THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW

APPEAL OF:

DIANE CLARKE, ET AL., Members,
UAW LOCAL UNION 2325
(New York, New York), REGION 9A,

Appellants,

-vs- **CASE NO. 1897**

UAW LOCAL UNION 2325
(THE UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA),

Appellee.
_____/

DECISION
(Issued March 17, 2025)

PANEL SITTING: Prof. Janice R. Bellace, Chairperson, Prof. James J. Brudney, Prof. Harry C. Katz and Prof. Maria L. Ontiveros.

APPEARANCES: Rory Lancman, Diane Clarke-Smith, Ilana Kopmar, and Paul Eckles on behalf of Appellants; Steve Zimmerla, Daniel Scott, and Cleveland Jones, Jr. on behalf of the International Union; Lisa Ohta, Leah Duncan, and Allyson Belovin on behalf of UAW Local Union 2325.

The Public Review Board addresses whether the Local 2325 Amalgamated Council correctly found that charges filed against the Appellants are proper under Article 31, §3 of the UAW International Constitution.

FACTS

Appellants Diane Clarke, Ilana Kopmar, Isaac Altman, and David Rosenfeld are members of the Association of Legal Aid Attorneys (ALAA) UAW Local Union 2325. ALAA is an amalgamated local, headquartered in New York City, which represents over 2,700

public interest attorneys and advocates in the New York City metro area with chapters at over 30 non-profit organizations. Appellants are attorneys with the Legal Aid Society of Nassau County (NCLAS).

On November 14, 2023, ALAA conducted a Joint Council meeting.[1] One agenda item was a proposed Resolution entitled "Resolution Calling for a Ceasefire in Gaza, an End to the Israeli Occupation of Palestine, and Support for Workers' Political Speech."[2] At the meeting, the delegates voted in favor of sending the Resolution to the general membership for a vote on Friday November 17, 2023 from 9 a.m. to 5 p.m., using an online voting platform.[3]

On November 16, 2023, Appellants filed a verified complaint against ALAA in the Supreme Court of the State of New York, Nassau County.[4] The complaint alleged:

> "The proposed Resolution is indistinguishable from similar previously-issued statements by other Unions, organizations and individuals which have created great controversy and division across the United States and the entire world, and have fomented hate and derision towards the nation of Israel, and most significantly as it relates to the relief requested herein, people of Jewish descent as a general matter (often referred to pejoratively as 'Zionists' in the public sphere) including and especially past, present and prospective future clients of NCLAS."[5]

Appellants claimed that the adoption of the proposed Resolution by the ALAA membership would deprive them of the ability to fulfill their professional obligation to avoid irreconcilable conflicts of interest or the appearance thereof with prospective clients.[6] Appellants sought injunctive relief to halt ALAA from conducting a membership vote on the Resolution.[7] By order dated November 17, 2023, Judge Felice J. Muraca entered a temporary restraining order (TRO) against the membership vote on the Resolution and scheduled a hearing for November 21, 2023 to determine whether to enter a permanent injunction.[8] At the November 21 hearing, the State Court extended the TRO pending the issuance of a further decision within 30 days.[9]

Also on November 21, 2023, four ALAA members (Danielle Welch, Gerald Koch, Eva Stevenson, and Candace Graff) filed charges with the ALAA Recording Secretary under Article 31 of the UAW International Constitution against the Appellants.[10] The charges alleged generally that Appellants engaged in conduct unbecoming of a union

---

[1] Record, p. 45.
[2] Record, pp. 41-44.
[3] Record, p. 46.
[4] Record, pp. 47-71.
[5] Record, pp. 50-51.
[6] Record, p. 52.
[7] Record, p. 53.
[8] Record, pp. 88-89.
[9] Record, p. 127.
[10] Record, pp. 107-111.

member "by seeking judicial injunctive relief to interrupt a democratic process on an internal union matter and, in the process, baselessly and publicly smearing their fellow union siblings as antisemitic, these individuals violated core tenants of our union's mission and behaved in ways that demand official consequences."[11] In addition, the charging document alleged four separate acts by Appellants constituting conduct unbecoming a member, as follows:

(1) Dissatisfied with the outcome of a noticed Joint Council vote, Appellants interrupted a vote-in-progress by using the courts to contravene internal union decisions.[12]

(2) Appellants acted with an intent to chill the free speech of other union members.[13]

(3) Appellants filed a supplemental affidavit on November 17, 2023 (copy attached to charges), which made internal union emails from Gaggle a part of the public court file, complete with the names and personal contact information of fellow union members.[14]

(4) Appellants violated Article 33, §5 of the UAW Constitution, which imposes a duty on members to exhaust internal union remedies under the Constitution before going to a civil court or governmental agency for redress.[15]

With respect to the criteria for charges set forth in Article 31, §3, the charging document stated:

> "These charges are timely under Article 31, Section 2 of the UAW Constitution, as they are being filed within sixty (60) days of the alleged conduct. They are supported by the court filings, the Temporary Restraining Order, a copy of their supplemental affidavit, a copy of the proposed resolution, citations to various sources regarding relevant portions of the substance of the resolution, and emails establishing the noticed vote and its outcome. This corroborating evidence, if not rebutted, establishes all elements of the charges. These actions were conducted in public court filings, which have been emailed by other parties to the ALAA Gaggle listserv, and accordingly any individual on that listserv is a witness to their

---

[11] Record, p. 107.
[12] Record, p. 107.
[13] Record, p. 107.
[14] Record, p. 107. Gaggle is a listserv platform used by ALAA for intra-union communications. Record, p. 124.
[15] Record, pp. 107-108. Article 33, §5 states:

> "OBLIGATION TO EXHAUST INTERNAL UNION REMEDIES. It shall be the duty of any individual or body, if aggrieved by any action, decision or penalty imposed, to exhaust fully the individual or body's remedy and all appeals under this Constitution and the rules of this Union before going to a civil court or governmental agency for redress."

> conduct and could be called if necessary in trial proceedings if additional corroboration is required."[16]

The charging parties requested relief in the form of Appellants' expulsion from the Union.[17]

On December 1, 2023, Defendant ALAA removed Appellants' State Court action to Federal Court under 28 U.S.C. §1441 because the complaint stated a claim for breach of the duty of fair representation under the National Labor Relations Act (NLRA).[18] See *Clarke v. The Association of Legal Aid Attorneys*, 2:23-CV-8869 (E.D.N.Y. Dec. 1, 2023). Defendant ALAA moved to dissolve the TRO issued by the State Court.[19] On December 12, 2023, the Federal Court issued an order finding that the TRO would expire by operation of law on December 15, 2023. The Federal Court set a schedule for further proceedings.

On December 19, 2023, the ALAA membership voted on the proposed Resolution, which was approved by a margin of 1067 in favor and 570 against.[20] ALAA issued the Resolution shortly thereafter.[21] In light of these developments, Appellants filed a notice of voluntary dismissal without prejudice in Federal Court on December 22, 2023. Accordingly, the case was closed by the Court.[22]

ALAA conducted a special meeting of its Amalgamated Joint Council on January 2, 2024 in order to review the charges filed against Appellants.[23] The Joint Council voted on each of the four separate acts of conduct unbecoming a member contained in the charging document. By majority vote, the Joint Council found that each charge was proper and should proceed to trial. The Local notified the Appellants regarding the Joint Council's determination by letters dated January 8, 2024.[24]

On January 22, 2024, Appellants filed an appeal with the UAW International Executive Board (IEB) through their counsel Rory Lancman of The Louis D. Brandeis Center for Human Rights Under Law.[25] Appellants argued that the charges were improper under Article 31, §3(c) because the "act complained of does not sustain a charge of violation of the Constitution or conduct unbecoming a member of the Union."[26] Appellants raised three arguments in support of their position.

---

[16] Record, p. 108.
[17] Record, p. 111.
[18] Record, p. 127.
[19] The background facts regarding Appellants' lawsuit are derived in part from the PRB's review of the public docket entries in the Federal court action.
[20] Record, pp. 112, 128.
[21] Record, pp. 112-116.
[22] Record, p. 128.
[23] Record, pp. 117-118.
[24] Record, pp. 119-122.
[25] Record, pp. 123-139.
[26] Record, p. 123.

First, Appellants argued that the Labor Management Reporting and Disclosure Act (LMRDA) prohibits union discipline against a member for filing a lawsuit.[27] Section 101(a)(4) of the LMRDA states in full:

> "(4) PROTECTION OF THE RIGHT TO SUE.-- No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided,* That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: *And provided further,* That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition." 29 U.S.C. §411(a)(4).

Appellants asserted that:

> "The Supreme Court has held that the LMRDA provision that a member 'may be required' to exhaust the union's internal remedies, so long as that process takes less than four months, is directed at the court, not the union. That is, the LMRDA tells the court hearing the union member's case to exercise its discretion in proceeding with the claims while the union's internal process spools out; it is not a license to the union to prohibit its members from bringing suit on pain of discipline if they do[.]"[28]

Appellants cited three cases in support of this reading of Section 101(a)(4): *NLRB v. Indus. Union of Marine & Shipbuilding Workers of Am.*, 391 U.S. 418, 426, 428 (1968); *Johnson v. Gen. Motors*, 641 F.2d 1075, 1078 (2d Cir. 1981); and *Schermerhorn v. Local 100, Transp. Workers Union of Am.*, 91 F.3d 316, 325 (2d Cir. 1996).

Second, Appellants argued that the charges against them contravened the LMRDA's guarantee of free speech and assembly.[29] See 29 U.S.C. §411(a)(2). Appellants asserted:

---

[27] Record, pp. 132-134.

[28] Record, p. 133.

[29] Record, pp. 134-135. Section 101(a)(2) of the LMRDA states:

> "FREEDOM OF SPEECH AND ASSEMBLY.-- Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided,* That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the

> "It is a bedrock of LMRDA jurisprudence that union members are given the strongest protection possible against retaliation within the union's disciplinary rules for the content of their speech criticizing the union, its officials, and its policies, 'and that leeway for the expression of strongly held views in emotional terms, even when they amount to slander, must be afforded union members.' *Petramale v. Loc. No. 17 of Laborers Int'l Union of N. Am.,* 736 F.2d 13, 17 (2d Cir. 1984)."[30]

Third, Appellants claimed that the effort to expel them constituted unlawful retaliation in violation of Title VII of the Civil Rights Act of 1964, as well as New York State and New York City discrimination laws.[31] According to Appellants, they engaged in protected activity as defined under Title VII "when they sued to oppose an anti-Semitic resolution in an atmosphere soaked with anti-Semitism."[32] Appellants characterize the Resolution itself as "blatantly and directly discriminatory to all Jews and to all union members who abhor Antisemitism."[33] They also claim that Appellants were pejoratively referred to as "Zionists" and subjected to "another union member writing 'From the River to the Sea!', which is widely recognized by many scholars who have studied the history of antisemitism and hate movements in general to be a call for the genocide of the Jewish people and the complete and utter destruction of the nation of Israel."[34]

The IEB issued its decision on June 24, 2024, adopting a report prepared by the International President's staff.[35] Staff set forth the five criteria for determining whether charges are proper under Article 31, §3, emphasizing that the determination under Section 3 is not a determination on the guilt or innocence of the accused.[36] Staff reviewed the charges under each of the Section 3 criterion and determined that the charges were proper under Sections 3(a), (b), (d), and (e).[37] With respect to Section 3(c), the IEB decision found that the charges stated a violation of the Constitution.[38] The decision stated:

> "Article 33, Section 5 of the Constitution reads in as follows:
>
> 'Section 5. OBLIGATION TO EXHAUST INTERNAL UNION REMEDIES. It shall be the duty of any individual or body, if aggrieved by any action, decision or penalty imposed, to exhaust fully the individual or body's remedy

---

> responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations."

[30] Record, p. 135.
[31] Record, pp. 135-138.
[32] Record, p. 136.
[33] Record, p. 137.
[34] Record, p. 137.
[35] Record, p. 147.
[36] Record, p. 150.
[37] Record, pp. 150-152.
[38] Record, p. 151.

> and all appeals under this Constitution and the rules of this Union before going to a civil court or governmental agency for redress.'
>
> We have determined that, under this subsection of the Constitution, if the charges, as submitted are true, would constitute a violation of the Constitution.
>
> The Accusers assert that the actions of Appellants were carried out with the intent to harm and injure the Union, by obstructing democratic practices. As a result, the Accusers suppose Appellants (the accused) actions 'undermines confidence in our Union as an institution, undermines confidence in our Union procedures, delayed time-sensitive Union action ...' The Accusers contend the Appellants have caused members throughout the local union to lose a sense of being able to discuss difficult topics freely without the interference of a judicial court.
>
> In review of the appeal, the act complained of does violate the Constitution. Therefore, the requirements of this subsection of the Constitution have been met."[39]

The IEB decision did not directly address Appellants' arguments pursuant to the LMRDA or other statutory law.

Appellants initiated a timely appeal of the IEB's decision with the Public Review Board (PRB). The PRB conducted a hearing on January 31, 2025. During the hearing, Appellants reiterated the legal arguments raised in their written briefs, arguing that the LMRDA and state law forbid disciplinary action against them for filing a lawsuit. The International Union argued primarily that the charges alleged that Appellants had failed to exhaust internal union remedies and, thus, stated a proper claim under Article 31, §3(c). The Board questioned Appellants regarding what efforts, if any, they made to obtain redress within the Union prior to filing their court action. Appellants explained that they had communicated with Local officers and attempted to file a complaint through the hotline number published on the International Union's website. They also explained that the Regional Director was aware of their court action at the outset and indicated opposition to Appellants' attempt to stop the vote on the Local Resolution.

ARGUMENT

A. D. Clarke, et al. through counsel R. Lancman

Appellants respectfully submit this appeal, pursuant to Article 31, §3 and Article 33, §3(f) of the UAW Constitution, from the decision of the IEB to uphold the ALAA's decision to ratify charges brought against them. The IEB erroneously ignored the Appellants' arguments that charges which patently violate the LMRDA, Title VII of the

[39] Record, p. 151.

Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law, cannot possibly form the basis for an expulsion proceeding accusing them of conduct unbecoming a member of the UAW.

Conduct which is protected by law, as described in the attached underlying appeal to the IEB, cannot be "unbecoming," and the IEB's failure to acknowledge as much -- let alone to offer any rebuttal to Appellants' arguments -- is plain error. Appellants respectfully request that the PRB find that pursuant to Article 31, §3(c) "[t]he act complained of does not sustain a charge of a violation of the Constitution or conduct unbecoming a member of the Union" and dismiss the charges against Appellants.

B. International Union, UAW

Article 31 directs the local executive board (LEB) to review the charges and consider them improper if any of the criteria set forth in Section 3(a) through (e) are not satisfied. Article 31, §3 of the Constitution states that "[u]pon charges being submitted, it is mandatory that a trial be held unless the charges are withdrawn by the accuser or considered by the Union to be improper under this Article." Article 31 directs the LEB to review the charges and consider them improper if any of the criteria set forth in Section 3(a) through (e) are not satisfied. "The rule is well-established that in making this determination, the Local Executive Board should assume that all of the allegations contained in the charge are true." *Torres v. UAW Local Union 594 Executive Board*, 13 PRB 592, 595 (2007). "When reviewing charges under the Article 31, §3 criteria, the standards for the IEB are the same as for the Local Executive Board." *Robinson v. UAW International Executive Board*, 15 PRB, Case No. 1795, at p. 12 (2019).

In this case, the ALAA Amalgamated Council reviewed the charges filed against the Appellants and the charges were found to be proper. On appeal, the IEB also reviewed the charges filed against the Appellants and the charges were found to be proper. Appellants' appeal calls for the dismissal of the charges raised against them. Article 31, §3 is a tool utilized to determine if the charges, as submitted, are proper and, if proper, then a trial must be conducted to determine guilt or innocence. The findings by the ALAA Amalgamated Council and those of the IEB give no indication of guilt or innocence. That is what would be determined at the mandatory trial.

On appeal to the PRB, Appellants raise no new facts or arguments. They instead rely on their appeal to the IEB and state that the IEB did not offer any rebuttal to Appellants' arguments. For the above reasons, the IEB requests that Appellants' appeal be denied and that the decision of the IEB be upheld.

C. Rebuttal by D. Clarke, et al. through counsel R. Lancman

The IEB in its answer continues to ignore the central question on appeal before it and now before the PRB because addressing the question will force the conclusion that the charges against Appellants are improper and must be dismissed. That question, as

previously argued by Appellants both to this body and the IEB is both simple and unavoidable:

> Can conduct which the law expressly permits, and for which the law prohibits union discipline, sustain a charge of a violation of the Constitution or conduct unbecoming a member of the Union as required by the UAW Constitution Article 31, §3(c)?

The question practically answers itself.

Where federal, state, and/or local law expressly allows certain conduct and prohibits the union from disciplining a member for that conduct then such conduct cannot form the basis for a union disciplinary proceeding against the member. In this case, the UAW cannot discipline Appellants for filing a lawsuit opposing their Local's discriminatory practices, whether under the guise of purportedly not exhausting their union remedies prior to filing the lawsuit or under the catchall "conduct unbecoming" provision because such a lawsuit is expressly permitted by the federal LMRDA, Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law.

Appellants made this argument in their appeal to the IEB and incorporated those arguments into its appeal to this body and explained how the charges -- on their face -- are based on conduct that the law expressly permits. The IEB simply ignores the question. It seems to be the IEB's position that the mere incantation of the words "conduct unbecoming" from the UAW Constitution, Article 31, §3(c) is sufficient to satisfy that Section's requirements.

Simply put, contrary to the IEB's position, charges that allege conduct that cannot be subject to union discipline because the law expressly permits such conduct therefore cannot constitute a violation of the UAW Constitution. The IEB has declined to defend the sufficiency of the charges on these terms, i.e., it has declined to rebut Appellants' detailed argument explaining why these charges are legally insufficient because federal, state, and local law expressly permit the allegedly offending conduct and prohibit the Union from disciplining Appellants for engaging in such conduct. Accordingly, Appellants' appeal must be sustained and the charges against them dismissed.

DISCUSSION

Article 31, §3 of the International Constitution states that "[u]pon charges being submitted, it is mandatory that a trial be held unless the charges are withdrawn by the accuser or considered by the Union to be improper under this Article." Article 31 directs the Local Union Executive Board to review the charges and consider them improper if any of the criteria set forth in §3(a) through (e) apply. Those criteria are:

> (a) The charges do not state the exact nature of the alleged offense as required by Section 1 of this Article;

(b) The charges are untimely under Section 2 of this Article;

(c) The act complained of does not sustain a charge of a violation of the Constitution or conduct unbecoming a member of the Union;

(d) The charges involve a question which should be decided by the membership at a membership meeting and not by the trial procedure;

(e) In all other cases, an otherwise proper charge(s) must be supported by substantial direct evidence, as well as the evidence of at least one (1) corroborating witness, which, if not rebutted, would establish all elements of the charge(s).

"The rule is well-established that in making this determination, the Local Executive Board should assume that all of the allegations contained in the charge are true." *Torres v. UAW Local Union 594 Executive Board*, 13 PRB 592, 595 (2007). As stated in Article 31, §3(2) of the Interpretations of the Constitution of the International Union:

> "Article 31 charges are procedurally reviewed by local executive boards to determine if they are proper or improper pursuant to the sub-sections of Section 3. Charges are to be reviewed, as submitted, based on their specific content. No investigation is required or proper. The addition of Section 3(e) at the 32nd Constitutional Convention requiring substantial direct evidence as well as the evidence of at least one (1) corroborating witness does not change the historical method of review."

"When reviewing charges under the Article 31, §3 criteria, the standards for the IEB are the same as for the Local Executive Board." *Robinson v. UAW International Executive Board*, 15 PRB, Case No. 1795, at p. 12 (2019).

The PRB finds that the charges against Appellants fail under Article 31, §3(c) because the acts complained of do not constitute conduct unbecoming a member or a violation of the UAW Constitution. The term "conduct unbecoming a union member" is not defined in the Constitution.[40] The PRB has declined to formulate a definition, acknowledging that "[t]his is a task obviously more appropriate for the Union itself to undertake." *Comley v. Noble*, 1 PRB 347, 349 (1965). However, the Board has generally sought to apply narrowly the criterion that Article 31 charges must allege conduct unbecoming a member or in violation of the Constitution.

To the extent that the charges at issue in this case seek to discipline Appellants for filing a lawsuit, Appellants' action was not conduct unbecoming or a violation of the

[40] See *Luedecking v. UAW International Executive Board*, 15 PRB, Case No. 1740, at p. 17 (2016) ("As the International Union acknowledged during oral argument, the term 'conduct unbecoming a union member' is not defined."); *Comley v. Noble*, 1 PRB at 349 ("There is no codified expression within the laws of the UAW as to what acts constitute conduct unbecoming.").

Constitution. The "Democratic Practices" section of the UAW's Ethical Practices Codes (EPC) broadly protects the democratic rights of members. In a democratic society, individuals have a right to seek redress through the courts and other tribunals.[41] In *Szymczak v. Dewyea*, 1 PRB 35, 38 (1958), the PRB recognized "the fundamental right to resort to the civil courts for redress of civil wrongs." In addition, the LMRDA Bill of Rights specifically protects the right of members to bring suit against their union.[42] See 29 U.S.C. §411(a)(4). Here, there is no claim that Appellants' litigation was frivolous or malicious. In fact, the Article 31 charges make clear that Appellants successfully obtained injunctive relief through their court action, at least initially.[43]

In past cases, the PRB has declined to find conduct unbecoming a member of the Union when the act complained of is protected under the EPC's "Democratic Practices" code. For example, in *Esposito v. International Executive Board, UAW*, 13 PRB 515, 520 (2007), the Board explained that "[t]he right of a member to distribute leaflets addressing issues of concern to his fellow members is fully protected by the UAW Ethical Practices Codes." Accordingly, such activity could not form the basis of an Article 31 charge for conduct unbecoming a member. The Board has ruled similarly in other cases involving a member's exercise of the right to free speech, which is protected under the EPC. See *King v. Local Union 600 UAW*, 12 PRB 266, 269 (2003); *Leal v. Local Union 578 Executive Board, UAW*, 12 PRB 34, 38 (2002). So too, in this case, we find that Appellants' conduct was protected under the EPC and, accordingly, cannot constitute conduct unbecoming a member.

Perhaps tacitly conceding that Appellants' initiation of their court action under the circumstances of this case does not provide a basis for the Article 31 charges, the International Union during oral argument focused on the fourth charge that Appellants failed to exhaust internal union remedies as required under Article 33, §5.[44] But this charge too must fail. In *Szymczak v. Dewyea*, 1 PRB at 40, the PRB noted that "[t]he exhaustion requirement would seem to be premised, in the usual situation at least, upon the availability of substantially the same relief within the Union." Here, the International Union acknowledges that the internal union remedies as set forth in Article 33 itself contain no equivalent to the temporary restraining order sought by Appellants through

---

[41] See, e.g., *United Transp. Union v. State Bar of Mich.*, 401 U.S. 576, 585 (1971) (". . . collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment.").

[42] The PRB does not attempt to administer any law other than that established by the UAW Constitution. It is not within the province of the PRB to interpret or apply the provisions of a Federal law. See, e.g., *Turner v. UAW Local Union 2209*, PRB Case No. 1827, at p. 9 (Apr. 7, 2021). Generally, however, the Board has found that internal and external law are consistent with each other, such that external law may provide a useful guide for the interpretation of internal law.

[43] Record, p. 108.

[44] The Charging Parties identified four charges in their Article 31 filing. Record, pp. 107-108. The first charge essentially claims that Appellants engaged in conduct unbecoming a member for filing their lawsuit. The second and third charges claim, respectively, that Appellants sought to chill the free speech of other members and revealed internal union emails as part of their court filing. Again, at bottom, these charges too are predicated upon Appellants' action in filing their court case and, thus, do not allege conduct unbecoming. In addition, the second charge regarding the free speech rights of other members is overly vague. Article 31, §3(a) requires that the charges state the exact nature of the alleged offense.

their legal action. Given that Appellants could not obtain equivalent relief through the UAW's formal internal processes, we find that the exhaustion requirement does not apply under the circumstances of this case.

The International Union also argues that Appellants should have exhausted informal internal remedies beyond the appellate processes specifically set forth in Article 33 in an attempt to forestall the membership vote on the Local Resolution. The International has not explained the basis for its claim that members have an obligation to exhaust informal remedies, although this is arguably a permissible reading of the language contained in Article 33, §5.[45] Assuming that Appellants had such an obligation, they established during the PRB hearing that they made adequate efforts to communicate their concerns through informal channels under the unique timing and circumstances present in this case.

When questioned by the PRB during oral argument, Appellants explained that they made efforts to address their concerns internally, within the context of the timing of the membership vote on the Local Resolution. Appellants attended the Joint Council meeting on November 14, 2023, but were not able to speak before delegates voted to send the Resolution to a membership vote. After the meeting, Appellants reached out to a Local officer by phone and met with their Chapter President in person. Appellants also called the hotline number listed on the International Union website in an attempt to file a complaint at the International level but did not receive an immediate response.

During the hearing, the International Union emphasized that Appellants should have reached out to the Regional office specifically in order to address their concerns before filing suit. However, Appellants explained that Local officers made the Region 9A Director, Brandon Mancilla, aware of their court action at the outset. Mancilla participated in a call with the State court Judge on November 16, 2023 and attended the TRO hearing on November 21, 2023. However, Mancilla made public statements in favor of the Local Resolution and denouncing Appellants. Therefore, Appellants argue that it would have been futile to attempt to obtain redress for their concerns from the Regional office. The PRB agrees. The Regional Director was sufficiently aware of Appellants' issues concerning the Local Resolution but had already taken the opposite side in the matter. We also note that the Regional Director could have sought the involvement of the International Union when notified of Appellants' court action but apparently did not. [46]

---

[45] Article 33, §5 states: "It shall be the duty of any individual or body, if aggrieved by any action, decision or penalty imposed, to exhaust fully the individual or body's remedy and all appeals under this Constitution and the rules of this Union before going to a civil court or governmental agency for redress."

[46] The PRB is mindful of the fact that the sufficiency of the Article 31 charges should be decided without further investigation. However, the International Union's claim during the PRB hearing that Appellants should have made informal attempts to exhaust internal remedies opened the door to Appellants' assertions that they did take such steps. We also note that the International Union and ALAA representatives did not dispute any of the facts offered by Appellants to establish that they attempted to utilize internal union channels to raise their concerns. Under the circumstances, we do not believe that it would be appropriate to remand the matter to the Local for a trial on the narrow issue of whether Appellants made sufficient efforts to address their concerns informally within the Union.

To be clear, the PRB recognizes the importance of the exhaustion requirement contained in Article 33, §5. In most circumstances, the internal appeals process is more efficacious and expedient than the processes to obtain external relief; this internal process benefits both members and the Organization as a whole. Most importantly, Article 33, §5 provides the basis for the Union to request dismissal or stay of any judicial action taken without exhausting available internal remedies. Nothing in this decision undermines the Union's ability to do so.

In advance of the PRB's hearing in this case, we also requested that the parties address the relevance of the Board's decision in *UAW Local Union 2865, et al. In the Matter of Brumbaugh v. UAW Local Union 2865 Joint Council*, 15 PRB, Case No. 1747 (2016). In that case, the IEB had nullified a membership motion to approve a resolution in support of the Boycott, Divestment and Sanctions (BDS) movement, which aims to put pressure on Israel to alter its policies regarding Palestine, among other things. The PRB held in *Brumbaugh* that the IEB acted within its authority under Article 37, §7 of the Constitution to nullify the local resolution because it was contrary to the official policy adopted by the International Union pertaining to BDS.[47] According to the International Union, the *Brumbaugh* decision is not relevant to this case, except to demonstrate how Appellants could have used the internal appeal process to address their concerns.[48]

On the other hand, Appellants argue for the first time on appeal, based upon *Brumbaugh,* that the PRB should declare the Local Resolution null and void because it conflicts with International policy condemning the BDS movement. We note that the Local Resolution at issue here mainly focused on the conflict in Gaza and only addressed the topic of BDS in small part. Still, the Board is surprised by the International Union's position during oral argument that it was unaware that the Local Resolution contravened International policy, at least in part.

It is clear that the Regional Director was aware of the contents of the Resolution, but endorsed passage of the Resolution, despite a longstanding International policy. Nevertheless, we reject Appellants' request that the PRB declare the Local Resolution null and void based upon the International policy as reflected in *Brumbaugh*. The International Union has discretion under Article 37, §7 to enforce its policies and it is not the PRB's role to do so in the first instance as Appellants request.

For all the foregoing reasons, the Board dismisses the Article 31 charges against the Appellants. It is so ordered.

---

[47] Article 37, §7 states:

> "No Local Union or other subordinate body, and no officer, agent, representative or member thereof shall have the power or authority to represent, act for, commit or bind the International Union in any matter except upon express authority having been granted therefore in writing by the International Executive Board or the International President."

[48] We note that the Appellant in *Brumbaugh* initiated an appeal after the local membership voted in favor of its pro-BDS resolution. In contrast, Appellants in this case sought to prevent the membership vote from going forward by obtaining injunctive relief through a court action. As explained above, such relief is not available under the UAW's formal appeals process.