# Aff Card Doc---Darty---Round 2

## T Substantial

### 2AC---Counter-Interp

**Counter-interp: “Substantially” references actions that directly prevent or permit bargaining**

**McMahon 21** [Colleen McMahon, United States District Judge, **United States District Court for the Southern District of New York**; **internally citing** the **United States Court of Appeals for the Second Circuit**, *Floyd v. City of New York*, 770 F.3d 1051, 10-31-2014; *In re New York City Policing During Summer 2020 Demonstrations*, 537 F. Supp. 3d 507, 4-28-2021, NexisUni]

1. Interest in collective-bargaining rights

The unions principally assert that this litigation could affect their collective-bargaining rights, as any injunctive remedy might result in changes to NYPD policies that could affect the hours, wages, and/or working conditions of NYPD officers. They claim that the City defendants cannot adequately protect the collective-bargaining interests of union members, because employers are inherently conflicted when negotiating changes that could affect employee working conditions.

But whatever interest the unions have in their collective-bargaining rights are too remote from the merits of this litigation to be considered "direct" or "substantial." Peoples Benefit Life Ins. Co., 271 F.3d at 415. Whether police officers engaged in unconstitutional policing during the BLM protests, and if so whether they were following City policy, has nothing [\*\*15] to do with the collective-bargaining agreements between the unions and the City. The City has not yet proposed any specific changes to NYPD policy as a result of this litigation, and any changes to NYPD policy that may materialize as a result of this lawsuit might not impact any collective-bargaining rights at all. As the Second Circuit recognizes, not all consent decrees that alter NYPD policy implicate a police union's collective-bargaining rights. The key determination is whether the agreement actually "prevents the unions from collectively bargaining" or affects changes that have a " 'practical impact' on 'questions of workload, staffing and employee safety' that are within the scope of the unions' collective bargaining rights." Floyd, 770 F.3d at 1061-62 (quoting N.Y.C. Admin. Code § 12-307(b)). Such a determination cannot be made in the absence of a proposed injunction or agreement. None exists.

Floyd is directly on point. In Floyd, these same unions sought to intervene to prevent a settlement between plaintiffs and New York City in which the City agreed to change aspects of the NYPD's "stop-and-frisk" policy. The unions argued that the settlement implicated two substantial interests: "restoring the reputations of [\*\*16] their members and preventing the erosion of their collective bargaining [\*514] rights." Id. at 1060. The Second Circuit held that neither interest was cognizable. The asserted "reputational" interest of union members was "too indirect and insubstantial to be 'legally protectable,' " ibid.; and the unions failed to show how the reforms in the settlement "would have any 'practical impact' on . . . the unions' collective bargaining rights" as "no provision in the agreement prevents the unions from collectively bargaining," id. at 1061-62.

The unions' asserted collective-bargaining interests in this litigation are even more remote than those in Floyd. In Floyd, a proposed settlement had been agreed to and so could be referenced when determining which, if any, of the unions' collective-bargaining rights were affected. But here, the City has not yet agreed to any settlement. On the contrary, the City has moved to dismiss all of the cases filed against it, claiming that plaintiffs lack standing and that none of the complaints state a claim upon which relief can be granted. (Dkt. No. 106).

The unions have not demonstrated why - absent any specific details of a settlement - this litigation has at present any "practical impact" [\*\*17] that "directly" or "substantially" affects their collective-bargaining rights. They do not point to specific NYPD policies they wish to preserve, nor do they outline any specific changes to which they would object. Instead, they make general references to how this litigation might threaten officers' health and safety. This hardly qualifies as a "direct" or "substantial" threat on any specific collective-bargaining right. And while the DEA cites to several provisions of their collective-bargaining agreement in an attempt to show which provisions might potentially be impacted by a settlement, its suggestions are speculative at best, since there is no settlement. One of the unions actually acknowledges that "it may be uncertain, at this stage, whether the outcome of the case will impair the PBA's interests." (Dkt. No. 49 at 9). My only quarrel with that statement is the use of the word "may;" it is uncertain at this stage whether the PBA's interests will be affected by this lawsuit.

### 1AR---Bozturk Recut

#### This Bozkurt card is the closest they get to a predictable definition–its about a single program BUT also says that in this context that 15 workers was substantially 2% and proves they solve none of their offense!

Dr. Ödül Bozkurt et al. 24, PhD from UCLA, Professor of Work and Employment at University of Sussex Business School, “Consultation on creating a modern framework for industrial relations (2024): Response from High Pay Centre and academics”, https://highpaycentre.org/wp-content/uploads/2025/09/industrial-relations-consultationacademics-letter-3.pdf

Currently, the framework for trade unions focuses on rights to access and recognition for trade unions as well as establishing more efficient processes for industrial action. These are very welcome measures that should lead to more workers being able to make a free and informed choice about trade union membership. This in turn should result in more workers with stronger collective bargaining power and representation from a union who can address workplace issues on their behalf.

However, the potential of unions goes beyond pay negotiations and preventing exploitative working practices. As workers’ representatives who can speak freely and frankly to management without fear of recrimination, unions are well-placed to deliver all the benefits of worker voice: better organisational decision-making and performance; higher regard for worker interests, from the shopfloor to the boardroom; a greater sense of agency and control for workers.

Currently, the Information and Consultation of Employees regulations are the most substantial mechanism for enabling worker voice in decision-making, giving employees the right to request that a consultation body be established if at least 2% of the workforce, or 15 people at organisations with fewer than 750 employees. However, uptake of this right has been low, with just 14% of workplaces having either a works council or some form of on-site consultation mechanism according to the 2017 Taylor Review of Modern Working Practices.[9] Research suggests that even where consultation mechanisms have been established, their impact has been highly varied. Even though they are not duty bound to accept the recommendations of workers on major decisions, many employers still fail to share key information important business issues. Consultation bodies often lack access to senior decision-makers and accountability over how views expressed during consultation processes have been acted upon.[10]