

LEGAL MEMORANDUM

For several years now the United Farm Workers National Union has, in support of its boycotts of grapes and lettuce, conducted picketing and leafletting activity within the parking lots and upon the walkways of supermarkets throughout the country. The right of this Union and its supporters to engage peaceably in these activities on shopping center property has been unquestioned, by police official, or by court, since the decision of the United State Supreme Court in 1968 in the case of Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza (391 U.S. 309). In that case the Supreme Court ruled that a shopping center, having once opened itself to serve the public at large, could not then use trespass laws to keep persons from entering upon its walkways and parking lots for the purpose of handbilling or picketing.

This past year the Supreme Court has again addressed itself to this issue, in the case of Lloyd v. Tanner (1972), and, in limiting the rights of some potential groups of picketers, strengthened the rights of others. That case involved the attempt by an Oregon shopping center to deny the use of its property to a group distributing anti-war leaflets. The Supreme Court said that these persons could in fact be removed from the shopping center, because their message, and their activity, was not "related in its purpose to the use to which the shopping center property was being put."

However, in denying access to those with a message of general applicability, the Supreme Court affirmed and high-lighted the right to picket and leaflet of groups whose message is directed to patrons not in their status as members of the general public, but, more specifically, in their status as customers of the market being picketed. To the extent that persons are informing patrons of a market that it sells non-union produce, are asking patrons of a market not to buy the non-union produce sold in that market, or are asking patrons not to shop at a market because it sells non-union produce, the activity of those persons bears the "relationship, direct or indirect, between the purpose of the expressive activity and the business of the shopping center" which the Supreme Court stated would invoke the protective shield of the First Amendment. Thus the right of the United Farm Workers National Union to picket and leaflet in a peaceable and orderly manner in super-market parkings lots free of arrest or injunction remains unquestionable.

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