EMPLOYEE AND LABOR RELATIONS
CASE STUDY
INSTRUCTOR'S MANUAL

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After the Merger: D-Bart Industries

Scenario B: Union Decertification, Unfair Labor Practices and Maintaining a Union-Free Organization

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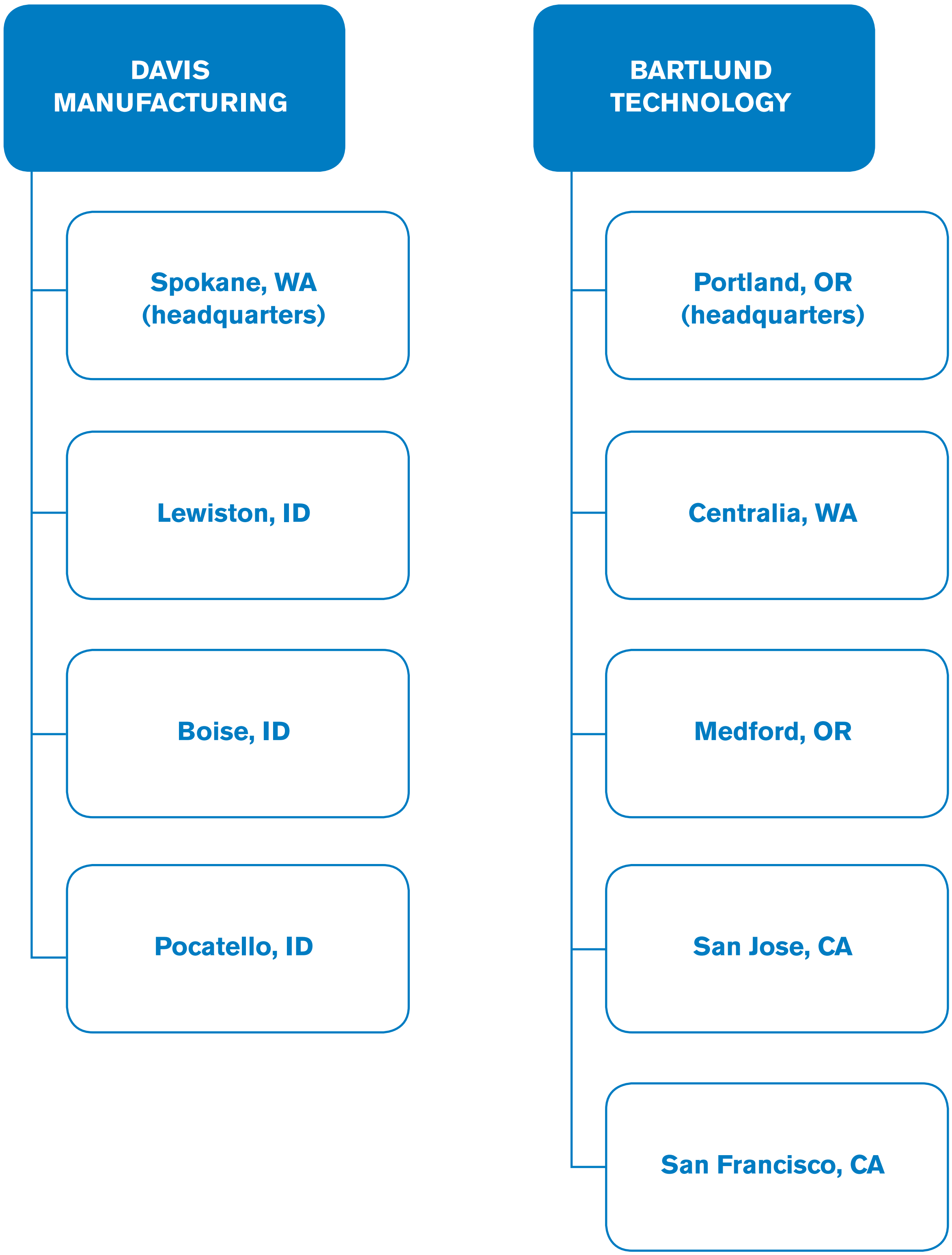
Case Abstract

This case involves a fictitious company, D-Bart Industries, formed by the merger of Davis Manufacturing and Bartlund Technologies, two former rivals in the fabrication of precision parts used in medical equipment and airline manufacturing. It is appropriate for undergraduate or graduate students majoring in human resource or business management. Six scenarios comprise the entire case study; however, this document contains only Scenario B: Union Decertification, Unfair Labor Practices and Maintaining a Union-Free Organization. The major themes covered in each scenario are:

- Scenario A: Risk management and employee privacy.
- Scenario B: Union decertification, unfair labor practices and maintaining a union-free organization.
- Scenario C: Family medical leave, employee rights, temporary labor and increasing employee productivity.
- Scenario D: Compensable time under the FLSA and preventing off-the-clock work.
- Scenario E: Differentiating between an unpaid intern and an employee.
- Scenario F: Downsizing and performance appraisal.

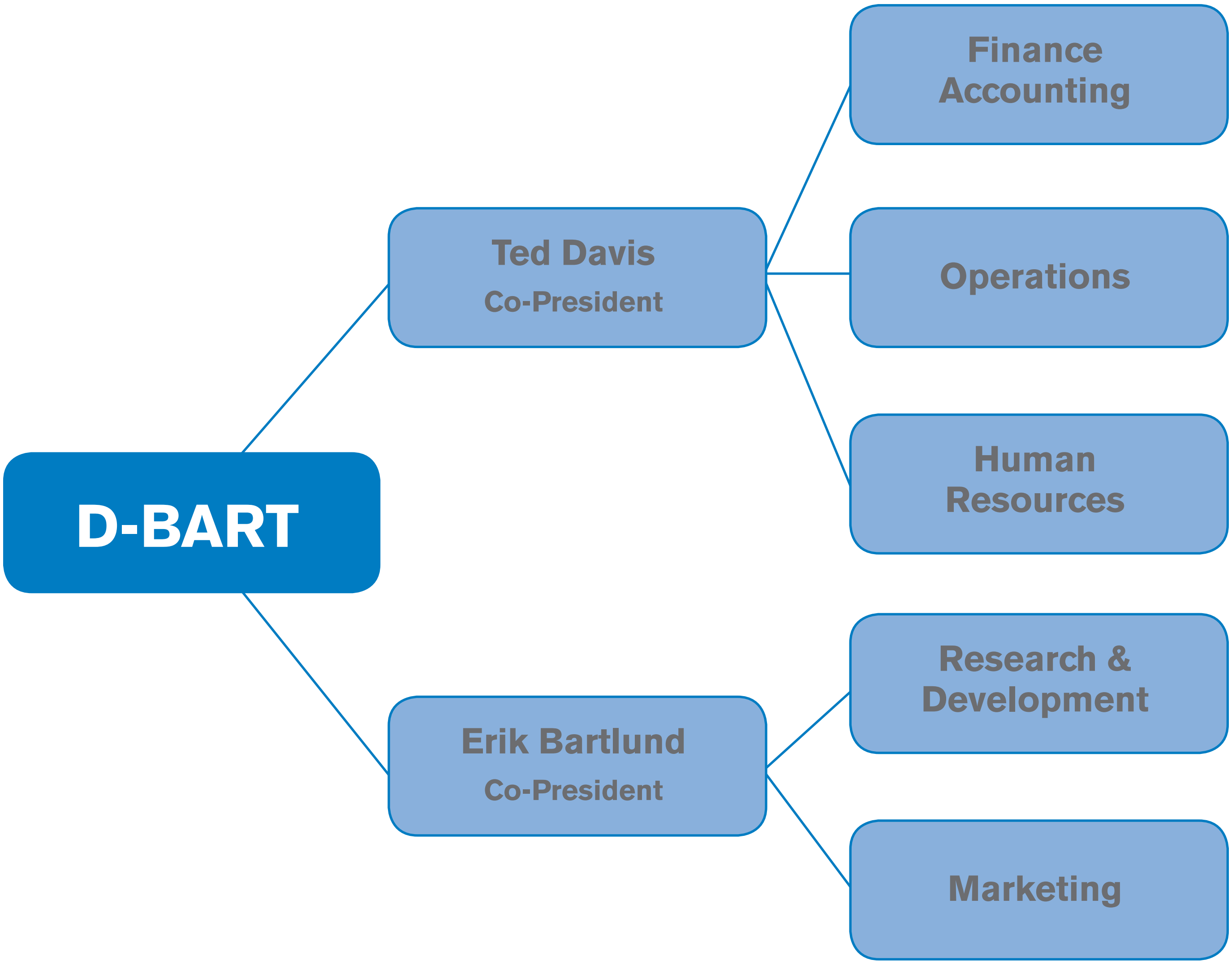
Teaching note:
In order to create a student workbook, please make one copy of pages 2 through 7 for each student.

The Organization Before the Merger



After the Merger: D-Bart Industries

The New Organizational Structure and Management Staff



Director of Human Resources Wendy Wright	Centralia, WA Mary Haggerty, Division Manager
Lewiston, ID Kendal James, Division Manager	Medford, OR Ray Houser, Division Manager
Boise, ID Lois Franklin, Division Manager	San Jose, CA Karen Howell, Division Manager
Pocatello, ID Rick Stephens, Division Manager	San Francisco, CA Brad Smith, Division Manager

After the Merger: D-Bart Industries

THE ORGANIZATION

This case involves the recent merger of Davis Manufacturing and Bartlund Technology. Before the merger, the organizations were fierce competitors in the manufacturing of precision parts used in building medical equipment and airplanes. When the economy slowed in 2008 and 2009, it became apparent that the two organizations would have a stronger market presence if they joined forces. The merger was approved in late 2009, and on March 1, 2010, the two former rivals became D-Bart Industries.

This was a true merger of equals, not an acquisition of a smaller company by a larger company, and although Davis and Bartlund had very different corporate cultures, the new leadership team embraced a philosophy of collaboration. There was no power structure being imposed by one company over the other and no assumption that one set of employees had priority over the others. New structures were forming to play on the strengths of each organization. As things changed, nothing was guaranteed and employees were nervous about what was to come.

Because the original organizations were led by very different personalities, it would take some time before a comfort level was established. Bartlund's founder, Erik Bartlund, was an idea man with seemingly boundless energy. He claimed to sleep little, and in the early years of the company, he kept a notepad on his nightstand so he could jot down ideas as they bubbled forth in insomniac sprees of creativity. His notebook was now an electronic tablet, but his ideas were no less frequent, if sometimes a little bizarre. He was always more interested in product design and innovation than in the nuts and bolts of running his company.

As one would expect, Bartlund Technology developed into a creative workplace where risk taking and working outside the box was the norm. Employees had authority to make decisions and the autonomy to structure their work. The dress was casual, and there were lunch-hour games of competitive volleyball in the grass next to the parking lot. Employees brought their dogs to work, and a water bowl and dog biscuit jar were standard in the break room along with coffee and pastry. That was fine with Erik. As long as employees got the job done, produced a quality product, and Bartlund was considered the most innovative in the industry, he was satisfied.

Although Davis had a very different corporate culture from Bartlund, it, too, was highly respected in the industry for its quality products. The CEO, Ted Davis, was a retired Marine who took over the company when his father, the founder, retired. Davis ran a tight ship. True to his military background, he believed in having a procedure and policy in place for every eventuality. He had a top-down management style and liked to maintain personal control over decision-making, a characteristic some employees found oppressive.

It was understood by all that nothing happened at the organization that Davis didn't know about and personally approve.

When Davis production and shipping employees voted to unionize in 2003, Ted was not particularly happy, but he did little to oppose the process, saying that it was their right to do so. This accepting attitude has served Davis well; union/management relations have always been excellent, with a level of respect and cooperation not always found in union environments. The union contracts from Davis were honored by D-Bart with the intent that employees previously represented by unions would continue to be represented by their bargaining units. Bartlund employees have never been unionized.

Both organizations were located in the West. Bartlund had five facilities: Portland and Medford, Ore.; San Jose and San Francisco, Calif.; and Centralia, Wash., Bartlund's headquarters in Portland was the company's newest facility. Davis had its headquarters in Spokane, Wash., and three facilities in Idaho: Lewiston, Boise and Pocatello.

Although there had been no official announcement from D-Bart, it was expected that the merger would necessitate scaling back some facilities, with employees transferred to other locations or laid off. At the same time, other facilities could add new employees. It was rumored that the Centralia and Pocatello facilities would be shuttered and put up for sale. Employees at the Centralia and Pocatello plants were understandably nervous.

Davis and Bartlund worked cooperatively to select a new management team for D-Bart. Davis and Bartlund were appointed co-presidents, with Davis assigned to the day-to-day operations and Bartlund managing the products. Davis had recently relocated to the Portland headquarters, where he was responsible for operations and production, finance and HR. Bartlund managed research and development, product innovation and marketing. He remained in the San Francisco office. Wendy Wright, director of human resources for Davis, was appointed the new HR director for D-Bart, and she also relocated to the Portland headquarters. Although many positions were still vacant, it was expected that the rest of the employees would be a mix of workers from both companies, with no clear power structure that favored one group over the other.

Scenario B: Union Decertification, Unfair Labor Practices and Maintaining a Union-Free Organization

Location: D-Bart Industries, formerly Davis Manufacturing, Pocatello, Idaho

Players: Rick Stephens, division manager
Cal Gibson, production employee
Sally Davidson, administrative assistant

The employees at the Davis facility in Pocatello were generally satisfied with the management of their organization. Most of their production supervisors had been promoted into management from jobs right off the shop floor, so they worked for bosses with a good understanding of employee issues. If it had been up to the employees in Pocatello, Davis would never have unionized.

The push for union representation started in Lewiston and quickly extended to the Boise facility. The union lobbied hard to win over employees, and although Pocatello and Spokane resisted at first, by the time the certification vote was scheduled in 2003, it encompassed all Davis facilities. The tally was close, but the union prevailed and was certified by a narrow margin. Bargaining units were established for production and shipping employees. The sales department and the clerical staff remained non-union, and of course, management and supervisors were not unionized because those who represent management are never members of the bargaining unit.

Employees were uncertain what would happen after the merger, but D-Bart quickly affirmed that all union contracts would be carried over and continued as written. The former Davis facilities continued to be unionized as before, and the Bartlund divisions remained non-union. That settled things for a bit, but employees have been talking again.

D-Bart formally prohibited employees from talking about compensation, but several employees have talked to their counterparts in other divisions. There has been a lot of speculation about compensation and benefits in union vs. non-union facilities, and rumor has it that benefits are better for non-union employees. Employees in Pocatello were polarized about the issue. Some were pushing for decertification, and others were holding firm, fearing that job security and retirement funds would be at risk without union representation. Pocatello was nearing the end of its three-year labor agreement, and many employees were worried that the upcoming negotiations will be difficult.

Pocatello Division Manager Rick Stephens had a meeting scheduled this morning with shop employee Cal Gibson. Stephens was delighted when Gibson requested the meeting because he knew that Gibson was the informal leader of the decertification movement. Stephens was not happy when Davis voted to unionize in 2003, and he believed the recent merger with Bartlund was the ideal time to get the union out. He wanted to make sure that Gibson knew that D-Bart was looking to downsize some facilities, and if they had to put up with the old Davis unions, the unionized facilities were likely to be first on the chopping block.

Gibson arrived right on time for the 10:00 a.m. meeting. They chatted about the weather and plant production and then got down to business. Gibson was there to deliver a letter to D-Bart. The letter was signed by several shop employees, asking for a summary of the benefits they would receive from D-Bart if they were no longer represented by a union. Gibson explained that to make an informed decision the employees wanted to compare what they would have if they were non-unionized with what they had with union representation.

Stephens thanked Gibson for delivering the letter and said he would get back to him. They shook hands, and Gibson left the office. As soon as the door closed, Stephens excitedly pumped his fist in the air. He picked up the phone and called his administrative assistant. “Sally,” he said, “schedule an all-staff meeting for this Friday afternoon. Now we can finally talk!”

Questions

1. How should Stephens handle the letter?
2. What must employees do to decertify their union?
3. How can D-Bart discourage unionization and still avoid an unfair labor practices charge?

Debriefing for Scenario B

MAYBE THINGS COULD BE BETTER: UNION DECERTIFICATION

1. **How should Stephens handle the letter from Gibson?**

The process to decertify a union must be conducted solely by the union-represented employees without interference or assistance from the employer. To avoid an unfair labor practice charge, employers must remain hands-off during the process. Under the agent-principal relationship, managers and supervisors should be reminded that they represent the organization as its agents, and therefore, the organization is responsible for their actions. However well intentioned Stephens may be, his actions may put the organization at risk for an unfair labor practice charge. His first action should be to contact D-Bart's HR department for guidance.

Managers can avoid an unfair labor practice charge by adhering to the TIPS acronym. Managers must not:

1. **Threaten:** Never threaten an employee with retaliation for union activities. Retaliation can include any number of activities such as demotion, scheduling changes, loss of benefits, firing, etc.

2. **Interrogate:** Do not ask employees to report activities or conversations involving union activities.

3. **Promise:** Do not promise rewards to employees for refraining from union activities. Rewards can be bonuses, increased compensation or benefits, promotions or future promotions, etc.

4. **Spy:** Do not monitor union activities during work time or nonwork time either on the job or off the job (Pollard, 2005).

Stephens should not give employees a list of benefits they would receive if they were non-union. This could be interpreted as a promise to employees of the benefits they would receive if they decertify their union and could be considered an unfair labor practice. The unionized employees who signed the letter are probably already talking to employees in other non-union divisions, and they likely have a good idea of what compensation and benefits are being paid to D-Bart's non-union employees.

2. **What must employees do to decertify their union?**

To decertify a union:

1. 1. An employee or group of employees must petition the NLRB for a decertification election.

    a. The petition must include a written statement that they no longer wish to be represented by the union.

    b. The petition must be filed 60 to 90 days before the expiration of the current contract. In the health care industry, the petition must be filed 90 to 120 days before the expiration of the contract.

    c. The petition must be signed by 30 percent of the employees represented by the union in the bargaining unit.

2. The NLRB may hold a hearing to authorize an election or move directly to a decertification election.

    a. A simple majority vote will decertify the union.

    b. If decertification is voted down, the union is recognized by the NLRB as the bargaining agent, just as in a certification election.

    c. If there is a tie vote, the union is decertified as receiving less than a majority of the votes cast.

3. Depending on the outcome of voting, the union is recertified or decertified (SHRM, 2006).

3. **How can D-Bart discourage unionization and still avoid an unfair labor practice charge?**

Employees are most likely to seek union representation when they are unhappy with management. So, the answer to avoiding unionization is to practice good management. This means treating employees with respect and dignity and ensuring equity and strict adherence to ethical business practices. This can only happen in an organization where there is open communication, well-trained supervisors and support from upper management.

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