

*Guns at Work*

**National Academy of Arbitrators**

**Annual Meeting & Member Education Conference - 2024**

**Boston, MA**

- 1. Introduction to the Appendices**
- 2. The Case of the Hidden Handgun**
- 3. U.S. Gun Laws, Decisions and Related Documents**
- 4. U.S. Arbitration Decisions - A Sampling**
- 5. Canadian Arbitration Decisions and Firearms Regulations**



# **NAA Boston: Guns At Work**

## **Introduction to the Appendices**

**By Barry Winograd, NAA Alameda CA**

---

### *Guns at Work: Introduction to the Appendices*

Four appendices have been prepared as supplementary material for the *Guns at Work* session at the annual meeting of the National Academy of Arbitrators in Boston, MA in May 2024. The session features a panel of advocates and arbitrators considering *The Case of the Hidden Handgun*, a scenario that presents issues that can arise in a discipline case involving guns in the workplace. The reader will find the scenario and questions for the panelists as the first appendix. The other appendices have been prepared to assist those attending the Boston meeting as well as those who view a video of the session at a later date. The video was funded by a grant from the Academy's Research and Educational Foundation.

The second appendix is titled, "*U.S. Gun Laws, Decisions and Related Documents.*" It provides links to more than four dozen documents. For ease of reference, the appendix is divided into subcategories. The documents in this appendix are arbitration and appellate court decisions that form the background, as adapted, for the *Hidden Handgun* case. The original arbitration decision by George Fleishcli, an Academy past president, provides an informative review of how arbitrators approach issues of external public law.

In addition, this appendix has links to major U.S. court decisions, compilations of gun laws related to the workplace, articles about the gun industry, posts about public opinion polling, and news regarding gun control developments. Most of the appendix was assembled from material published in a nine month period, from June 2023 through February 2024. As a snapshot in time, this appendix is not intended to be exhaustive, but rather to provide a starting point for those interested in learning more about the subject area. A wealth of additional documentary material is available for those undertaking research before and after those dates.

Essential production assistance for this appendix was provided by Katie Griffin, the NAA's long-time and ever helpful operations coordinator. Jeffrey Cassidy, the session's liaison for the Boston program committee, also assisted. My thanks to both for their efforts.

For those interested in arbitration decisions about guns at work by arbitrators in the U.S., readers can refer to the third appendix, titled "*U.S. Arbitration Decisions - A Sampling.*" Due to copyright limitations, links to the decisions are not provided. Instead, citations are offered to decisions published in *Labor Arbitration Reports*, a reporting service offered by Bloomberg BNA.

The fourth appendix is titled, “*Canadian Arbitration Decisions and Firearms Regulations*.” It was compiled by Chris Albertyn, an arbitrator from Toronto and a *Hidden Handgun* panelist at the Boston annual meeting. My thanks for his contributions. The appendix includes links to publicly available arbitration decisions from several Canadian provinces. In general, these decisions as well Canadian firearms regulations offer insights that contrast with U.S. experience. As in many other respects, the U.S. has much to learn from Canada in dealing with guns at work.

It is my hope that the material in these appendices will broaden the knowledge of arbitrators and advocates who are dealing with gun regulation issues in pending and future cases. The appendices are a starting point for research and understanding. There is much more to learn.

Barry Winograd  
February 2024

***Guns At Work: The Case of the Hidden Handgun***  
**National Academy of Arbitrators, 2024 Annual Meeting, Boston, MA**  
**By Barry Winograd, NAA Alameda, CA**

---

*Facts:*

The following summary of the case is drawn from the grievance and pre-arbitration communications of the parties. The parties agree about the chronology, but differ about facts, inferences, and witness credibility.

Ed Edwards was dismissed from Master Chef (MC) on Friday afternoon, January 12, 2024. According to the notice, he was dismissed for having a gun in violation of a company rule that prohibits "possession at work of any weapon that can cause serious physical harm to others." MC offers service to airlines at airports in several states, including Southern Illinois Airport near Carbondale, Illinois. Its employees are represented by the Union of Food Service Workers (UFSW), which has grieved the dismissal.

Edwards had worked at MC for seven years when he was fired. Although Edwards had been counseled a few times for tardiness and absenteeism, his only prior discipline was a warning letter in October 2022 for "rude and offensive behavior" under MC's work rules. The letter followed an argument with a new supervisor, Susan Strong, during which, in the presence of other employees, Edwards loudly called Strong, "a stupid idiot." Edwards is 32 years old, six feet tall and weighs about 190 pounds; Strong is 38 years old, is 5'7" tall, and weighs about 135 pounds.

Earlier on January 12, Edwards's gun was found when his locker was searched at MC's distribution building. The building is in a warehouse area next to the airport, and is leased from the public Airport Authority that has title to the airport and surrounding land. According to William Wallace, a co-worker and witness, Edwards argued with Strong after she informed him that, due to flight delays and short-staffing on the next shift, he had to work overtime for two hours. Edwards objected that he had longstanding family plans after work. Strong told Edwards that his plans would have to wait. Edwards stepped toward Strong, and said in anger, "You're a jerk. I'll get even for this." Edwards pointed his index finger at Strong as he spoke.

Wallace, moved between the two and pressed Edwards to back away.

A few minutes later, Edwards left for his airport assignment. Soon after, Strong reported Edwards's outburst to MC's station manager, Mary Monroe. Strong and Monroe knew of workplace talk that Edwards was a gun collector. Without contacting Edwards, Monroe had a maintenance worker open the grievant's locker to search it. In the locker, Monroe found a loaded handgun and an ammunition clip inside a backpack.

Monroe called Edwards to return from the airport for a meeting. A union shop steward also was present. Monroe asked Edwards if he knew about the rule banning weapons, and to explain why he had a gun at work. After consulting with UFSW's steward, Edwards admitted he knew about the rule, but added, "I have a permit to carry a concealed weapon. I forgot to leave it in my car after target practice yesterday." Following this exchange, Monroe fired Edwards for having a gun on MC's premises.

The UFSW has a master collective bargaining agreement (CBA) with MC that covers employees in different states. The CBA has a three year term and expires in 2025. The CBA includes several provisions with bearing on the dispute. The agreement recognizes MC's authority to adopt reasonable work rules, prohibits discrimination in violation of state or federal law, requires maintenance of a safe and healthy workplace, authorizes mandatory overtime for up to two hours after a regular shift, and permits discipline for just cause. To resolve disputes, the CBA has a grievance and arbitration procedure, although warning letters are excluded. Arbitrators are instructed that they cannot add to, modify, or disregard contract terms.

Annually, each employee is given a copy of MC's work rules. The work rules also are displayed on two bulletin boards; one in the employee locker room and another in an employee lounge used for breaks. The rules include six types of "serious misconduct" as grounds for summary dismissal. The rule against having weapons at work is one of the six rules. No exceptions are stated.

In addition to posted work rules, the employee locker room has large signs advising employees that the lockers are MC property, and that the company reserves the right to search lockers for "unlawful or prohibited"

items. At the parking lot entrance to MC's building, there also is a large rectangular sign stating "No Firearms or Weapons Allowed on This Property." The sign has an illustration of a gun inside a red circle with a red slash through the circle.

At the outset of the arbitration hearing, the parties stipulated that the issue to resolve is, "Did the company have just cause to dismiss the grievant; if not, what is the appropriate remedy?" In opening statements, counsel disputed whether searching Edwards's locker and backpack, and his resulting dismissal, was lawful, with each side also citing the Illinois Concealed Carry Act, 430 ILCS 66/1 et seq. The law permits, under certain conditions, possession of guns outside the home. At the hearing, MC's witnesses were Monroe, the manager, and Wallace, the coworker, and an out-of-state employee relations director. Strong, the supervisor, was not a witness. As explained by MC's counsel, she moved to California and refused to be involved. For the UFSW, Edwards and a union representative were witnesses.

Questions:

*Question 1:* As MC's first witness, Monroe testified that Strong reported being scared of what Edwards might do after telling him about the overtime, but she did not say Edwards threatened to use a gun. Monroe stated that both she and Strong had heard employees say Edwards had several guns. The UFSW objected to any testimony about Edwards having guns as hearsay and speculation. *Q: Should the objection to any testimony about Edwards having guns be sustained?*

*Question 2:* Wallace testified that, when asked by Monroe soon after the event on January 12, he reported his observations of Edwards's conduct. His recalled this included Edwards stating he would "get even" as he stepped toward Strong, pointing his finger at her. Wallace said he did not hear any mention of a gun, but he pushed Edwards back because he feared the grievant was so angry that he would hit Strong. The UFSW objects to any testimony from Wallace about Edwards's intent. *Q: Should Wallace's testimony be excluded as inadmissible opinion?*

*Question 3:* MC's out-of-state employee relations director testified that MC's no-weapons work rule was based on a federal occupational safety requirement to provide a workplace, "free from recognized hazards that are causing or are likely to cause death or serious physical harm...." The director stated that the no-weapons rule was adopted after a family's wrongful death suit following the shooting death of an employee in a company parking lot in Georgia in 2019. The UFSW's advocate objected that this testimony is irrelevant. *Q: Should the UFSW's objection to testimony about the Georgia case be upheld?*

*Question 4:* In the UFSW's case, Edwards testified that he was sorry for his outburst on January 12 and for having a gun in his locker. He explained that he had a license to carry the gun. Edwards said he meant to leave it in his locked car in the parking lot after target practice the day before, but forgot it was in his backpack as he was rushing to be at work on time. MC's advocate moved to strike Edwards's testimony about why he brought the gun to work, arguing that his explanation was irrelevant on the issue of whether the company had just cause to act. *Q: Should Edwards's explanation about why he had the gun at work be stricken?*

*Question 5:* The UFSW's chief grievance administrator testified that MC has not always dismissed employees who had guns on company premises, referring to two cases from 2014 and 2017. MC objects that any testimony about those cases is irrelevant in light of the CBA text permitting reasonable work rules, including MC's rule from 2019 banning weapons and permitting summary dismissal for "serious misconduct." *Q: Should MC's objection about the past cases from 2014 and 2017 be sustained?*

*Final Question: Should the grievance be granted; if so, what is the appropriate remedy?*

## **NAA Boston: Guns At Work**

### **Appendix - U.S. Gun Laws, Decisions and Related Documents**

#### 1. *Hidden Handgun Background Materials*

[Ameren Illinois v. IBEW \[906 F.3d 612, 7<sup>th</sup> Cir., 2018\]](#)

[Ameren.Arbitration.Decision \[138 LA 805 \(Fleischli 2018\)\]](#)

[430 ILCS 66.Illinois.Firearm Concealed Carry Act](#)

#### 2. *U.S. Supreme Court - Past Decisions and Comments*

[District of Columbia v. Heller, 554 U.S. 570 \(2008\)](#)

[Charles: Dead Hand Of Silent Past \[Duke Law\]](#)

[John Paul Stevens Repeal the Second Amendment \[New York Times\]](#)

[Mass Shootings and Guns: Examining the Court's Interpretation of the Right to Bear Arms and the Consequences of Gun Laws in the U.S. \[Stanford Law\]](#)

[New.York.State Rifle Assn. v. Bruen \[Supreme Court.6-23-22\]](#)

[The Justices Are Bad Gun Historians \[Wall Street Journal\]](#)

#### 3. *U.S. Supreme Court - Pending and Recent Action*

[Justices appear wary of striking down domestic-violence gun restriction \[U.S. v. Rahimi\]\[ScotusBlog\]](#)

[Justices won't block Illinois ban on assault-style weapons \[Nat.Assn.Gun Rights v. Naperville\]\[ScotusBlog\]](#)

[Justices take up bump stock dispute \[Garland v. Cargill\]\[ScotusBlog\]](#)

[Supreme Court split over bump-stock ban \[Garland v. Cargill\]\[ScotusBlog\]](#)

[NRA is poised to win big in the Supreme Court, thanks to foolish New York officials \[NRA v. Vullo\]\[Vox\]](#)

[Supreme Court grants review of criminal firearm 'occasions' clause \[Erlinger v. US\] \[Jurist\]](#)

[Supreme Court refuses to reinstate Missouri Second Amendment law \[Missouri v. U.S\]\[ScotusBlog\]](#)

[Supreme Court's Search for a More Attractive Gun Rights Case \[New York Times\]](#)



4. *Gun Industry*

[American Gun The True Story of the AR-15 by Cameron McWhirter and Zusha Elinson, reviewed \[Washington Post\]](#)

[How the AR-15 Became an American Brand \[New Yorker\]](#)

[Bushmaster Made the AR-15 into the U.S. ' Best-Selling Rifle \[ProPublica\]](#)

[Growing in Popularity, Switch Devices Are Making Guns Deadlier \[New York Times\]](#)

[The Gun Industry Created a New Consumer. Now It's Killing Us \[The Atlantic\]](#)

[The Lawyer Trying to Hold Gunmakers Responsible for Mass Shootings \[New York Times\]](#)

[With 'Gunfight,' an Insider Takes On a Community That Was Once His Own \[New York Times\]](#)

5. *Public Opinion and Culture*

[Guns-and-Voting \[Brennan Center\]](#)

[Loving Our Guns to Death \[New York Times\]](#)

[More Americans see gun violence as major problem, poll finds \[Washington Post\]](#)

[What research shows on the effectiveness of gun-control laws \[Washington Post\]](#)

[Why guns are ingrained in Texas culture even as the state grows \[Washington Post\]](#)

[Will the Maine shooting change public opinion on guns \[ABC News\]](#)

6. *Developing Policies and Cases*

[Hawai'i v. Wilson\[Hawai'i Supreme Court, 2-7-24\]](#)

[Gun Rights and Gun Control \[Shippensburg\]](#)

[Court Strikes Down W. Va. Law Restricting Property Owners from Asking Visitors About Whether They Have Guns in Their Parked Cars \[W.Va.Coalition Against Gun Violence v. Morrissey\] \[Reason\]](#)

[Gun Control, Explained \[New York Times\]](#)

[Biden Administration Proposed Expanding Background Checks on Gun Sales \[New York Times\]](#)

[California is only state to levy a tax on guns and ammo to fund safety programs \[NPR\]](#)

[Can the Government of Mexico Bring the U.S. Gun Industry to Book? \[New Yorker\]](#)

[How to Prevent Gun Massacres Look Around the World \[New Yorker\]](#)

[President Joe Biden to Establish First-Ever White House Office of Gun Violence Prevention, To Be Overseen by Vice President Kamala Harris \[White House.9-22-23\]](#)

[US appeals court prevents California from banning guns in most public places \[Reuters\]](#)

[US appeals court revives Mexico's \\$10 bln lawsuit against gun makers \[Estados Unidos Mexicanos v. Smith & Wesson\] \[Reuters\]](#)

## 7. Workplace Laws and Policies

[Change in Gun Laws Affect the Workplace \[SHRM\]](#)

[State-laws-on-bringing-weapons-on-employer-premises \[EHS Support\]](#)

[Employer Considerations for Navigating Evolving Gun Laws \[Littler Mendelson P.C.\]](#)

## 8. News

[Double mass shootings over weekend set grim U.S. record \[Washington Post\]](#)

[Hunter Biden indicted on gun charges \[CNN\]](#)

[Indiana's Westforth Sports Linked to Hundreds of Chicago Guns \[ProPublica\]](#)

[Jacksonville.Racial.Killing \[New York Times\]](#)

[Major tests US gun control activists face in 2024 \[Guardian\]](#)

[The Morning: America's progress on guns \[New York Times\]](#)

[Hawaii top court upholds gun laws, criticizes US Supreme Court \[Reuters\]](#)

[The Decline of the NRA \[New York Times\]](#)

[NRA and Wayne LaPierre Found Liable for Financial Misconduct \[New York Times\]](#)

## **NAA Boston Guns at Work Appendix : U.S. Arbitration Decisions - A Sampling**

---

For those handling cases in the U.S. arising under collective bargaining agreements, the best resource for arbitration decisions about guns at work can be found in Bloomberg BNA's *Labor Arbitration Reports* (LA). The material is available if you subscribe to Bloomberg's reporting system individually, or through a law firm or an academic institution. Major law schools and public law libraries in U.S. cities also maintain copies of the service. Research using BNA's *Cumulative Digest and Index for Labor Arbitration Reports* will identify many discipline cases involving guns at work.

This appendix provides a sampling of U.S. arbitration decisions on the subject published in *Labor Arbitration Reports*. Due to the number of cited decisions and copyright limitations, links to copies of the decisions are not included in this appendix. Given the variety of circumstances related to workplace gun possession, the sampling does *not* include several related topics; for example, threats of gun violence, off-duty gun violence, or gun use by law enforcement personnel. Helpful citations include the following:

*Washington State*, 2023 BNA LA 327 (Saylor 2023)  
*Detroit Streetcar Line*, 2020 BNA LA 1208 (Fitzsimmons 2020)  
*United States Steel Corp.*, 133 BNA LA 881 (Petersen 2013)  
*Steris Corporation*, 131 BNA LA 1819 (Fitzsimmons 2013)  
*Veolia Transportation Services*, 123 BNA LA 886 (Shieber 2006)

*Weyerhaeuser Co.*, 120 BNA LA 1146 (O'Grady 2004)  
*Security DBS*, 118 BNA LA 1735 (Robinson 2003)  
*Des Moines Ind. School Dist.*, 114 BNA LA 1147 (Wiant 2000)  
*Caterpillar Inc.*, 114 BNA LA 1143 (Daniel 2000)  
*Johnstown Wire Technologies*, 111 BNA LA 216 (Franckiewicz 1998)

*Navistar International*, 109 BNA LA 796 (Kessler 1997)  
*Interstate Brands Corp.*, 104 BNA LA 993 (Gentile 1995)  
*Luxfer USA Ltd.*, 102 BNA LA 783 (Kaufman 1994)  
*North Island Naval Aviation Depot*, 98 BNA LA 1036 (Weckstein 1992)  
*Indianapolis Public Transportation Corp.*, 98 BNA LA 557 (Doering 1991)

*Marathon Petroleum Co.*, 93 BNA LA 1082 (Marlatt 1989)  
*Metropolitan Transit Authority*, 1 BNA LA 655 (Allen 1982)  
*Van Wold-Stevens Co.*, 79 BNA LA 645 (Flagler 1982)  
*Gardner-Denver Cooper Industries*, 76 BNA LA 26 (Witney 1980)  
*Cotton's Inc.*, 60 BNA LA 533 (Williams 1973)

**Guns at Work**  
**Cases from Canadian arbitration**

**Ontario:**

1. *Ottawa-Carleton District School Board v. Ontario Secondary School Teachers' Federation, District 25 Plant Support Staff*, 2006 CanLII 60956 (ON LA) (Goodfellow), <https://canlii.ca/t/1vdvs>
2. *Domtar Inc. v Unifor, Espanola Local 74*, 2021 CanLII 42452 (ON LA) (McNamee), <https://canlii.ca/t/jg0sr>
3. *Grant Forest Products Inc. v. Communication, Energy and Paperworkers Union*, 2005 CanLII 41372 (ON LA) (Gray), <https://canlii.ca/t/1lztg>
4. *Ajax Pickering Transit Authority and C.U.P.E., Loc. 129-01 (Garcia) (Re)*, 2003 CanLII 89645 (ON LA) (Craven), <https://canlii.ca/t/jmxj5>
5. *McCain Foods (Canada) and U.F.C.W., Loc. 114P3 (Ellis) (Re)*, 2002 CanLII 78959 (ON LA) (Simmons), <https://canlii.ca/t/jmx4g>
6. *Livingston Distribution and I.W.A.-Canada, Loc. 700 (Manilall) (Re)*, 2001 CanLII 62024 (ON LA) (Stewart), <https://canlii.ca/t/jmwsr>
7. *Commemorative Services of Ontario and S.E.I.U., Loc. 204 (Davidson) (Re)*, 1997 CanLII 25051 (ON LA) (Saltman), <https://canlii.ca/t/jmw4z>
8. *National Steel Car Ltd. v. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 7135 (Faiazza Grievance)*, [2011] 214 L.A.C. (4th) 370 (Craven).
9. *Jason Gale v Ford Canada*, 2023 CanLII 12598 (ON LRB), <https://canlii.ca/t/jvqtk>

**British Columbia:**

1. *Peace Country Maintenance Ltd v BC Government & Service Employees' Union*, 2000 CanLII 29382 (BC LA) (Keras), <https://canlii.ca/t/g2nsm>
2. *College Printers Ltd. and G.C.I.U. (Ancheta) (Re)*, 2001 CanLII 62171 (BC LA) (Ready), <https://canlii.ca/t/jmwzh>

**Saskatchewan:**

1. *United Food and Commercial Workers, Local 1400 v Prairie Pride Natural Foods Ltd*, 2013 CanLII 82240 (SK LA) (Hood), <https://canlii.ca/t/g2bwr>

## **Firearms permitted in Canada**

<https://www.rcmp-grc.gc.ca/en/firearms/classes-firearms>

Not restricted:

Rifles and shotguns

Restricted:

Handguns that are not prohibited firearms

Firearms that:

- are not prohibited firearms
- have a barrel less than 470 mm in length
- are capable of discharging centre-fire ammunition in a semi-automatic manner

Firearms designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise

Firearms of any other kind prescribed to be restricted firearms in the Regulations.

There are a few purposes for which you may be licensed to acquire or possess a restricted firearm:

- target practice or target shooting competitions
- as part of a collection
- in limited circumstances, use in connection with one's lawful profession or occupation, or to protect life

Prohibited

- Handguns with barrels equal to or less than 105 mm in length
- Handguns designed or adapted to discharge a 25 or 32 calibre cartridge
- Firearms adapted from a rifle or shotgun, whether by sawing, cutting or any other alteration, and that, as so adapted are:
  - less than 660 mm in length
  - 660 mm or greater in length and has a barrel less than 457 mm in length
- Automatic firearms, whether or not altered to discharge only one projectile with one pressure of the trigger
- Firearms prescribed to be prohibited firearms in the Regulations