label. Unemployed."

Threats to contract out work or transfer bargaining unit jobs to non-union facilities were most often made by companies that solely rely on contracts. In most cases the company would warn that if the union demanded increases in wages and benefits, they would easily be underbid by non-union companies and be forced to close or lay-off workers. Other companies claimed that unions' rigid wage rates and inflexible work rules would put them at a competitive disadvantage. Another, less frequent, threat used by companies was to claim that many of the companies who accept bids for contracts have explicit (or non-explicit) policies that forbid them to do business with unionized contractors. This threat was made by a delivery company whose sole contract was with Whirlpool, Inc., even though Whirlpool has numerous unionized employees and contractors. Other employers argued that their parent company would not permit any of their subsidiaries to go union.

There were a number of different ways in which companies communicated the plant closing threats. One of the most common tactics was to make threats in one-on-one sessions with supervisors. A common approach used by supervisors was to call two or three workers together for a meeting to give them the "straight facts" about unionization. The supervisor would explain how she was concerned about the union campaign because she "had as much to lose", meaning her job, if the union was certified. Other supervisors would claim that they had "inside information" from the company about plans to move the plant. Plant closing threats were also commonly made when plant managers, human resource personnel, or company executives would lead several mandatory mass captive audience meetings throughout the campaign to inform workers "what was at stake" by voting for the union. Other companies distributed leaflets in the plant or mailed letters to all employees' homes making veiled plant closing threats. A final tactic used by companies was to spread plant closing rumors either through the anti-union committee

or supervisors. In one case, the plant manager's son, who was also part of the bargaining unit, claimed that he had overheard a phone conversation in which his father was discussing plans to close the plant and move it to Mexico if the union was certified.

As expected, the union election win rate was lower in units where plant closing threats occurred (33 percent) compared to the overall win rate of 40 percent, particularly where those threats were put in writing (25 percent for direct written threats, 37 percent for veiled written threats). As we can see from Table 6, 30 percent of the organizers in the withdrawal cases, and more than half of the organizers in cases where threats occurred, reported that threats of plant closings contributed to the union withdrawing the petition before the campaign went to an election.

Despite the pervasiveness and the effectiveness of these threats, only a third of the unions filed unfair labor practices in response to either direct or veiled threats of plant closing (Table 5). In the cases where the union filed charges, the NLRB issued a complaint in 48 percent of both the withdrawal campaigns and election campaigns. The final board determination was in the union's favor in 33 percent of the withdrawals and 26 percent of the election campaigns where unfair labor practice charges were filed. This then provides further evidence that unfair labor practices underestimate the nature and intensity of employer behavior during union organizing campaigns.

When asked why they did not file unfair labor practices, 33 percent of the organizers in the election campaigns stated that they did not file charges because they were confident they were going to win the election (of which 68 percent went on to win the election), 51 percent said that they believed that they did not have a strong enough case, and 11 percent believed that there was no point in filing charges because the Board would rule against them even though they had a strong case. For the withdrawals, 56 percent believed they did not have a strong enough case, while 4 percent believed the Board would rule against them even though they had a strong case.

The follow-up interviews with organizers further clarified the reasons for failing to file charges. If the union was going to win the election anyway, they felt that it would be a serious

mistake to indefinitely delay the election by filing charges, particularly with no guarantee of winning at the Board. In cases where they lost the election, many reported that it was not worth filing charges when the damage from the threats had already been done. Even in the extremely unlikely case that the election was overturned by the Board and a rerun election was ordered, the fear of plant closings created in the initial campaign would have a lasting impact. Union win rates are extremely low in these rerun elections, which led many organizers to question the value of devoting scarce union organizing resources to a legal victory that would be pyrrhic, at best.

With the exception of the written threats, most of the verbal threats occurred in captive audience meetings and one-on-one interviews. As described in Table 11, most of the plant closing threats also occurred in the context of extremely aggressive anti-union behavior by employers including discharges, surveillance, bribes, and other threats of job loss. Organizers also reported that it would have been extremely difficult in the aftermath of badly losing the election, and the repercussions for union supporters that followed, to have witnesses come forward to testify at Board hearings. In other cases, where the employer contracted out the entire workforce, or moved the work out of state or out of the country, the organizers reported that they knew that regardless of their evidence there was no remedy that would bring back the old contract agreement or re-open the plant. Many also reported that given the limited staff and financial resources that unions have to devote to organizing, the union and unorganized workers would be better served by focusing those resources on other organizing campaigns than on largely unfruitful, costly, and time consuming litigation.

Company Structure and Characteristics

Tables 7 and 8 provide us a more detailed picture of the characteristics of companies involved in certification elections and election withdrawals. Consistent with earlier research, the majority of union organizing is concentrated in relatively small units in U.S.-owned for-profit companies. The majority (57 percent) of the companies are subsidiaries of larger parent companies. Most of the campaigns also occurred in for-profit companies solely based and operating in the U.S. (52 percent). Another 27 percent of organizing campaigns occurred in U.S.-

based multi-national corporations and 11 percent were in foreign-based multi-national corporations in Canada (4 percent), Europe (4 percent), and Asia, Africa, and Australia (2 percent). None of the employers in the sample were headquartered in Central or South America.

Only 12 percent of all certification election campaigns took place in non-profit companies such as hospitals or educational institutions, despite the fact that the overall win rate of 64 percent for these companies is much higher than the 33 percent to 39 percent win rate in U.S.-owned for-profit companies. Union organizing success was lowest in foreign-owned for-profit companies, with a win rate of only 30 percent.

Thirty-nine percent of the companies in the sample had other sites or locations in Mexico, Canada, or other countries, and 49 percent had a trading relationship either as suppliers or customers with businesses in Mexico, Canada, or other countries. Election win rates were much lower in companies with Mexican (31 percent) or Asian, African, and Australian locations (26 percent), or in those which have trading relationships with other countries (30-33 percent), than the overall win rate of 40 percent. However, win rates varied less between countries because, for example, many companies that had sites or locations in Mexico also had sites and locations in Canada.

When we examine the campaigns where plant closing threats occurred, we find that employers were much more likely to make plant closing threats in U.S.-owned for-profit companies (60 percent threat rate for withdrawals and 55 percent for elections) and less likely in non-profit companies (13 percent for withdrawals and 26 percent for elections). Threat rates were highest for multi-nationals based in Asia, Africa, and Australia (100 percent for withdrawals and 75 percent for elections). The threat rate for companies with foreign sites and locations or foreign trade relationships was comparable to the overall threat rate of 51 percent. This may be because simply the existence of other sites in Mexico or other countries, or a trading relationship with Mexico or other countries, serves as an unspoken threat of plant closing for many workers.

As we can see from Table 8, 63 percent of the organizers reported that the companies they were organizing were in good financial condition prior to the election taking place. Plant

closing threats are no less likely to occur in plants in strong financial condition, indicating that the majority of these threats are a direct component of the employer anti-union campaign and do not result from the companies deteriorating financial condition.

If we examine the annual revenue information, we find that the majority of campaigns with threats were concentrated in companies where the annual revenue of the parent corporation was greater than $100 million. Threat rates declined slightly as the annual revenue of the parent company increased, particularly in election campaigns, going from a 59 percent threat rate in campaigns where the parent company revenue was less than $25 million dollars a year, down to 41 percent where parent company revenues were $10 billion dollars or more. These numbers are skewed however by the large number of small service sector units and non-profit companies where the threat rate was extremely low, but where company revenue data was not readily available. Thus, while smaller for-profit manufacturing companies may be more likely to threaten plant closing than extremely large for-profit corporations, the threat rate is significantly lower in smaller non-profit and service sector units such as hospitals, nursing homes, and retail stores.

These numbers also reflect the fact that many of the largest parent companies in our sample were the ultimate owners of many of the retail, hotel, entertainment, and food service units in our sample where plant closing threats were less likely because of "immobility" of the service or industry. These include, for example, Time Warner, Winn Dixie, Sun Health Care, NYNEX, Marriot, Hilton, and Chrysler (sales), all of which had annual revenues of well above $10 billion and none of which used plant closing threats during the organizing campaign.

Not surprisingly, employer threats of plant closing were considerably less common in companies where other units at the same location were already under contract, simply because to threaten to close the plant in response to unionization carries much less weight under those circumstances. This was not true of companies which had unionized units at other sites, where in interviews with organizers we found employers threatened to close down operations rather than have another site go union.

The results for the regional background data are much less clear. Election threat rates were high in all regions, particularly the large industrial states in the Midwest (53 percent), the Southwest (54 percent), the West Coast (52 percent), and the territories of Guam, Puerto Rico, and the Virgin Islands (67). For withdrawals, the election threat rate was lower in the relatively small number of campaigns held in the Southwest (17 percent) and West Coast (33 percent).

Unit Characteristics

Consistent with earlier research, the campaigns in the organizing sample were concentrated in smaller units. As shown in Table 9, the average unit size was fewer than 200 eligible voters, and more than 80 percent of the campaigns occurred in units with fewer than 250 eligible voters. Threat rates were higher in larger units, averaging more than 60 percent in withdrawals involving more than 100 workers and in elections involving more than 250 workers.

As expected, given the large number of manufacturing campaigns, more than half of the campaigns were in production and maintenance units. Fewer than 10 percent of the campaigns were in professional/technical, clerical/white collar, or skilled craft units. Organizing is increasingly concentrated in units with a majority of women and people of color. At least half of the units in the sample had a majority of women and/or minorities, while approximately 20 percent were either more than 75 percent women or more than 75 percent people of color. For withdrawal campaigns, threat rates were highest in production and maintenance units (65 percent) and clerical/white collar units (60 percent), while in elections threat rates were highest in craft units (71 percent), production and maintenance (59 percent), and wall-to-wall units (50 percent). Threat rates were lower in units with a majority of women and people of color, reflecting the fact that these units are concentrated in health care and other service sector units.

Employer Behavior

As we can see from Table 11, the overwhelming majority of the employers in our sample aggressively opposed the union's organizing efforts through a combination of threats, discharges, promises of improvements, unscheduled unilateral changes in wages and benefits, bribes, and surveillance. We also find that, individually and in combination, these tactics were extremely

effective in reducing union election win rates. More than a third of the employers in our sample discharged workers for union activity, while 21 percent gave unscheduled wage increases and 25 percent made unilateral changes in benefits and working conditions. Fifteen percent promoted union activists out of the unit, 38 percent gave bribes or special favors to those who opposed the union, 43 percent assisted the anti-union committee, and 14 percent used electronic surveillance of union activists during the organizing campaign.

As we can see from the bottom of Table 11, 64 percent of the employers in election campaigns and 48 percent of the employers in the withdrawals ran aggressive anti-union campaigns using more than 5 of the tactics listed, and 15 percent of the employers in the election campaigns and 6 percent of the employers in the withdrawals ran extremely aggressive campaigns using more than 10 tactics. Not surprisingly, the election win rate drops to 34 percent for units where employers used more than 5 tactics and 28 percent where they used more than 10 tactics.

This study allows us for the first time to examine the relationship between plant closing threats and other employer anti-union behavior. We find that threats of plant closing tend to occur in the context of other aggressive anti-union behavior by employers. Employers who make threats of plant closings are more likely to hire outside consultants, hold supervisor one-on-ones, establish employee involvement committees during the organizing campaign, make unilateral changes in wages, benefits, and/or working conditions, discharge union activists, use bribes and special favors, use electronic surveillance, and show anti-union videos. Almost every one of these tactics were associated with a plant closing threat rate that, at over 60 percent, is 10 percentage points higher than the overall plant closing threat rate.

The percentage of elections where activists are fired for union activity is 41 percent of all elections and 39 percent of all withdrawals with plant closing threats compared to 32 percent of withdrawals and elections overall. Similarly, the percentage of campaigns where the employer gave unscheduled wage increases is 29 percent of all elections, but 33 percent of elections where threats of plant closings were made. While employers used more than 5 tactics in 64 percent of the elections, the percentage of election campaigns with threats where they used more than 5

tactics is 83 percent. Win rates are also lower in units where plant closing threats were combined with other anti-union tactics, in some cases as much as 10 percentage points lower.

Table 11a outlines the disposition of unfair labor practice charges filed on the employer tactics outlined in Table 11, excluding the charges filed on unfair labor practice threats described in Table 5. Unions filed complaints in 45 percent of the campaigns. Of those charges, 23 percent resulted in the Board issuing a complaint, 3 percent resulted in discharged workers being reinstated, and the final NLRB determination was in the union's favor in 14 percent. The percent threat rate was above 60 percent in all of these campaigns, reaching 80 percent in units where discharged workers were reinstated and 73 percent in units where the final Board decision was in the union's favor. This reflects that plant closing threats are extremely common in cases where employer anti-union actions are so egregious that they merit a complaint or Board finding in the union's favor.

Plant Closing Threats and First Contract Campaigns

As earlier research has shown, employer opposition to unions does not stop after the election is won. Of the 174 campaigns in our election and withdrawal sample where the union either won the election or won voluntary recognition, only 57 percent had won a first contract by September 1996. As we can see in Table 12, this means that less than 20 percent of the private sector workers who attempted to organize under the NLRB between 1993 and the present were able to gain union representation.

Tables 13 through 19 summarize our findings on plant closings and plant closing threats during the first contract process. As we can see from Table 13, plant closing threats continued after the election, although not to the same degree. Employers threatened to close the plant in 18 percent of the first contract campaigns. Of those cases, 60 percent were veiled verbal threats, 5 percent were specific and unambiguous written threats, 10 percent were specific and unambiguous verbal threats, and 30 percent were specific and unambiguous threats made across the bargaining table.

Follow-up interviews with the lead negotiators for the first contract showed that these threats were of a slightly different tone than the threats during the organizing campaign. This reflects the fact that the first contract process is much more complex, with outcomes ranging from no contract, to a weak contract, to a strong agreement. In the organizing process, where the union and the employer struggle for the hearts and minds and votes of individual workers, threats of plant closing are an extremely effective way to convince workers to vote against the union even if they sincerely want union representation. In the first contract process the employer can undermine worker support for the union by threatening to close the plant, but the union can go beyond the individual voter to pressure the employer to reach an agreement. At the same time plant closing threats can weaken bargaining unit resolve to hold out for a strong agreement.

Several of the union representatives were interviewed report that the employer simply stated "We told you we couldn't operate union and we won't". For some employers this meant filing objections to the election and absolutely refusing to bargain with the union, making clear that they would shut down rather than be forced to sign a union agreement. Others focused on how, now that the union had won the election, the company was re-evaluating operations and considering transferring work to non-union facilities or contracting out bargaining unit work. One employer threatened bargaining unit members during post-election captive audience meetings that they could hire another company to do their deliveries and completely bypass the bargaining unit. Another company repeatedly threatened workers during captive audience meetings that they would contract out all sanitation work being done by bargaining unit members if they had to go through with recognizing and bargaining with the union.

More common was the threat that the employer might go out of business if the union succeeded in bargaining the kind of agreement that they were attempting to reach. For example, at one New Jersey bus company the employer directly stated across the table that the union proposals would but him out of business, or require him to contract out some bus lines or terminate some bus service. The union representatives we interviewed reported that these threats had a chilling effect on union contract demands and on the willingness of union leaders and

bargaining unit members to aggressively pressure the employer to give in to their demands. According to these union negotiators, the primary adverse effect of these post-election plant closing threats was to seriously undermine the quality and scope of the first agreement. In the most extreme cases, the threats led to the union withdrawing from the unit or losing a decertification election, as bargaining unit members began to question the ability of the union to reach a first agreement without severely risking their job security.

Unions only filed unfair labor practice charges on the plant closing threats in 10 percent of the units where threats were made during the first contract campaign. More than a third of those who decided not to file charges against the employer felt it was not necessary to file since the union was going to achieve a first contract anyway. Fourteen percent lacked confidence that the NLRB would make a decision in their favor, regardless of how strong their case was. Seven percent felt that they would lose the unit anyway because of a plant closing, decertification, or inability to get the employer to the bargaining table. Twenty-one percent felt that they did not have a strong enough case to win an unfair labor practice charge before the NLRB. None of the cases where the union filed charges resulted in a final Board determination in the union's favor, once again reinforcing why union representatives are so hesitant to file charges regarding plant closing threats.

At 40 percent, first contract rates were 19 percentage points lower in units where the employer made plant closing threats after the election was won than the overall first contract rate of 59 percent. First contract rates were lowest in units with clear unambiguous threats made in writing or in verbal communication with bargaining unit members. Unions were not able to win first contracts in any of the units where the employer made specific unambiguous written threats and only 33 percent where they made specific unambiguous verbal threats.

Plant Closings During the First Contract Campaign

Perhaps the most dramatic finding of the study is that, in 12 percent of the units where the union won the election, there was a full or partial plant closing after the election. In 85 percent of these units, the employer had directly threatened during the organizing campaign to

shut the plant down if the union won the election, and then proceeded to actually follow through on their threat after the election was won. In one case, the USWA campaign at St. Louis Refrigerator Car Company, the company had repeatedly told workers during the organizing campaign that if workers gave the company trouble they would have no more incentive to keep the site open and would transfer operations with the newer non-union facility in Akron. Ten days before the election, the company agreed to voluntarily recognize the union, only to shut the facility down one week later.

Still other employers who had threatened to shut down the plant during the organizing campaign, refused to recognize the union or start bargaining after the election was won, often filing numerous election objections at the NLRB. In these cases the employer shut down the plant many months after the election, after it became clear that the union was not going to wither away on its own accord.

Seven percent of the plant closings during the first contract campaign were full plant shut downs and 5 percent were partial closings. In only one of those cases, a partial closing, was the union able to bargain a first agreement and continue representation. In the other partial closings the union is still attempting to bargain a first agreement, but, according to the union negotiators, there is little likelihood of success. In the remaining cases, all of the bargaining unit jobs were lost due to plant closure or contracting out and the union is no longer the certified bargaining representative. In another 4 percent of the campaigns surveyed, the union lost certification because the employer closed the plant or contracted out the entire workforce after the first contract was reached. This means that out of the 112 campaigns included in the first contract sample, 17 units (15 percent) had a full or partial plant closure in the last three years.

This finding is striking because previous research on first contract campaigns in the late 1980s and early years of the 1990s has consistently found the post-election plant closing rate to average 5 percent (Hurd 1996, Bronfenbrenner 1994). The fact that the post-election plant closing rate has more than doubled in the years since NAFTA was ratified suggests that NAFTA has both increased the credibility and effectiveness of the plant closing threat for employers and

emboldened increasing numbers of employers to act upon that threat. In fact, in several campaigns, the employer used the media coverage of the NAFTA debate to threaten the workers that it was fully within their power to move the plant to Mexico if workers were to organize.

Once again unions only filed unfair labor practices in a third of the cases where the plant was shut down. Although the board issued a complaint in 60 percent of those cases, the Board only ruled in the union's favor in 20 percent of the cases where charges were filed. Unions were unable to achieve a first contract in any of the cases where they filed charges, including in cases where they received a favorable Board ruling. The majority of the union representatives surveyed reported that they did not file charges because they knew that they could not win, given that the plant had already shut down or the work had been contracted out.

Employer and Unit Characteristics and First Contract Outcome

The first contract sample reflects the fact that union wins are concentrated in a very different set of employers, industries, and units than the overall union election sample. Thus, as we can see from Tables 14 through 16, although the overwhelming majority of certification election campaigns were in more mobile manufacturing companies, in the first contract study 63 percent of the campaigns were in less mobile industries such as health care, retail, social services, and other services, including 21 percent that were in non-profits. Not surprisingly, the first contract units have a higher percentage of women and people of color, a lower average wage, and a smaller unit size. They also include a higher percentage of professional/technical, clerical/white collar, and service and maintenance units. All of these differences between the first contract and the organizing campaign samples may in part explain the lower plant closing threat rate during the first contract process, since employers are less able to actually shut down and move operations in those industries.

The employer ownership data is, however, similar for the first contract and the organizing sample, reflecting the fact that, in today's economy, service sector employers are just as likely to be owned and operated by large multi-national corporations. As with the organizing sample, the plant closing threats were concentrated in U.S. and foreign-based for-profit companies.

However, in the first contract sample the percent threat rate was higher in non-profits than in for-profits, reflecting threats to contract out bargaining unit work rather than actual plant shut downs.

Similar to the organizing sample, 95 percent of threats during the first contract campaign occurred in companies in good or moderate financial condition. Once again, this demonstrates that these threats tended to be based more in employer anti-union animus than company financial difficulties.

Employer Practice and Behavior Prior to and During the First Contract Campaign

Table 17 presents data on company practices before and after the election and the impact of those practices on first contract outcome. Although the employer had run aggressive anti-union campaigns before the election in 51 percent of units and had made threats of plant closings before the election in 42 percent of the units in the overall first contract sample, the percentage who ran aggressive anti-union campaigns went up to 70 percent of the first contract campaigns with post-election plant closing threats. This reflects that over two-thirds of the employers who aggressively opposed the union after the election had been equally aggressive during the organizing campaign. Similarly, employers who threatened to close the plant after the election were much more likely to absolutely refuse to bargain with the union (21 percent) or engage in hard bargaining (26 percent), refusing to reach agreement on any major issues, than those who did not threaten to close the plant.

As we can see from Table 18, as in the organizing campaigns, most of the employer threats during the first contract campaign occurred in the context of other aggressive anti-union tactics. Fifty percent hired an outside union consultant, 25 percent refused requests to start bargaining, 35 percent continued supervisor one-on-ones, 35 percent made unilateral changes in wages, benefits and working conditions, 25 percent discharged union activists, 15 percent used bribes or special favors, and 20 percent organized a decertification effort. The percent threat rate was 60 percent in units where the employer ran an aggressive anti-union campaign after the election was won, resulting in a first contract rate of only 33 percent in those units.

Plant closing threats were also linked with more aggressive employer opposition at the table, including absolute refusal to bargain (15 percent), engaging in surface bargaining (35 percent), bargaining hard over union security issues (30 percent), declaring impasse and implementing final offer (20 percent), and forcing the union to strike by holding to concessions (10 percent).

Unions filed unfair labor practice complaints regarding the tactics listed in Table 18 in 28 percent of the first contract campaigns. Complaints were issued in 39 percent of the campaigns where unfair labor practices were filed, but with the exception of the 16 percent of the cases where the Board reinstated discharged workers, the final Board ruling was in the union's favor in only 23 percent of those cases. In campaigns where employer anti-union tactics were combined with plant closing threats, the Board issued a complaint in 56 percent of the cases where unfair labor practices were filed, and discharged workers were reinstated in 22 percent.

Final Status of Units in the First Contract Study

Table 19 outlines the final status of the units in the first contract survey. Of the 41 percent of the units where a first contract was not reached, 3 percent still have elections pending and 27 percent are still bargaining and may yet reach a first agreement. The remaining 13 percent have lost certification since the election, including 6 percent due to a full or partial shutdown, 1 percent due to work being contracted out, 2 percent because the union withdrew, and 3 percent because the union was decertified.

Of the 59 percent of the units where a first contract was reached, 26 percent reported that the contract was better than most and 4 percent reported that it was one of the best. Twenty-two percent reported that the contract was typical of the industry and only 3 percent reported that it was somewhat below average and 2 percent far below average. At the present time, 4 percent of those units where a first contract was achieved are no longer covered by an agreement because the first contract has expired (1 percent), the plant closed after the first contract was

settled (4 percent), or the union withdrew after the first contract was reached (1 percent). Ten percent of the units where plant closing threats were made during the first contract campaign are no longer under contract because the employer shutdown the plant after the first contract was settled. This means that, in 15 percent of the campaigns in the original election sample, the employer shut down the plant within three years of the organizing campaign being initiated.

Conclusion

What this research conclusively demonstrates is that plant closing threats and plant closings have become an integral part of employer anti-union campaigns. The majority of employers threaten to close the plant during organizing campaigns and 12 percent of employers follow through on the threat to close the plant once the union has won the election. Further, in the current context of downsizing and persistent fear of job loss, many workers appear to take even the most veiled employer plant closing threats very seriously. When combined with other anti-union tactics of employers, plant closing threats appear to be extremely effective in undermining union organizing efforts, even in a context where the majority of workers in the unit seem predisposed to support the union at the onset of the organizing campaign. Thus, although most of the unions in our sample filed petitions with more than 60 percent of the unit signed up on authorization cards, a very high number of petitions are withdrawn without going to an election, and unions win elections in only 41 percent of units with more than 50 eligible voters. With a first contract rate of 59 percent, and a second contract rate of 50 to 55 percent, this means that only a very small percentage of workers attempting to organize end up being covered under a collective bargaining agreement.

This research is limited to organizing campaigns where the union was able gain enough support from bargaining unit members to petition the NLRB for a certification election. It does not even cover the many organizing campaigns that never get to the point where a petition is filed because of the chilling effect of aggressive employer opposition. Thus we do not know how

many employers effectively use plant closing threatens to stop a fledgling organizing drive before it gets off the ground. Nor do we know the chilling effect that plant closings during organizing campaigns have on other workers contemplating bringing a union into their own workplace. What we do know is that in our follow-up interviews with organizers in campaigns where plant closing threats occurred, one of the most effective components of employer threats were the photos, newspaper clippings, and video footage of plants which shut down in the aftermath of a union campaign. Thus, the impact of plant closings and threats of plant closings during organizing campaigns goes well beyond the individual workers in the unit being organized.

Our research clearly shows that, although Sprint's behavior at La Conexion Familiar was extreme, it was not an aberration. The majority of private sector employers threaten a full or partial shutdown of their facilities during organizing campaigns, and a significant minority proceed to shut down the facility after the union wins the election. Furthermore, most of these threats or shutdowns occur in the context of an aggressive anti-union campaign, including other threats, discharges, bribes, promises, and electronic surveillance. Under our labor laws the penalties for such actions are extremely limited. If they fire a quarter of the workforce, including most, if not all, of the union activists, as the employer recently did during the UAW's organizing campaign at Orion Industries in Oriskany, New York, the worst penalty they face is reinstatement and back pay for the fired workers, with no possibility of punitive damages. If employers absolutely refuse to bargain, directly ignoring bargaining order after bargaining order, the worst penalty they receive is another bargaining order telling them to cease and desist from failing to bargain in good faith. And in the case of La Conexion Familiar, where the company admitted to engaging in unlawful interrogation and surveillance of employees, harassing and threatening to terminate union supporters, and threatening to shut down if the union won, and where the administrative law judge found that they had indeed committed more than fifty labor law violations, the only penalty was that Sprint was required to send a letter to employees informing them that they had a right to organize and pledging not to harass them in the future.

The research that Tom Juravich and I have conducted on public sector organizing in the U.S. shows that the public sector organizing climate, where workers choose unions in an environment largely free from coercion, intimidation and manipulation, is much closer to what the framers of the NLRA intended. In the public sector nearly one quarter of employers do not mount any campaign at all against the union -- no threats, no meetings, no letters. Even in those cases where public sector employers do oppose the union effort, most employer campaigns are limited to a few legal actions of extremely low intensity. And in this significantly less coercive environment, public sector workers are enthusiastically voting for unions in large numbers. In direct contrast to the private sector win rate which has averaged less than 50 percent for more than a decade, in the public sector unions enjoy win rates averaging more than 85 percent, across a wide range of units, regions, and public entities.

As our research has clearly documented, the primary reason for this more than 35-percentage-point difference in public and private sector win rates can be explained by the dramatic difference in employer behavior between the public and private sector. Private sector employers are six times more likely to commit unfair labor practices such as discharges for union activity and more than twice as likely to use other tactics such as captive-audience meetings, leaflets and mailings, supervisor one-on-ones, and illegal wage increases.

This pattern makes a great deal of sense given that public officials are considerably more accountable than their private sector counterparts. A private sector employer may engage in illegal tactics or push legal tactics to the absolute limit with few repercussions. Indeed, this "bottom-line" hardball strategy may in fact garner support from their peers, stockholders, and current and future investors.

In public sector elections in states with collective-bargaining legislation, very different dynamics are in operation. Many public officials are elected and, regardless of their individual attitudes, are constrained from engaging in activities that the public might perceive negatively. Thus, public opinion acts as a leveling mechanism, creating a more level playing field between labor and management. In addition, public sector workers enjoy free speech and access rights

and, in some cases, civil service protection, denied to almost every unorganized private sector worker.

Given the absence of any effective constraints on employer behavior in the private sector, the only way to reproduce the more "level playing field" that predominates in the public sector is through significant expansion of both worker and union rights and employer penalties in the organizing process. This will require not only more vigorous and rapid enforcement of current laws but also serious financial penalties and injunctive relief to restrain the most egregious employer violations, particularly plant shutdowns and the threat of plant shutdowns. It will also require the expansion of union access rights to the workplace in order to counteract the captive and coercive nature of employer communication with workers during the organizing campaign.

These changes need to be accomplished both by significant reform to U.S. labor laws and by amendments to the North American Agreement on Labor Cooperation, which provides an enforceable code of conduct for countries covered under NAFTA. This code must include both restrictions on the ability of companies to shift their operations to other countries to avoid unionization and guarantees for the right to organize free of management interference and intimidation. Most important of all, the new codes must include meaningful penalties for violations of those rights. Then, and only then, will workers be able to exercise their democratic rights to have an independent voice of their own choosing represent their interests in the workplace. And then, and only then, will employers no longer be able to flagrantly violate labor laws at the expense of their workers' dignity and well-being.

References

Bronfenbrenner, Kate. 1994. "Employer Behavior in Certification Elections and First-Contract Campaigns: Implications for Labor Law Reform," in Sheldon Friedman et. al. Restoring the Promise of Labor Law, Ithaca, NY: ILR Press, 75-89.

Bronfenbrenner, Kate. 1997. "The Role of Union Strategies in NLRB Certification Elections." Industrial and Labor Relations Review. Forthcoming.

Bronfenbrenner, Kate, and Tom Juravich. 1995. "The Impact of Employer Opposition on Union Certification Win Rates: A Private/Public Sector Comparison," Washington, DC: *Economic Policy Institute Working Paper.*

Bronfenbrenner, Kate, and Tom Juravich. 1997 "It Takes More than Housecalls: Organizing to Win with a Comprehensive Union-Building Strategy." Organizing to Win. Kate Bronfenbrenner, Sheldon Friedman, Richard Hurd, Rudy Oswald, and Ron Seeber, editors. Ithaca, NY: ILR Press, forthcoming.

Cooke, William N. 1983. "Determinants of the Outcomes of Union Certification Elections." Industrial and Labor Relations Review . Vol. 36, pp. 402-413.

Cooke, William N. 1985. Organizing and Public Policy: Failure to Secure First Contracts. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Freeman, Richard B. "Why Are Unions Faring Poorly in NLRB Representation Elections?" in Thomas A. Kochan (ed.) Challenges and Choices Facing American Labor. Cambridge, MA: MIT Press, 1985: 45-64.

Hurd, Richard. 1996. "Hard Bargaining, Surface Bargaining and the Failure to Achieve First Contracts." Proceedings of the Forty-Ninth Annual Meetings. (San Francisco, January 5-7, 1996). Madison, WI: Industrial Relations Research Association, 1996.

International Brotherhood of Teamsters. 1995. Transcript of audio-recording of captive audience speech given by Bob Epstein, President, AJM Packaging and Roblaw Industries, April 26, 1995.

Pavy, Gordon and Brett Smith. 1996. "A Question of Fairness: Employer Opposition to Negotiating First Collective Bargaining Agreements." Proceedings of the Forty-Ninth Annual Meetings. (San Francisco, January 5-7, 1996). Madison, WI.: Industrial Relations Research Association, 1996.

TABLES

"The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize"

September 30, 1996

TABLE 1: TOTAL SURVEYS RECEIVED

	No Threats		Plant Closing Threat		Plant Closing		**Total**	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Elections	187	50	189	50	0	---	376	100
Petitions filed 1993	49	45	61	56	0	---	110	100
Petitions filed 1994	74	53	67	48	0	---	141	100
Petitions filed 1995	64	51	61	49	0	---	125	100
Withdrawals	72	48	77	52	2	1	149	100
Petitions filed 1993	20	61	13	39	1	3	33	100
Petitions filed 1994	29	44	37	56	0	0	66	100
Petitions filed 1995	23	46	27	54	1	2	50	100
First Contracts	92	82	20	18	17*	15	112	100
Petitions filed 1993	26	81	6	19	5	16	32	29
Petitions filed 1994	30	83	6	17	5	14	36	31
Petitions filed 1995	36	82	8	18	7	16	44	41
Total Campaigns**	254	48	271	52	19	4	525	100
Petitions filed 1993	69	48	74	52	6	4	143	100
Petitions filed 1994	103	50	104	50	5	2	207	100
Petitions filed 1995	87	50	88	50	8	5	175	100

* Thirteen plant closings occurred before first contract was settled. This includes eight full shut downs and five partial shut downs. Four of the shut downs occurred after the first contract was settled.

**Combined findings from organizing and first contract surveys.

TABLE 2: TOTAL SURVEYS RECEIVED BY ELECTION OUTCOME

	No Threats		Plant Closing Threat		Plant Closing		Total	
	n	%	*n*	%	*n*	%	*n*	%
Elections	187	50	189	50	0	---	376	100
Win	88	58	63	42	0	---	151	100
Loss	94	44	122	56	0	---	216	100
Contested	5	56	4	44	0	---	9	100
Withdrawals	72	48	77	52	2	1	149	100
Voluntary Recognitions	8	44	10	56	1	5	18	100
No Recognition	64	49	67	51	1	1	131	100
Total	259	49	266	51	2	1	525	100

TABLE 3: TOTAL FIRST CONTRACT SURVEYS RECEIVED

	No Threats		Plant Closing Threat		Plant Closing*		Total	
	n	%	*n*	%	*n*	%	*n*	%
Contract	58	88	8	12	4	6	66	100
No Contract	34	74	12	26	13	28	46	100
Still bargaining	25	83	5	16	3	1	30	100
Election results pending	2	66	1	33	0	---	3	100
Total	92	82	20	18	17	15	112	100

*There were three partial shutdowns in units where bargaining is still going on, one partial shutdown in a unit where a first contract was reached, and one partial shutdown where the unit is on strike and the workers have been permanently replaced.

TABLE 4: INDUSTRIAL SECTOR AND ELECTION OUTCOME

	All Campaigns		Withdrawals			Elections				
	Proportion or Mean of Total Sample	Percent Threat Rate	Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Percent Threat Rate	Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats	Percent Threat Rate
Industrial Sector										
Manufacturing	.41	.65	.48	.61	.66	.38	.27	.49	.24	.64
Mining	.01	.43	.00	.00	---	.02	.57	.02	.67	.43
Food processing	.03	.20	.01	.00	.00	.04	.29	.02	.00	.21
Transportation	.10	.50	.07	.05	.40	.12	.52	.12	.48	.52
Utility	.01	.40	.01	.00	.00	.01	.25	.01	.00	.50
Warehouse/Distribution	.07	.61	.05	.07	.63	.07	.18	.09	.18	.61
Printing	.01	.71	.01	.03	1.00	.01	.40	.02	.33	.60
Retail	.04	.27	.05	.03	.29	.04	.47	.02	.50	.27
Communication	.02	.10	.01	.00	.00	.02	.56	.01	1.00	.11
Construction	.03	.40	.07	.05	.40	.01	.60	.01	.50	.40
Health	.13	.25	.13	.05	.20	.13	.61	.07	.54	.27
Social Services	.02	.36	.01	.00	.00	.02	.67	.02	.50	.44
Education	.01	.00	.01	.00	.00	.01	1.00	.00	.00	.00
Hotel	.03	.50	.02	.00	.00	.04	.23	.05	.38	.62
Entertainment	.01	.75	.01	.01	1.00	.01	1.00	.01	1.00	.67
Other services	.07	.56	.07	.10	.73	.07	.52	.06	.50	.48
Mobility of Industry*										
Mobile	.54	.62	.56	.71	.66	.54	.28	.64	.23	.60
Immobile	.46	.36	.44	.29	.33	.46	.55	.36	.51	.39

*Mobile industries are defined as those industries which could move their production or services out of state or abroad. These industries include all manufacturing sites, storage, and warehouse facilities as well as some transportation and service units. Immobile industries include all health care units, all construction, all hotel and restaurant and entertainment facilities, and most communications and service units.

TABLE 5: NATURE OF PLANT CLOSING THREATS DURING ORGANIZING CAMPAIGN

	All Campaigns	Withdrawals		Elections			
Proportion or Mean of Total Sample		Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats
Plant Closing Threats	.51	.52	1.00	.50	.33	1.00	.33
Specific unambiguous written threats	.09	.06	.12	.10	.25	.19	.25
Specific unambiguous verbal threats	.21	.15	.29	.22	.31	.44	.31
Veiled written threats	.14	.13	.25	.14	.37	.28	.37
Veiled verbal threats	.39	.40	.78	.39	.35	.77	.36
Union Filed ULP Charges on Threats	.16	.14	.27	.17	.34	.33	.34
Disposition:*							
Board dismissed the charges	.01 (.07)	.01 (.10)	.03 (.10)	.01 (.07)	.50	.02 (.07)	.50
Union withdrew the charges	.05 (.30)	.05 (.38)	.10 (.38)	.05 (.27)	.47	.09 (.27)	.47
Board issued complaint	.08 (.48)	.07 (.48)	.13 (.48)	.08 (.48)	.30	.16 (.48)	.30
Final Board dismissed charges	.01 (.06)	.14 (.00)	.27 (.00)	.01 (.08)	.40	.03 (.08)	.40
Final Board in union's favor	.05 (.31)	.05 (.33)	.09 (.33)	.05 (.31)	.26	.10 (.31)	.26
Final disposition pending	.00 (.03)	.14 (.00)	.27 (.00)	.01 (.03)	.50	.01 (.03)	.50
Why Charges Were Not Filed**							
Thought the union would win election	.08 (.25)	.03 (.09)	.07 (.09)	.10 (.33)	.68	.20 (.33)	.68
Felt the case was not strong enough	.17 (.52)	.21 (.56)	.40 (.56)	.16 (.51)	.13	.32 (.51)	.13
Thought they would lose the election	.02 (.05)	.03 (.09)	.07 (.09)	.01 (.03)	.00	.02 (.03)	.00
Lack of confidence in Labor Board	.03 (.09)	.01 (.04)	.03 (.04)	.04 (.11)	.08	.07 (.11)	.08
Other	.03 (.09)	.08 (.22)	.16 (.21)	.01 (.03)	.00	.02 (.03)	.00

*Proportions in parenthesis are based on cases where ULP's were filed.

**Proportions in parenthesis are based on cases where ULP's were not filed.

TABLE 6: REASONS FOR WITHDRAWING PETITION

	All Campaigns		Withdrawals		
	Proportion or Mean of Total Sample		Proportion or Mean of Withdrawals		Proportion or Mean of Withdrawals with Threats
The company closed or relocated	.01		.01		.03
Threats of plant closing	.09		.30		.53
Other threats, discharges and intimidation	.11		.39		.47
Employer promises of improvement	.10		.36		.38
Damaging information about the union	.04		.15		.20
Weakness of the union campaign	.04		.14		.17
Lack of adequate union staff and resources	.01		.04		.07
Company granted voluntary recognition	.03		.11		.12
Lack of worker support for the union	.03		.09		.09
NLRB determination/unit change	.04		.14		.09

TABLE 7: COMPANY STRUCTURE AND ORGANIZING CAMPAIGN OUTCOME

	All Campaigns	Withdrawals			Elections				
	Proportion or Mean of Total Sample	Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Percent Threat Rate	Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats	Percent Threat Rate
Company structure									
Subsidiary	.57	.60	.57	.49	.56	.39	.58	.33	.52
Non-profit	.12	.10	.03	.13	.13	.64	.07	.54	.26
U.S.- based for-profit	.52	.52	.60	.60	.52	.39	.57	.34	.55
U.S.- based multinational	.27	.30	.25	.43	.26	.33	.27	.32	.52
Foreign-based multinational*	.11	.10	.13	.67	.11	.30	.11	.19	.49
Canada	.04	.03	.03	.40	.05	.47	.04	.29	.41
Europe	.04	.03	.04	.60	.05	.22	.04	.13	.44
Asia, Africa, Australia	.02	.03 .40	.05	1.00	.02	.13	.03	.17	.75
Foreign sites and locations	.39	.41	.39	.49	.38	.33	.38	.28	.50
Mexico	.22	.25	.23	.49	.21	.31	.20	.29	.49
Canada	.29	.30	.25	.43	.29	.34	.30	.32	.52
South America	.18	.17	.13	.40	.18	.35	.15	.25	.41
Europe	.26	.30	.27	.48	.24	.30	.22	.20	.45
Asia, Africa, Australia	.23	.26	.25	.50	.22	.26	.23	.23	.53
Foreign trade relationships	.49	.53	.51	.49	.47	.30	.48	.27	.52
Mexico	.38	.44	.44	.52	.36	.31	.35	.30	.49
Canada	.41	.46	.46	.51	.38	.33	.38	.32	.49
South America	.33	.40	.43	.55	.30	.32	.28	.26	.46
Europe	.38	.44	.44	.52	.36	.31	.35	.25	.50
Asia, Africa, Australia	.37	.42	.43	.52	.35	.30	.36	.29	.52

*No companies were headquartered in Mexico or South America.

TABLE 8: COMPANY CHARACTERISTICS AND ORGANIZING CAMPAIGN OUTCOME

	All Campaigns	Withdrawals			Elections				
	Proportion or Mean of Total Sample	Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Percent Threat Rate	Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats	Percent Threat Rate
Years at present site	16.21	15.61	12.96	---	16.46	---	15.85	---	---
Other organized units									
Same site	.12	.12	.07	.28	.12	.48	.06	.42	.26
Different site	.40	.37	.38	.53	.42	.40	.43	.38	.52
Financial condition									
Good	.63	.62	.66	.55	.63	.34	.60	.27	.49
Moderate	.31	.32	.30	.48	.31	.49	.34	.40	.54
Poor	.05	.04	.03	.33	.05	.70	.05	.67	.45
Extremely poor	.01	.01	.01	.50	.01	.25	.01	.50	.50
Annual revenue of parent company*									
Less than $25 million	.13	.14	.15	.57	.13	.37	.14	.19	.59
$25-99 million	.14	.17	.16	.53	.12	.38	.13	.40	.58
$100-999.9 million	.24	.27	.31	.63	.23	.36	.28	.38	.64
$1-4.9 billion	.18	.14	.13	.50	.20	.48	.19	.55	.52
$5-9.9 billion	.14	.13	.09	.38	.15	.31	.13	.20	.47
$10 billion or more	.17	.17	.16	.53	.17	.27	.13	.07	.41
Region									
Northeast	.19	.18	.20	.56	.20	.48	.19	.31	.47
Midwest	.38	.44	.46	.54	.35	.33	.37	.23	.53
Southeast	.26	.26	.29	.56	.26	.39	.24	.40	.47
Southwest	.06	.04	.01	.17	.06	.54	.07	.46	.54
West Coast and Mountain States	.11	.08	.05	.33	.12	.41	.13	.46	.52
Territories	.01	.00	.00	.00	.01	.67	.01	.50	.67

*Lexis-Nexis used to collect company revenue data on 316 cases including 170 with plant closing threats and 146 without plant closing threats. This does not include the majority of non-profits in our sample.

TABLE 9: UNIT CHARACTERISTICS AND ELECTION OUTCOME

		All Campaigns	Withdrawals				Elections				
	Proportion or Mean of Total Sample		Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Percent Threat Rate		Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats	Percent Threat Rate
Unit size	168.77		158.81	185.62	---		172.73	---	189.31	---	---
Less than 100	.47		.48	.36	.39		.46	.46	.45	.40	.49
100-249	.37		.36	.44	.63		.37	.37	.33	.27	.45
250-500	.13		.13	.16	.65		.12	.35	.16	.33	.65
500-over	.04		.03	.02	.50		.05	.26	.06	.17	.63
Average wage	8.49		8.48	8.52	---		8.50	---	8.10	---	---
Average wage less than $7	.44		.44	.46	.53		.44	.46	.48	.42	.55
Percent women	.39		.41	.40	---		.39	---	.37	---	---
Unit 75% women	.20		.18	.17	.48		.20	.47	.16	.33	.39
No women in unit	.10		.11	.07	.31		.09	.47	.10	.47	.56
Percent minorities	.35		.33	.29	---		.35	---	.32	---	---
Unit 75% minorities	.19		.17	.16	.46		.20	.45	.19	.40	.46
No minorities in unit	.09		.11	.16	.75		.09	.52	.09	.59	.52
Percent non-English speaking	.05		.05	.07	---		.05	---	.05	---	---
Percent part-time	.13		.15	.13	---		.12	---	.11	---	---
Unit Type											
Craft	.02		.03	.01	.20		.02	.86	.03	.80	.71
Drivers	.06		.05	.04	.38		.06	.29	.06	.33	.50
Guards	.01		.00	.00	.00		.01	1.00	.01	1.00	.50

Non-professional	.05		.03	.01	.25		.05	.55	.04	.50	.40
Production and Maintenance	.51		.55	.69	.65		.49	.29	.57	.23	.59
Professional/Technical	.05		.02	.01	.33		.07	.72	.02	.75	.16
Service and Maintenance	.10		.11	.07	.32		.10	.50	.07	.43	.39
Wall-to-Wall/Cross Departments	.16		.17	.13	.38		.16	.45	.16	.47	.50
Clerical/White Collar	.04		.03	.04	.60		.05	.41	.03	.17	.35
Final unit different than petition	.38		.34	.36	.55		.40	.40	.43	.29	.55

TABLE 11: EMPLOYER BEHAVIOR AND PLANT CLOSING THREATS DURING ORGANIZING CAMPAIGN

	All Campaigns	Withdrawals			Elections				
	Proportion or Mean of Total Sample	Proportion or Mean of Withdrawals	Proportion or Mean of Withdrawals with Threats	Percent Threat Rate	Proportion or Mean of All Elections	Win Rate for All Elections	Proportion or Mean of Elections with Threats	Win Rate for Elections with Threats	Percent Threat Rate
Hired management consultant	.80	.75	.81	.56	.82	.37	.91	.32	.56
Held captive audience meetings	.91	.85	.97	.59	.93	.38	.97	.33	.53
Number of meetings	8.64	6.22	6.63	---	9.54	---	10.93	---	---
More than 5 meetings	.55	.42	.51	.62	.60	.32	.68	.26	.57
Mailed anti-union letters	.73	.60	.66	.57	.78	.38	.86	.34	.55
Number of letters	4.98	3.77	3.80	---	5.35	---	4.88	---	---
More than 5 letters	.23	.14	.16	.57	.27	.29	.29	.24	.54
Distributed anti-union leaflets	.77	.69	.81	.61	.81	.38	.85	.32	.53
Number of leaflets	9.70	6.44	6.58	---	10.82	---	10.88	---	---
Held supervisor one-on-ones	.80	.74	.81	.56	.82	.39	.86	.33	.53
Established Employee Involvement Program	.15	.13	.17	.68	.16	.34	.16	.23	.51
Made positive personnel changes	.37	.35	.39	.58	.38	.29	.43	.26	.57
Made promises of improvement	.61	.54	.60	.58	.64	.36	.76	.31	.60
Granted unscheduled raises	.21	.13	.16	.63	.25	.33	.33	.31	.67
Made unilateral changes	.25	.18	.22	.63	.27	.43	.33	.33	.60
Discharged union activists	.32	.32	.39	.64	.32	.44	.41	.40	.65
Number discharged	4.14	7.26	9.35	---	2.94	---	3.28	---	---
Discharged workers not reinstated	.29	.27	.33	.63	.29	.43	.37	.37	.64
Promoted pro-union activists	.15	.10	.08	.40	.16	.28	.21	.28	.66
Used bribes and special favors	.38	.27	.31	.60	.42	.33	.54	.29	.65
Used electronic surveillance	.14	.17	.25	.76	.13	.36	.15	.32	.60
Held company social events	.24	.13	.14	.55	.28	.32	.34	.30	.62
Assisted anti-union committee	.43	.36	.49	.72	.46	.29	.55	.23	.61
Used media	.09	.08	.10	.67	.09	.26	.13	.17	.69
Used layoffs	.10	.13	.16	.60	.08	.55	.11	.48	.68
Threatened to report workers to INS	.01	.01	.01	1.00	.01	.00	.01	.00	.50
Showed anti-union videos	.58	.45	.53	.61	.63	.34	.74	.32	.59
Number of tactics used by	6.48	5.50	6.81	---	6.87	---	8.44	---	---

employer									
Employer used more than 5 tactics	.59	.48	.65	.69	.64	.34	.83	.31	.65
Employer used more than 10 tactics	.13	.06	.08	.67	.15	.28	.25	.25	.83

TABLE 12: FINAL STATUS OF UNITS IN ORGANIZING SURVEY

	Proportion of All Organizing Campaigns	Proportion of Campaigns with Plant Closing Threats	Proportion of Campaigns without Plant Closing Threats
All Withdrawals	1.00	.52	.48
.88		.87	.89
.12		.13	.11
.07		.05	.10
.00		.00	.00
1.00		.50	.50
.40		.33	.47
.60		.67	.53
.59		.65	.52
.01		.02	.01
.23		.19	.27
.05		.06	.02
1.00		.51	.49
.66		.72	.63
.03		.04	.03
.29		.24	.34
.01		.0	.0

		1	0
.19		.15	.22
.03		.05	.02

TABLE 13: NATURE OF PLANT CLOSING THREATS DURING FIRST CONTRACT CAMPAIGN

	All First Contract Campaigns		Campaigns With Plant Closing Threats	
	Sample Proportion or Mean	Percent Contract Rate	Proportion or Mean with Threats	Percent Contract Rate with Threats
All First Contract Campaigns	1.00	.59	.18	.40
Campaigns with Plant Closing Threats	.18	.40	1.00	.40
Specific unambiguous written threats	.01	.00	.05	.00
Specific unambiguous verbal threats	.05	.33	.30	.33
Unambiguous threats at bargaining table	.02	1.00	.10	1.00
Veiled written threats	.00	---	.00	---
Veiled verbal threats	.11	.50	.60	.50
Veiled threats at bargaining table	.05	.67	.30	.67
Union Filed ULP Charges on Threats	.02	.00	.10	.00
*Disposition**				
Board issued complaint	.01(.50)	.00	.05(.50)	.00
Union withdrew charges	.01(.50)	.00	.05(.50)	.00
Final Board decision in union's favor	.00(.00)	---	.00(.00)	---
Why Charges Were Not Filed on Threats**				
Thought the union would win contract	.05 (.36)	.80	.25 (.36)	.80
Felt the case was not strong enough	.03 (.21)	.67	.15 (.21)	.67
Thought they would lose the unit anyway	.01 (.07)	.00	.05 (.07)	.00
Lack of confidence in Labor Board	.02 (.14)	.50	.10 (.14)	.50
Other	.03 (.21)	.33	.15 (.21)	.33
Full or Partial Plant Closing Before Contract	.12	.08	.25	.00
Full closing	.07	.00	.20	.00
Partial closing	.05	.20	.05	.00
Union Filed ULP Charges on Closings	.04	.00	.05	.00
*Disposition:**				
Board dismissed the charges	.00 (.00)	---	.00 (.00)	---
Union withdrew the charges	.00 (.00)	---	.00 (.00)	---
Board issued complaint	.03 (.60)	.00	.05 (1.00)	.00
Final Board dismissed charges	.02 (.40)	.00	.05 (1.00)	.00
Final Board decision in union's favor	.01 (.20)	1.00	.05 (1.00)	.00
Why Charges Were Not Filed on Closings**				
Thought the union would win contract	.01 (.08)	1.00	.00 (.00)	.00
Felt the case was not strong enough	.05 (.50)	.17	.10 (.50)	.00
Thought they would lose the unit anyway	.02 (.17)	.50	.05 (.25)	.00
Lack of confidence in Labor Board	.02 (.17)	.00	.05 (.25)	.00
Other	.01 (.08)	1.00	.00 (.00)	.00
Full or Partial Plant Closing After Contract	.04	1.00	.10	1.00
Total First Contract Campaigns With Closings	.15	.29	.35	.29

*Proportions in parenthesis are based on cases where ULP's were filed.

**Proportions in parenthesis are based on cases where ULP's were not filed.

TABLE 14: INDUSTRIAL SECTOR AND FIRST CONTRACT OUTCOME

	All First Contract Campaigns		Campaigns With Plant Closing Threats		
	Sample Proportion or Mean	Percent Contract Rate	Proportion or Mean with Threats	Percent Contract Rate with Threats	Percent Threat Rate
Industrial Sector					
Manufacturing	.28	.55	.20	.25	.13
Food processing	.02	.50	.00	---	---
Transportation	.13	.43	.10	.50	.14
Utility	.01	1.00	.00	---	---
Warehouse/Distribution	.05	.60	.05	.00	.20
Printing	.02	1.00	.05	1.00	.50
Retail	.05	.40	.00	---	---
Communication	.05	.60	.05	.00	.20
Construction	.04	.50	.05	.00	.25
Health	.17	.68	.20	.75	.21
Social Services	.05	1.00	.00	---	---
Education	.03	.00	.05	.00	.33
Hotel	.03	.33	.05	.00	.33
Entertainment	.03	.67	.05	.00	.33
Other services	.08	.78	.15	.67	.33
Mobility of Industry*					
Mobile	.37	.59	.30	.33	.15
Immobile	.63	.59	.70	.43	.20

*Mobile industries are defined as those industries which could move their production or services out of state or abroad. These industries include all manufacturing sites, storage, and warehouse facilities as well as some transportation and service units. Immobile industries include all health care units, all construction, all hotel and restaurant and entertainment facilities, and most communications and service units.

TABLE 15: COMPANY STRUCTURE AND CHARACTERISTICS AND FIRST CONTRACT OUTCOME

	All First Contract Campaigns		Campaigns With Plant Closing Threats		
	Sample Proportion or Mean	Percent Contract Rate	Proportion or Mean with Threats	Percent Contract Rate with Threats	Percent Threat Rate
Company structure					
Subsidiary	.52	.64	.30	.50	.10
Non-profit	.21	.74	.30	.67	.26
U.S.- based for-profit	.53	.53	.60	.33	.20
U.S.- based multinational	.19	.57	.05	.00	.05
Foreign-based multinational	.10	.64	.05	.00	.09
Foreign sites and locations	.30	.62	.10	.00	.06
Foreign trade relationships	.35	.56	.10	.00	.05
Years at present site	16.74	---	21.68	---	---
Financial condition					
Good	.50	.55	.50	.20	.18
Moderate	.41	.59	.45	.56	.20
Poor	.08	.78	.05	1.00	.11
Extremely poor	.01	1.00	.00	.00	---
Annual revenue of parent company*					
Less than $25 million	.14	.50	.11	1.00	.13
$25-99 million	.16	.22	.33	.00	.33
$100-999.9 million	.21	.50	.22	.50	.17
$1-4.9 billion	.20	.73	.11	1.00	.09
$5-9.9 billion	.14	.63	.11	.00	.13
$10 billion or more	.14	.75	.11	1.00	.13
Region					
Northeast	.23	.62	.25	.40	.19
Midwest	.31	.60	.20	.25	.11
Southeast	.25	.61	.35	.43	.25
Southwest	.07	.63	.05	1.00	.13
West Coast and Mountain States	.13	.47	.15	.33	.20

*Annual revenue information collected from Lexis-Nexis for 56 cases. Does not include most non-profit companies in sample.

TABLE 19: FINAL STATUS OF UNITS IN FIRST CONTRACT SURVEY

	Proportion of All First Contract Campaigns	Proportion of Campaigns with Plant Closing Threats	Proportion of Campaigns without Plant Closing Threats
First contract settled	.59	.40	.63
Quality of contract			
One of the best	.04	.00	.04
Better than most	.26	.15	.28
Typical of the industry	.22	.20	.23
Somewhat below average	.03	.00	.03
Far below average	.02	.00	.02
Unit still under contract	.54	.30	.59
Unit no longer under contract	.05	.10	.04
First contract expired--bargaining for second	.01	.00	.01
Plant closed after first contract	.04	.10	.02
Union withdrew after first contract	.01	.00	.01
First contract not reached	.41	.60	.37
Election objections pending	.03	.05	.02
Still bargaining	.27	.25 .05.25	.27
Union is on strike and at impasse	.01	.05	.00
Full or partial shutdown	.06	.15	.04
Unit work contracted out	.01	.05	.00
Union withdrew	.02	.00	.02
Decertification	.03	.05	.02

TABLE 17: COMPANY PRACTICE BEFORE AND AFTER THE ELECTION

	All First Contract Campaigns		Campaigns With Plant Closing Threats		
	Sample Proportion or Mean	Percent Contract Rate	Proportion or Mean with Threats	Contract Rate with Threats	Percent Threat Rate
Practice before election					
Voluntarily recognized union	.10	.55	.10	.00	.18
Threatened to close plant*	.42	.55	.70	.36	.30
Number of anti-union tactics	5.83	---	6.95	---	---
More than five anti-union tactics	.51	.54	.70	.36	.25
More than ten anti-union tactics	.11	.42	.11	.00	.17
Practice after election					
Changed ownership or structure	.15	.65	.05	.00	.06
Made major staffing changes	.06	.43	.10	.00	.29
Made positive changes in management	.30	.67	.05	1.00	.03
Increased use of temporary workers	.09	.30	.25	.40	.50
Contracted out work	.04	.25	.15	.00	.75
Transferred work out of the unit	.02	.50	.00	---	---
Shut down all or part of the plant	.12	.08	.25	.00	.38
Bargaining never started	.07	.00	.15	.00	.38
Attitudes towards bargaining					
Absolute refusal to bargain	.06	.00	.21	.00	.67
Hard bargaining	.21	.32	.26	.40	.23
Business like confrontation	.25	.81	.32	.83	.22
Good-faith	.27	.79	.00	.00	.00
Combination	.21	.64	.21	.25	.18
Other	.01	.00	.00	.00	.00

*In 17 percent of units in the sample where the employer threatened to shut down operations if the union won the election the employer actually did shut down all or part of the plant after the union won.

TABLE 18: EMPLOYER BEHAVIOR AND PLANT CLOSING THREATS DURING FIRST CONTRACT CAMPAIGN

	All First Contract Campaigns		Campaigns With Plant Closing Threats		
	Sample Proportion or Mean	Percent Contract Rate	Proportion or Mean with Threats	Percent Contract Rate with Threats	Percent Threat Rate
Campaign Tactics					
Filed election objections	.14	.50	.10	.50	.13
Hired management consultant	.46	.69	.50	.50	.20
Refused information requests	.13	.36	.25	.20	.36
Refused requests to start bargaining	.12	.38	.25	.20	.38
Refused union representatives workplace access	.21	.42	.35	.14	.29
Refused paid release time to unit members	.53	.64	.40	.50	.14
Refused unpaid release time to unit members	.06	.29	.00	---	---
Proposed major concessions on wages and benefits	.14	.31	.20	.50	.25
Continued captive audience meetings after election	.05	.20	.05	1.00	.20
Number of meetings	8.0	---	3.0	---	---
Mailed anti-union letters	.06	.57	.20	.50	.57
Number of letters	2.14	---	1.50	---	---
Distributed anti-union leaflets	.06	.29	.15	.33	.43
Number of leaflets	4.00	---	4.33	---	---
Held supervisor one-on-ones	.12	.23	.35	.43	.54
Established Employee Involvement Program	.05	.40	.00	---	---
Made unilateral changes	.20	.32	.35	.29	.32
Discharged union activists	.13	.40	.25	.40	.33
Number discharged	3.53	---	3.60	---	---
Number not reinstated	.03	1.00	.05	1.00	.33
Promoted pro-union activists	.08	.56	.10	.00	.22
Used bribes or special favors	.08	.44	.15	.67	.33
Used electronic surveillance	.06	.43	.00	---	---
Assisted anti-union committee	.21	.52	.25	.60	.22
Used media, ads, and public forums	.05	.60	.15	.33	.60
Showed anti-union videos	.03	.67	.05	1.00	.33
Helped organize decertification campaign	.11	.25	.20	.25	.33
Number of tactics used	1.96	---	3.50	---	---
More than five tactics used	.09	.20	.30	.33	.60
Bargaining Tactics					
Absolutely refused to bargain	.05	.00	.15	.00	.60
Played one sector of unit off the other	.19	.71	.15	1.00	.15
Engaged in surface bargaining	.30	.36	.35	.29	.21
Bargained hard over union security issues	.41	.65	.30	.50	.13
Repeated used of delaying tactics	.39	.45	.30	.50	.14
Granted better wages to workers outside unit	.08	.50	.15	.33	.30
Declared impasse and implemented final offer	.05	.20	.20	.25	.80
Locked-out bargaining unit workers	.01	.00	.05	.00	1.00

Filed charges for bad faith bargaining	.04		.50		.05	.00	.25
Forced union to strike by holding to concessions	.02		.50		.10	.50	1.00
ULP's filed on Employer Tactics	.28		.35		.45	.22	.29
Disposition:*							
Board dismissed the charges	.01 (.03)		1.00		.00 (.00)	---	---
Union withdrew the charges	.07 (.26)		.75		.10 (.22)	1.00	.25
Board issued complaint	.11 (.39)		.17		.25 (.56)	.20	.42
Final Board dismissed charges	.02 (.07)		.00		.05 (.11)	.00	.50
Final Board reinstated workers	.05 (.16)		.00		.10 (.22)	.00	.40
Final Board in union's favor	.06 (.23)		.29		.00 (.00)	---	---
Final disposition pending	.06 (.23)		.29		.15 (.33)	.33	.43

*Proportions in parenthesis based on cases where ULP's were filed.

TABLE 19: FINAL STATUS OF UNITS IN FIRST CONTRACT SURVEY

	Proportion of All First Contract Campaigns	Proportion of Campaigns with Plant Closing Threats	Proportion of Campaigns without Plant Closing Threats
First contract settled	.59	.40	.63
Quality of contract			
One of the best	.04	.00	.04
Better than most	.26	.15	.28
Typical of the industry	.22	.20	.23
Somewhat below average	.03	.00	.03
Far below average	.02	.00	.02
Unit still under contract	.54	.30	.59
Unit no longer under contract	.05	.10	.04
First contract expired--bargaining for second	.01	.00	.01
Plant closed after first contract	.04	.10	.02
Union withdrew after first contract	.01	.00	.01
First contract not reached	.41	.60	.37
Election objections pending	.03	.05	.02
Still bargaining	.27	.25 .05.25	.27
Union is on strike and at impasse	.01	.05	.00
Full or partial shutdown	.06	.15	.04
Unit work contracted out	.01	.05	.00
Union withdrew	.02	.00	.02
Decertification	.03	.05	.02