



CONTRACTORS WIN MAJOR LABOR LAWSUIT AGAINST UNION

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A federal jury in Boston Sept. 1 issued a verdict in favor of merit shop steel erector contractors who filed suit against Ironworkers Local 7 for conspiring to deny work to nonunion steel erection contractors and their employees through a job targeting fund. The jury awarded the merit shop contractors \$290,000 in damages.

In December 2004, five merit shop contractors, *including Maine Chapter member American Aerial*, sued Local 7 in a district court, claiming the union conspired with contractors who had signed a collective bargaining agreement (CBA) to monopolize steel erection work in the Boston area by excluding nonunion companies. The five companies claimed the union used Market Recovery Program (MRP) funds to help underbid nonunion companies and used methods including threats and picketing to coerce companies that were signatory to a CBA into breaching their contracts with nonunion companies.

The district court granted summary judgment to Local 7 prompting the nonunion contractors to appeal the decision. Once the case reached the Court of Appeal, ABC filed an *amicus curiae*, or "friend of the court," brief. On review, the appeals court reversed the decision and sent the case back to the district court for resolution, stating that since the union's MRP is a combination of labor and nonlabor groups, the union is not protected from the antitrust laws by the statutory labor exemption.

The jury award was based on the contractors' claim brought under Section 303 of the National Labor Relations Act, but is part of a larger antitrust case against Local 7 focusing on the union's MRP and whether it violated antitrust laws.

"This is precedent setting," said Michael Avakian of Smetana & Avakian in Springfield, Va., the lawyer for the five nonunion contractors. "The jury's verdict has provided damages to these contractors and helps allow the larger case to move forward."

Earlier this year, a study conducted by George Mason University's John M. Olin Institute for Employment Practice and Policy, showed construction labor unions spent more than \$1 billion in market recovery funds between 2000 and 2007 in an attempt to underbid nonunion contractors.

For more information, contact Michael Avakian at Smetana & Avakian, mavakian@aol.com.

ABC offers a service to members to subscribe to a law library and gain access to all the documents related to merit shop contractor court cases. For more information, visit www.abc.org.