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Federal lawsuit hits Local 150 leaders over grievance settlements

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By **KEVIN NEVERS**

Local 150 of the International Union of Operating Engineers—which represents numerous heavy equipment operators in Northwest Indiana—and three of its business agents are being sued in federal court by two operators who allege that at least three members of the Joint Grievance Committee accepted a bribe to fix the outcome of a grievance filed against their employer.

The suit, filed on Thursday in the U.S. District Court for the Northern District of Indiana, names the following defendants: Local 150; the Midwest Operating Engineers Pension Trust Fund; the Midwest Operating Engineers Welfare Fund; three members of the Joint Grievance Committee, all Illinois residents, Steven Cisco, Colin Darling, and Charles August; as well as “other unidentified but known participants.”

In the suit, plaintiffs Peter Pena Jr. and Daniel Pena, both of them members of Local 150 and employees of A & C Landscaping Inc., allege the following.

In April 2005 Local 150 investigated the business practices of A & C Landscaping and determined that the company had misrepresented the Penas’ activities in order to pay them a lesser union scale. Local 150 accordingly retained the accounting firm of Graff, Ballauer, Blanski, & Friedman PC to conduct a wage audit to calculate the amounts of past wages owed to the Penas. At the same time, the local’s pension fund and its welfare fund similarly retained that same firm to conduct a benefits audit to calculate the amounts of past benefits owed to the pension and welfare funds. Those audits subsequently concluded that the Penas were owed \$110,546.46 in past wages and the pension and welfare funds were owed \$52,740.38 in past benefits.

In late 2005 a grievance was submitted on behalf of the Penas to the Joint Grievance Committee, although the Penas themselves were unaware of that fact. According to the suit, a bribe of \$25,000 was paid sometime prior to Feb. 15, 2006, “either directly or indirectly to Defendant Local 150 through an agent or representative, to fix, change, or otherwise impact, to the detriment of the Plaintiffs, the outcome of their grievance.” Also according to the suit, Defendant Cisco, Defendant Darling, and Defendant August, each agreed to accept and each did ultimately receive not less than \$5,000.00 to fix” the grievance.



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The result of that fix, the suit states: Local 150 caused the wage audit to be changed to reflect that the Penas were owed not \$110,546.46 but \$27,637.87, while the pension and benefit funds caused the benefit audit to be changed to reflect that those funds were owed not \$52,740.38 but \$8,865.29. On or about Feb. 15, 2006, the suit states, Cisco settled the Penas' grievance with A & C Landscaping "for approximately 25 percent of moneys and benefits owed to the plaintiffs." The suit adds, "This settlement was based upon a \$25,000 bribe received by Defendant Local 150, Defendant Cisco, Defendant Darling, and Defendant August."

The Penas learned of the bribe on or about March 7, 2008, the suit states.

The suit further alleges a pattern of racketeering activity addressed by the RICO statute. "Defendants' fraudulent acts are not isolated but rather are part of a fraudulent pattern of conduct through which the defendants encouraged, support, and otherwise participated in a pattern of and practice of soliciting, seeking, securing, and otherwise accepting bribes to fix, change, or otherwise unfairly impact grievances involving Local 150 members," the suit states.

Specifically, the suit alleges five types of racketeering:

- "Inflating, increasing, or supporting the filing of grievances so that demands, requests, and offers to fix, change, or otherwise unfairly impact grievances involving Local 150 members . . . would occur."

- "Extort(ing) or attempt(ing) to extort monies from employers by threatening grievances which could monetarily injure said employers."

- "Accepting bribes to fix, change, alter, or otherwise unfairly impact grievances."

- "Agreeing to accept and accepting bribes to settle grievances."

- "Utiliz(ing) the United States Mail to further their scheme."

The Penas are seeking all wages and benefits which they would have received "but for Defendants' unlawful conduct"; compensatory damages in an amount to be determined at trial for the "humiliation, anguish, and emotional distress caused by the Defendants' conduct"; a permanent injunction "enjoining Defendants from engaging in the unlawful conduct"; treble or punitive damages; an award of attorneys' fees, cost, and litigation expenses.

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