

THE
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REPORT

VOLUME 6, NUMBER 12
DECEMBER, 1997



A PUBLICATION
OF THE AFFILIATED
CONSTRUCTION
TRADES FOUNDATION

The ACT Foundation is an association of West Virginia building and construction trades unions, with offices in Charleston and Clarksburg. Bruce Tarpley, President; Randy May, Vice President; T.L. Ranson, Secretary Treasurer; Roy Smith, Executive Director; Steve White, Director.

Charleston - (304) 345-7570
Clarksburg - (304) 624-0682

December

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NLRB SAYS 'WRONGFUL FIRING'

Two Workers Share \$5,000 Settlement

Two workers who were wrongfully terminated while working on First Sentry Bank in Huntington reached a final settlement.

Each was recently awarded back pay in the amount of \$2,500.

Tri-State Building Trades organizer Tom Williams represented the two before the National Labor Relations Board. Williams met with Rush Industries and DECO Inc. owners Harold Denning and Rich DeHart.

"I'm very pleased to have met with such a favorable outcome concerning this situation," said Williams. "It's a good way to end a bad occurrence—in this case, a wrongful termination of employ-

ment."

This situation occurred when two "salts" were hired by Rush Industries. "Salts" refer to undercover unionists who seek to organize non-

sible for violating employees rights to unionize.

It was then discovered that another company, DECO Industries, was also an employer joined with Rush Industries

'ALL ALONG THESE COMPANIES WERE SAYING THEY DID NOTHING WRONG. NOW THEY WILL PAY \$5,000.'

STEVE BURTON
TRI-STATE BUILDING TRADES

union jobs.

When questions of pay and union activity arose, the salts were fired.

Once fired, they filed an unfair labor practice charge.

The charge alleged the two companies were in fact joint employers, who were respon-

and C.D. Corporation.

First Sentry Bank is still waiting for its new building, now well past its scheduled completion date.

Pickets let the public know about the problems at the site last summer, but bank repre-

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IN EMBASSY SUITES CASE

Ruling Says 'Rights' Violated

The National Labor Relations Board has determined three construction workers, who helped build the Embassy Suites in downtown Charleston, were wrongly terminated from their jobs.

The \$33 million dollar 253-room hotel opened its doors for business in early Dec., costing millions of dollars more than original estimates and months after the first deadlines.

Soon after metal stud and drywall work began in January 1997, several carpenters went to work for non-union

Cleveland Construction at the hotel project. Carpenters Local 1207 recruited three men—Dewey Bruce Murphy, Raymond DeNuzzo and Michael George—to get jobs at the hotel site and organize employees there.

"These men had to convince the contractor they were not local workers before they were hired," said Bob Sutphin business agent for Carpenters Local 1207.

"We knew they wouldn't hire local people, too many had already tried."

The site had been picketed for months because general contractor McDevitt-Street-

Bovis of Altamonte, Fla. and many of its subcontractors refused to hire local workers. The hotel project was built on

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State Slates Safety Review

A series of accidents involving Division of Highways projects has caused concern for labor leaders who recently met with WVDOH leaders along with a team of international safety experts to come up with a new safety plan.

The latest accident, occurring in early Dec. when a McDowell County bridge collapsed leaving one worker dead and two others injured, was just another in a series of tragedies highlighting the problem. In the last 15 months there have been five other workers killed in accidents throughout the state involving WVDOH contractors.

According to court and U.S. Occupational Safety and Health Administration records, others include:

- Daniel Jacob Lewis II, 26 of St. Albans, killed on Oct. 8, 1996, when he fell 80 feet from the top girders during con-

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SHODDY CONSTRUCTION at Charleston's Embassy Suites included these out-of-line nine-story concrete elevator shafts.

AFL-CIO BOYCOTT LIST

BUILDING MATERIALS & TOOLS

BROWN & SHARPE MFG, CO.

Measuring, cutting, and machine tools and pumps -- Machinists

ROME CABLE CORP.

Cables used in construction and mining -- Machinists

SOUTHWARE CO.

Commercial and industrial wire and cable; Do-it-Yourself brand home wire -- Electrical Workers

FOOD & BEVERAGES

CALIFORNIA TABLE GRAPES

Table grapes that do not bear the UFW label on their carton or crate -- Farm Workers

DIAMOND WALNUT CO.

Diamond brand canned and bagged walnuts and walnut pieces -- Teamsters

FARMLAND DAIRY

Milk sold under the Farmland Dairy label in stores in Connecticut, New Jersey, and New York -- Teamsters

TYSON/HOLLY FARMS CHICKEN

Chicken and processed poultry products -- Teamsters

FURNITURE

TELESCOPE CASUAL FURNITURE CO.

Lawn, patio, other casual furniture. Brand name: Telescope -- Electronic Workers

TRANSPORTATION & TRAVEL

ALITLIA AIRLINES

Air transport for passengers and freight -- Machinists

BEST WESTERN-GROSVENOR RESORT

Hotel in Buena Vista, Fla.; located at Disney World, but separately

owned and operated -- Hotel Employees and Restaurant Employees

CROWN CENTRAL PETROLEUM

Gasoline sold at Crown, Fast Fare, and Zippy Mart Stations and convenience stores -- Oil, Chemical, and Atomic workers

FOUR POINTS BY SHERATON

Hotel in Waterbury, Conn. -- Hotel & Restaurant Employees

FRONTIER HOTEL & GAMBLING HALL

Casino hotel in Los Angeles -- Hotel & Restaurant Employees

KAUAI RESORT

Hotel in Kapaa, Hawaii -- Hotel & Restaurant Employees

MICHELIN

Michelin brand tires -- Steel Workers

NEW OTANI HOTEL & GARDEN

Hotel in downtown Los Angeles -- Hotel & Restaurant Employees

OGLEBAY PARK

Wheeling, W.Va., park/resort/recreation complex -- Hotel & Restaurant Employees

CLOTHING

MASTER APPAREL

Men's and boy's pants. Labels include Botany 500, Hills and Archer, and Blair -- Electronic Workers

OTHERS

BLACK ENTERTAINMENT TELEVISION

BBT cable television, Action pay-per view, Bel on jazz -- Electrical Workers

R.J. REYNOLDS TOBACCO CO.

Cigarettes: Best Value, Camel, Century, Doral, Eclipse, Magna, Monarch, More, Now, Salem, Sterling, Vantage, and Winston; plus all Moonlight Tobacco products -- Bakery, Confectionery, & Tobacco Workers

Safety Review On Highway Construction Slated

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struction of the Cheylan Bridge.

•George W. Robertson, 40, of Prichard was killed Oct. 29, 1996 when he fell about 120 feet during construction of the Holden Bridge in Logan

•Caval Howard, 47, of Salyersville, Ky., was killed April 25, 1996 while working on a U.S. 51 bridge project near Chattaroy in Mingo County.

•Greg Gentry, 28, of

Stephens, Ky., and Ken Perry, 48, of Fort Gay were killed July 2, 1997 when the I-64 bridge they were demolishing in Kenova collapsed.

Led by the Laborers Union and the State Building Trades, meetings have been held with the West Virginia DOH to find solutions.

"We have brought in the best safety people from our International to put solutions on the table for DOH to consider," said Gary Tillis, Busi-

ness Manger for Laborers District Council of West Virginia.

Many of the suggestions labor is pushing revolve around education, preparation and enforcement.

"We think bidders should be required to provide a comprehensive safety and health program that includes management commitment, assignment of responsibility, hazard identification and control, employee training and record keeping and hazard analysis,"

said Tillis.

Tillis, along with Steve Burton of the Tri-State Building Trades and Roy Smith of the State Building Trades, have met with Department of Transportation Secretary Richard Jeminola.

"We are encouraged by the fact that Secretary Jeminola came from the U.S. Corps of Engineers, an organization with an excellent record on safety," said Smith.

Burton suggested looking

at how private industry focuses on safety. "Private industry screens contractors on past safety records and how much time has been lost in accidents. The state basically awards contracts to the lowest bidder."

The department of transportation is planning to hold a summit, within the next few weeks, involving labor management and the state agencies to develop new regulations to improve safety in the industry.

BAD FOR WORKERS**'Tort Reform'
To Go Before
'98 Legislature**

As the West Virginia Legislature gears up to tackle its 1998 agenda, the idea of "tort reform" is under discussion.

"Tort" refers to any private or civil wrong except a breach of contract for which a wronged person may claim damages.

The question is—just how much is this reform needed and who will really benefit?

"Tort reform as it is being proposed, is clearly bad for

most their families could collect for punitive damages would be \$250,000 divided among the surviving families.

"The potential for large awards is a deterrent to bad actors out there who would cut corners on workers' safety to make more money," White said. "Construction work is

"TORT REFORM AS IT IS BEING PROPOSED IS CLEARLY BAD FOR CONSTRUCTION WORKERS AND THEIR FAMILIES ."

**STEVE WHITE
ACT DIRECTOR**

construction workers and their families," said ACT Director Steve White.

"This 'reform' compares with the 'reform' of workers compensation a few years ago. Working families will lose and big corporations will benefit."

The reform at our state legislature is labeled "civil justice reform" and similar to the "tort reform" currently being discussed in Washington, DC.

Still, it appears that neither of these so called "reforms" rest on facts.

They may even cause harm to ordinary citizens.

For example, the proposed bill caps the amount of damages that can be awarded, even in the most tragic cases. If a number of workers were killed on a job in one accident, the

already too dangerous. We don't need laws encouraging unsafe behavior."

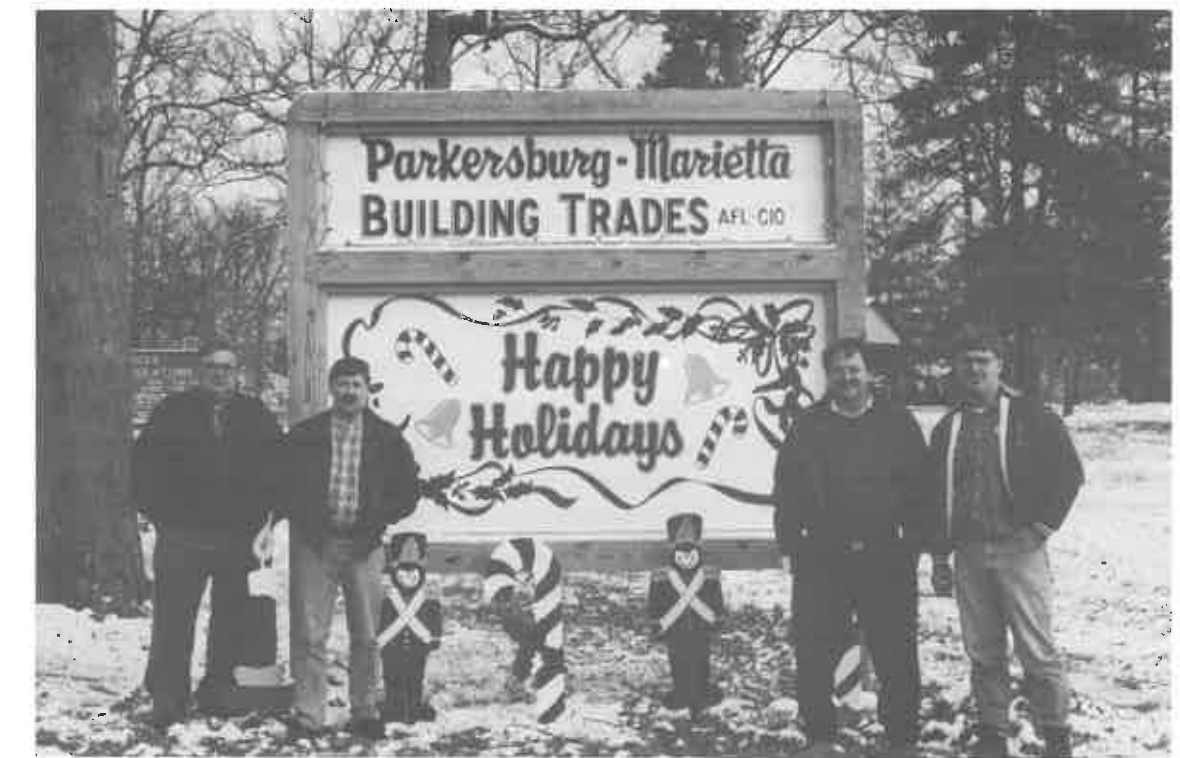
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ACT Rep Talks With Teachers

ACT representative A.B. Smith addressed the American Federation of Teachers during their November conference held in Davis, West Virginia.

Attending were 100 teachers, representing a diverse group of educators coming from all across the state.

Smith focussed on the damage current economic development agencies are doing to both construction workers and teachers. In particular he



A PARKERSBURG TRADITION is continuing with the Parkersburg-Marietta Building Trades Council joining others in the community to create holiday season displays. Showing off their own sign are (from left) the Trades Council's Sam Davis, Dan Poling, Painters LU 1144; Bevin Seaman, Carpenters LU 899; and Jim Lewis, Pipefitters LU 565 and ACT's area representative.

Trades Help Brighten Holiday

Area business agents, organizers, and members joined to shed some light on a holiday tradition—a light extravaganza in Parkersburg City Park.

Local businesses, groups,

and organizations were invited to share in the display of holiday lights.

The displays were officially lit following Thanksgiving Day during a ceremony with the city mayor, labor leaders, local businesses and citizens.

The lights stay up until after

News Years Day.

Participants used the opportunity to make their own displays. The lights take a variety of shapes and are a real source of joy for helping keep everyone in the holiday spirit.

"The lights take the shape of airplanes, elves, sea serpents, or just about any magical idea," said Dan Poling, an organizer for the Painter's Union.

"We feel this is a good way to get the message out to kids, as well as others, there's more to union workers than the way we're often seen. Community concerns have always been important to us," he added.

This year's light display by local the construction trades workers includes a chalet house, wooden soldiers, candy canes and also, a post office with a mailbox for children to send their letters to Santa.

There's also a festival of lights bulletin board showing the details of upcoming events.

pointed out that many economic development agencies purposely look for loopholes to let new companies avoid property taxes.

"When companies are exempted from paying property taxes on new projects, tax payers end up loosing," commented Smith. "This has a direct affect on teachers and the budgets they are given to work with."

Smith also pointed out how lost taxes could also have been used for infrastructure projects that create jobs for construc-

tion workers.

"It's working families in West Virginia that need a tax break, not international corporations," said Smith.

"Schools should rightly reap property tax benefits from businesses and individuals equally, instead we have a system where some pay and others get a free ride."

Smith explained how ACT initiatives like the West Virginia Jobs Act are designed to make economic development benefit citizens, not just companies.

'Tort Reform' Goes Before '98 Legislature

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White provided this list of questions concerning this pending call for "reform."

Is there a lawsuit explosion in West Virginia?

NO-The number of lawsuits filed in 1996 were the lowest in ten years.

Does "tort reform" encourage new business within states?

NO-Across the United States, states without "tort reform" have averaged 59% more new businesses in recent years than those with "tort reform".

Is "tort reform" needed to prevent juries from awarding excessive punitive damage awards?

NO-The average punitive award in West Virginia in 1996 was \$8,000.

Don't Punitive damage awards in product liability cases throughout the country imply that our juries are awarding exorbitant amounts here in WV?

NO-A recent Gazette-Mail report found zero punitive damage awards for product liability cases in Kanawha County since 1993, where as many as one-fourth of all West Virginia law suits are filed.

With the above questions answered, one might be curious-just what will the proposed "reform" do for West Virginians?

Drunken drivers for one will be protected by forcing their victims to prove the driver had specific intent to cause their injuries before any punitive damages can be awarded.

It will give added protection to abusive nursing home facilitators by requiring senior citizens who have been objects of neglect and abuse to prove the employer expressly commanded or authorized the exact abusive behavior before they can receive any compensation.

It will protectively clothe all wrong doers by limiting the amount of punitive damages that can be awarded to the amount of \$250,000 regardless of the number of victims who may have fallen prey to them.

It will tie the hands of the juries by severely limiting their ability to decide what is appropriate for victims in civil cases. It imposes a "one size fits all" solution designed by state legislators.

It will not address one of the biggest court system abuses which is businesses suing businesses. It will help big business in its endeavor to swallow the "smaller fish".

"The idea behind the reform is that this right is being overly abused in our state by individuals claiming to be victims," said White.

"But the facts simply do not support this."

IN EMBASSY SUITES CASE

Worker Rights Violated

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land owned by the Charleston Urban Renewal Authority.

At first everything went smoothly. But, once they revealed they were union organizers things changed.

According to the men they were reassigned to lesser skilled work, segregated away from other workers and disciplined unfairly.

On their last day of work OSHA was conducting an inspection and when the OSHA representative started to talk with Murphy, Cleveland managers quickly interrupted.

The three men went on strike feeling their safety concerns were not being taken seriously. Pickets again hit the street in support of these workers.

One week later, the men returned to their jobs, but job supervisor, Jack Brooks told them they had no jobs.

"A line was crossed (by the company) when these men were fired for protesting safety conditions," said Administrative Law Judge Jerry M. Hermele, who presided over the case.

Hermele found the termination of the three men's jobs was in violation and a direct outcome of their exercising the right to organize. He ruled the three men should have their jobs back if that possibility does exist.

He also ruled the three must be compensated for loss of pay and benefits they would have earned had they been kept on the job until its completion.

Cleveland Construction has been ordered to turn over all payment records, timecards, social security payments, payroll records, personnel records, and reports for the job.

The records must be made available to the court within 14 days of the ruling.

This will enable a fair settlement to be agreed upon concerning the loss of pay in question.

In addition, Cleveland must post a notice acknowledging the three men did not engage in any unlawful practices and have been vindicated of any wrongful doings.

A written notice must also go out to each employee of the construction company concerning the final verdict in the ruling.

Also, a written notice of the rights of employees to unify for safety and strength must be sent to each employee.

"It's a shame so many local workers lost job opportunities on this project," Sutphin said.

"The job was months overdue, it appears over budget, and the quality of many phases of the construction was terrible."

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Two Workers Share \$5,000

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sentatives and their contractors denied wrong doing.

"All along these companies were saying they did nothing wrong," said Steve Burton, business manager for the Tri-State Building Trades.

"Now they will pay \$5,000 and post notices to all employees explaining how they will not break the law again."

Addressed also, was the right of employees to organize without fear of retaliation of any type for these efforts.

Rush Industries and DECO were ordered to give each worker a copy of this "Right to Organize" policy. The companies must also submit the names and addresses of each employee to Williams who will forward this information to the local union organizers.