

## Settlement Reached in Unfair Labor Practice Charge Stemming from the 2008 Layoff

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On July 28, 2011, the National Labor Relations Board (NLRB) in Washington, D. C. ruled that LLNS, LLC “violated Section 8(a)(5) and (1) [of the National Labor Relations Act] by laying off nine [SPSE-UPTE-represented] employees on May 19, 2008 without the Union’s agreement or first bargaining with the Union to an overall good-faith impasse.” At long last, the Lab has reached a negotiated agreement with SPSE-UPTE that implements a remedy that is acceptable to the NLRB and settles this case that arose out of the 2008 layoffs.

**Background:** Shortly before the transition of the Lab from management by the University of California to management by LLNS, LLC on October 1, 2007, the Lab’s Skilled Trades employees (about 180 employees in Plant Engineering and the Security Organization) were certified as a collective bargaining unit, exclusively represented by SPSE-UPTE. Lab management, however, refused to recognize the union or commence bargaining a contract. Accordingly, SPSE-UPTE filed an Unfair Labor Practice (ULP) charge with the NLRB. Shortly after the transition, Lab management implemented a three-phase reduction in force (RIF). In the first phase, implemented in January 2008, several hundred Flexible Term employees were let go. This number included 19 employees in the new Skilled Trades collective bargaining unit. SPSE-UPTE filed an additional ULP charge concerning LLNS’ refusal to bargain. Partly as a result of Congressional pressure on the new LLNS management to do the right thing, LLNS agreed on February 28, 2008 to recognize and bargain with the union in exchange for SPSE-UPTE agreeing to drop the ULP charges. Bargaining for a first contract, as well as bargaining the mitigation of the effects of the January layoffs, commenced on March 4, 2008.

As long as bargaining is in progress, the National Labor Relations Act is clear about the need for the employer not to make any unilateral changes in the terms and conditions of employment. Despite numerous and repeated information requests to Lab management about plans for the third phase of the layoffs, the phase of involuntary layoffs of career-indefinite employees, the Lab went ahead and laid off nine bargaining unit members on May 19, 2008 without bargaining or without even answering the union’s information requests. This is the action that prompted the ULP charge that ultimately led to the Board’s July 2011 ruling mentioned in the opening sentence.

The Board’s ruling, of course, led to protracted negotiations over how to implement a remedy.

**The Settlement:** In exchange for the laid-off nine giving up their rights to immediate reinstatement to their former jobs, and rights to future preferential rehire, LLNS agreed to two things: 1) a cash settlement that provides each of the nine former employees with an appreciable fraction of the pay they lost between the layoff date and the settlement date, and 2) an additional 3.9 years service credit on their pensions (all nine were enrolled in TCP-1). The bump in TCP-1 service credit is a big deal --- amounting to more than a million dollars in additional retirement income for the nine employees who were laid off illegally.

**Lessons Learned:** Hundreds of Lab employees were unceremoniously booted out the gate back in early 2008, with no advance notification, and under conditions that can only be described as humiliating and degrading. The mass layoffs, along with some other effects of the transition to private-company management of the Lab, led to an employee morale crash from which the Lab has yet to fully recover. Nine of those laid-off employees, however, did not have to face this alone. SPSE-UPTE was there for them, working relentlessly for fair treatment. It took a long time --- and the Lab spared no expense to thwart us every step of the way, from hiring a high-priced team of outside lawyers to engaging in endless legal stalling tactics. In the end, though, union solidarity paid off. If there is anything that proves the value of union membership, the resolution of this case is it.

## **SPSE-UPTE Executive Board Writes Director Parney Albright to Voice Concern Over Recent Changes to LLNS Personnel Policies**

The SPSE-UPTE Executive board wrote Director Parney Albright to voice concern over the effects of recent changes to the LLNS personnel policies, and the direction of Laboratory operations generally. “We see the January 1, 2013 revisions to policy as detrimental to the Lab’s science and national security missions. The total absence of discussion within the broader Lab community before the changes were announced makes us doubt the sincerity of the stated rationale—the need for more flexibility in the face of uncertainty.” To view the entire letter link to <http://www.upte.org/spse/Parney20130301finalns.pdf>

**Today SPSE-UPTE continues to work for a better Laboratory. We are committed to building a Lab that is well managed and accountable; one that will provide secure jobs with fair wages, along with high quality research and accessible education. We invite you to join us.**