

CITIZENS FOR AN INDEPENDENT CHUGACH ELECTRIC

P.O. Box 100476
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(907) 274-2423 • fax 274-8868

August 22, 1996

CICE FAX UPDATE

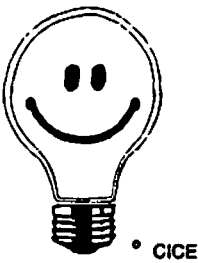
IBEW UNION ON TRIAL FOR THE NEXT WEEK IN ANCHORAGE COURTROOM *OUTCOME WILL BE CRITICAL IN THE BATTLE TO ENSURE THAT THE PUBLIC REALIZES BENEFITS FROM FREE, OPEN AND COMPETITIVE BIDDING*

A long awaited damage suit against the International Brotherhood of Electrical Workers (IBEW) Union is now being tried in Superior Court in Anchorage. Alaska Utility Construction, Inc. is suing the IBEW Union for harrassment, abuse, and illegal attempts to force them to sign an agreement with IBEW during the 1986 construction of a powerline extension for Matanuska Electric Association to the Eklutna water plant. During the controversy, the Anchorage Police Department and the State Troopers were forced to deploy as many as 30 uniformed officers to protect employees and property and to separate IBEW pickets from the open shop contractor's job site. It is alleged that the IBEW and their sympathizers were responsible for numerous acts of intimidation during the conflict including snipers firing on the jobsite, deployment of a Molotov cocktail, threats against the contractor's wife and children and against employees. These actions were preludes to the disruption and violence that occurred during the 1987 IBEW strike against Chugach Electric Association.

This is a very important trial because if the public is ever to realize the benefits of lower cost utility construction and maintenance, ALL contractors must obviously be protected from this kind of damage and harrassment. With the phasing-in of the new open bidding bylaws at Chugach and Matanuska Electric Associations, no non-IBEW companies will bid if this kind of activity is condoned in our community.

THOSE INTERESTED ARE ENCOURAGED TO ATTEND. PROCEEDINGS WILL CONTINUE FRIDAY AUGUST 23 IN COURTROOM 602 IN THE NEW NESBETT COURTHOUSE AT 4th & "I" St FROM 8:30 TO 12:30 or 1:30?. The cross examination of plaintiff Alaska Utility Construction owner Aaron Downing by the IBEW attorney will continue. Mr. Downing is a former member of the Matanuska Electric Association Board of Directors where he had worked on a number of utility reforms. IBEW Business Agent Gary Brooks has been present at the defense table throughout the trial. Mrs. Helene Antell Brooks, IBEW Attorney, is expected to testify Monday.

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August 23, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harrassment Lawsuit - Progress Report #2

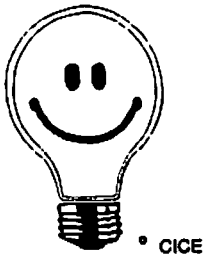
As reported yesterday a long awaited damage suit against the International Brotherhood of Electrical Workers (IBEW) Union is now being tried in Superior Court in Anchorage. Alaska Utility Construction, Inc. is suing the IBEW Union for harrassment, abuse, and illegal attempts to force them to sign an agreement with IBEW during the 1986 construction of a powerline extension for Matanuska Electric Association to the Eklutna water plant.

Today's Proceedings - Union cross examination of plaintiff Alaska Utility Construction owner Aaron Downing by the IBEW attorney concluded. IBEW Business Agent Gary Brooks did not attend today's trial proceedings.

Testimony of Alaska Deputy Commissioner of Public Safety Del Smith - In 1986 he was a Captain in Anchorage Police Department and was Commander of the Uniformed Field Service, Patrol Division. He testified that when called out to the Eklutna jobsite, he found IBEW pickets and there had been vandalizing of vehicles for the past few days. It was determined that it would be best that he be assigned every day out to that site. He had a number of officers assigned to him out there and he was concerned with vandalism, injury prevention and making sure that the contractor could get his work done. He had 4-5 officers plus himself out there. The day wire was to be strung, they had over 20 Anchorage policeman in addition to State Troopers and their helicopter at the jobsite. APD had received reports of threats involving the stringing of the wire. Also they deployed the Felony Supression Unit (a video tape team) and the SWAT Team. They were concerned about rifle fire to the job site from a distance. One day he observed a newly installed power pole nearly cut off near the ground with a chainsaw. It was on a cliff and he was concerned about safety if a worker had unknowingly climbed the pole. He was asked "Did you think it was really necessary to have a police presence at Eklutna's job site from what you saw?" He responded, "It was absolutely necessary for police presence at the Eklutna job site". On the cross exam Del Smith stated he saw no criminal acts or made any arrests personally.

Again: This is a very important trial because if the public is ever to realize the benefits of lower cost utility construction and maintenance, ALL contractors must obviously be protected from this kind of damage and harrassment. With the phasing-in of the new open bidding bylaws at Chugach and Matanuska Electric Associations, no non-IBEW companies will bid if this kind of activity is condoned in our community.

THOSE INTERESTED ARE ENCOURAGED TO ATTEND. PROCEEDINGS WILL CONTINUE MONDAY AUGUST 26 IN COURTROOM 602 IN THE NEW NESBETT COURTHOUSE AT 4th & "I" St FROM 8:30 TO 1:30. Plaintiff's case will be completed with testimony on threats to the workmen, Molotov Cocktail attempt against Downing. IBEW Case will start on Tuesday; Helene Antell Brooks, IBEW Attorney, is expected to testify then.



CITIZENS FOR AN INDEPENDENT CHUGACH ELECTRIC

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August 26, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harassment Lawsuit - Progress Report #3.

Today's Proceedings (8/26/96) - Plaintiff's witnesses Joe W. Carter (by deposition), David Lee Johnson, Lisa Downing (by deposition), and Phillip Downing. IBEW Business Manager Gary Brooks returned to observe the trial from the defense table.

Joe W. Carter Deposition - He was District Engineer for Matanuska Electric in Eagle River. He was threatened once on the site while sitting in MEA truck #865. A man came over and struck his head in the truck. "Just who in the f--- are you?" "I think I am going to pull you out of this truck and beat the f--- out of you." There were a lot of cat calls going on. I remember even one mentioning the character of Aaron Downing's wife as a woman. *Did you see any acts of violence taking place?* "No." The police were there every day separating picketers from Alaska Utility Construction workers. I saw up to 20-30 police cars on the site. IBEW said that AUC was operating in an unsafe matter. *Did you see unsafe work practices--*"No." The AUC workers all had State electrical fitness certificates.

David Lee Johnson Testimony - Mr. Johnson is a glass blower in Gaston, Ore. He has been a logger, saw mill worker, construction worker. Worked for Aaron Downing in 1986. He (like most all the other employees) was a shareholder in AUC. Did pole climbing, pole rigging.

The first job I worked on in 1986 was in Glennallen on a pole replacement job of 10-12 or so poles. IBEW picketed us for 3 days; one sign said "RATS". Steve Shimmel appeared to be the picket leader. He told Bud Fritz that he wanted Phil Downing and I to go into the IBEW apprentice program. One picketer said that I "would be eating fish heads and rice within a year". I asked what the problem is. He said you are not union. I said "I have been to Vietnam and have a right to work here."

Picketers called us RATS. They were 80 feet away, close to shouting pitch - slogans "F***ing scabby rats", "We ought to kill all you mother f***ers", "How does it feel to have your old lady being f***ed by everyone in the Brotherhood?" They said these things in the presence of Lisa Downing. At one point they transferred a rifle from one of their vehicles 60 yards away. They were not trying to hide their actions.

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**Alaska Utility Construction vs IBEW Union Harrassment Lawsuit
Progress Report #3 - August 26, 1996**

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One time there were children (6 years old) with the picketers for several hours. The father called us "f***ing scabby rats" and the child repeated it. One time Lisa was with us and I told her to stay in the truck because we were out numbered by pickets. I was extremely afraid.

Next job we did was a little line work for Jim Hermon's subdivision at Granite Heights in Palmer. Picketing happened on that job too. I recognized Steve Shimmel leading the picketers again and some of the same faces that were at Glennallen. 10-12 picketers. We had a crew of 4 or 5 on the job. We communicated with a base station radio at Aaron's house operated by Lisa and Donna Downing. The picketers used the same "RAT" signs with IBEW logos. They would stand next to a worker - talk to him - tell him about his ancestors. Most of the time we had to work down in a 4 foot-deep ditch where we were laying the wires. Picketers would be over us at the edge of the ditch. Steve Shimmel threw a softball size rock into the ditch toward my co-workers Jay & Phil. It hit a compactor tool. Another time a 3-4 lb rock was thrown into the ditch. Steve Shimmel told me he was going to find me sometime and "beat the s*** out of me." I said "if you do, you might as well as finish the job and kill me." Shimmel said "We can arrange that too." Picketers spit on Jay several times while he was working in the ditch compacting soil. They were 4 feet away from him. When the police came out several times to the site the picketers went away across the road but when the police left the picketers returned to our work area site.

Our next job was the Eklutna Lake line to set 24 power poles. We had a crew of 5 or 6 workers. One of the crew, Clay, quit after 4-5 days on the job. There were 12 to 15 picketers the first day, then it grew as the job went on to 20 as a minimum. Steve Shimmel was still the apparent picket leader with many of the same faces showing up again with their signs with IBEW ID. One day there were 50 or 60 (and this was after Aaron had obtained a temporary restraining order against the picketing).

They would park their vehicles before and behind our vehicles. At times they would lean up against our equipment and interfere with our ability to work. Nearly all of our equipment was damaged. Our boom truck radiator was punched full of holes; our rented backhoe's hydraulic hose was cut. I never saw evidence of shooting holes in our equipment. Picketers were many times on both sides of our work area 15-20 feet away in the brush shouting repetitious slogans - "scabby rat!" Threats to kill us. One day I was by myself and had to work most of the day rigging poles with cross arms. They threatened to rape everybody in my family "including my daughters if I had any" and rape Aaron Downing's family also.

Bud Fritz and Aaron Downing were my supervisors. They had a little GMC truck with a radio. One day 12-15 picketers surrounded the truck and bounced it up and down with Bud Fritz in it. They pounded on the hood with their fists and spit on the windshield until one couldn't see through the windshield. With all of this kind of thing going on - I couldn't work sometimes and I was slower at what I did.

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Alaska Utility Construction vs IBEW Union Harrassment Lawsuit
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The temporary restraining order (TRO) required the men to stay 200' away from our workers. But they never did stay away from us even after the TRO. I was afraid. Frequently we had to work alone. The five of us had to be spread out along the power line right-of-way to do our work. The picketers behavior was worse at Eklutna than it was at Granite Heights. After the TRO the IBEW labels were removed from picket signs but they were the same people as before.

Lisa Downing Deposition - My father would not allow me on the Granite Heights or Eklutna job sites, it wasn't safe. I did operate the radio. One time, I got a call from Bud Fritz to ask for a 911 call. People were rocking his truck and there was great urgency and fear in his voice. We received lots of hang-up calls. The picketers tended to stay in the trees and brush. They seemed to avoid the open areas. They shouted "you're going to pay for this a long time." "We ought to kill you all." We were afraid; we didn't feel it was safe.

Phillip Downing Testimony - Now is a farmer in Oregon. I was a stockholder and employee of AUC. Worked as a mechanic, equipment operator, welder for AUC at Granite Heights. I worked down in the ditch. Many times the picketers brought their vehicles to the site before we were able to get there in the morning. They went inside the barricade and parked vehicles in the way of places we needed to get to for work. Picketers called us "F***ing rats", "We ought to kill you all - taking our jobs!" "We will get you and your family" delivered in a raging mob tone of voice. Steve Shimmel said one time he would "tear my f***ing head off." I was in the ditch working, he was 2-3 feet away from me when he said it. I didn't say anything back - I was afraid. I didn't want to provoke them. Shimmel made a fist and motioned me to come to him. Another guy kicked a second rock near me and asked if I had made out my will. Picketers never really touched us but they made sure they were inconveniently in the way with their vehicles.

One of our co-workers, Barrickman quit after he was hit in the throat with a rock. Towards the end of the job, one day, there were over a 100 picketers on our job.

Another time I was moving the backhoe and I had to pass a picketer next to me on the site. As I passed by he laid the sharpened end of a picket sign lath on my shoulder with the point near my neck and said he was going to change my sex life. I was afraid and didn't say anything back to them. Luckily, police came from across the way.

I was the one who fixed the damaged radiator core which had been pierced with holes with splinters of wood sticking out of it. The picketers would follow us home. The overwhelming number of the pickets would really make you stop and think. There was a day when the police helicopter was present and a large number of officers. *Were you afraid?* "Yes" At the conclusion of the job the Anchorage Police Department escorted our trucks as far as the Knik River bridge.

Cross-Exam by Union Attorney - Tried to show Phillip Downing was doing electrical work on the job as well as equipment operation work.

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Today's testimony has brought out that Alaska Utility Construction was a small family-owned business with less than a half dozen employees most of whom were apparently also stockholders. They came to grief from massive picketing and targeting by the IBEW Union because they would not sign a union agreement.

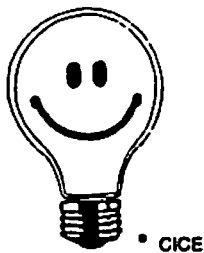
With over \$40 million a year in utility capital construction and maintenance in the railbelt, electric consumers have a lot at stake in this issue. Each time a company is intimidated and afraid to bid on a project, the resulting reduced competition can be expected to increase the costs to the cooperative or municipal utility. This unnecessarily drives up the rates consumers pay.



Again: This is a very important trial because if the public is ever to realize the benefits of lower cost utility construction and maintenance, ALL contractors must obviously be protected from this kind of damage and harassment. With the phasing-in of the new open bidding bylaws at Chugach and Matanuska Electric Associations, no non-IBEW companies will bid if this kind of activity is condoned in our community.

THOSE INTERESTED ARE ENCOURAGED TO ATTEND. PROCEEDINGS WILL CONTINUE TUESDAY AUGUST 27 IN COURTROOM 602 IN THE NEW NESBETT COURTHOUSE AT 4th & "I" St FROM 8:30 TO 1:30. Plaintiff's case will be completed with more testimony on threats to the workmen and the Molotov Cocktail attempt against Downing. The IBEW will start their defense. It is expected that Business Manager Gary Brooks will testify and it is understood that Helene Antell Brooks, IBEW Attorney and wife of Gary Brooks will testify at some point in the case.

OUTCOME WILL BE CRITICAL IN THE BATTLE TO ENSURE THAT THE PUBLIC REALIZES BENEFITS FROM FREE, OPEN AND COMPETITIVE BIDDING



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August 27, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harassment Lawsuit - Progress Report #4

Today's Proceedings (8/27/96) - Plaintiff AUC's witnesses: John Christmas (by deposition) and Tom Cox; Defendant's case began with testimony from IBEW Business Manager Gary Brooks and Tom D. Alexander.

Attorneys trying this case before Judge Brian Shortell are: Tom Owens (Owens & Turner) for Plaintiff, Alaska Utility Construction and Dale House (Lane Powell Spears Lubersky) for defendant IBEW Union.

Mr. John Christmas Deposition - Security man for Alaska Utility Construction. Three or four times shots fired over our heads zipping through the trees while I was watching equipment. We couldn't move equipment because picketers were changing tires on vehicles that weren't flat and were in our way. It was always something they were doing in our way.

Testimony of Tom Cox - Challenged by union defense on an evidentiary basis - Judge allowed Cox testimony to continue without jury present until ruling on admissibility is made. Cox performed security guard services at Eklutna for AUC. On the last day of the project we had a motorcade. When we left the job site, I was in the rear vehicle, a pickup. Aaron Downing was in the boom truck in front of me. We had a police escort north to the Eklutna Bridge. As we were going north across the flats there was a turnoff on the left where people sight in their guns. I saw a man with a bottle and a rag out of it - flaming! I said to Christmas who was in the truck with me, "What is it - a Bomb!" I started flashing my lights and horn. I pulled over to try and attract Aaron's attention. I saw a cop car coming towards us and the cop car pulled off into the other end of the loop. I thought the police officer had seen the man - later on I found out that he didn't see him. The man turned around and ran back into the woods with the bomb. We went on with the equipment to Palmer and dispersed it to their different locations.

Cross-Exam by union attorney - It was a large bottle - It filled the man's whole hand. Judge Shortell - *How close were you to the man at the closest?* 50 yards. I was in the truck with John Christmas. It was 3 in the afternoon. It was bright daylight. Judge ruled that Molotov Cocktail testimony not to be heard by jury at this time until briefs are submitted by both attorneys.

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BEGIN IBEW UNION DEFENSE CASE

Gary A. Brooks Testimony - Business Manager and Financial Secretary of IBEW Local 1547. "This plaintiff is not describing and organization that I am familiar with." I got in the union in 1972. I started in an electric co-op in Georgia in 1965. I believe strongly in what unions do - inject a sense of justice in the workplace - a level playing field. IBEW represents all branches of working people - electrical and communication workers, city, state, court system, hospital employee - 5,000 members in total. In 1986, we had about 4,000 members - 500 of our members are journeymen linemen.

Mr. Shimmel as a Business Representative of the union would have been assigned to police worker unit problems and resolve difficulties. *When you were a member of the IBEW Ex-Board in 1986 were you aware of the picketing at Eklutna?* Yes- I was employed at Matanuska Telephone Association as a shop steward. I was at the Granite Heights site for 30-45 minutes to observe quality of work. I was also on the board of directors of Matanuska Electric Association. I first knew Mr. Downing when he was an IBEW contractor active in the valley as Downing Electric. We had an advisory relationship after he opened his non-union firm - Alaska Utility Construction. He objected to my being on the MEA Board at the same time I was on the IBEW Executive Board.

The Local Union does not have the ability to stop workers from picketing if they want to - their right to do that is guaranteed under the U.S. Constitution.

Cross-Exam by plaintiff attorney - 1,500 of 5,000 IBEW members are in construction. Average wage is \$28.00/hour in construction. *Is throwing rocks picketing?* No. *Pointing a sharpened stake at a persons throat?* No. *Threatening to kill someone?* No. *Is damaging employees equipment picketing?* No. *Shooting at people?* No. *Does the Executive Board have power to discipline IBEW members?* Yes. It is over the trial board - unit committee which deals with internal charges. It can assess fines, suspend or expel a member. *Could the trial board discipline a member who was doing something that was harming the reputation of the IBEW?* Yes, if a charge was brought by a member. The picket captain has the authority to file charges against a misbehaving picketer - *Before the TRO was issued, were the picketers sent out at the request of the IBEW?* Yes, that is my assumption. *Did any employee or member of IBEW ever file charges against any picketer?* I have no knowledge of any such charges being filed.

Tom D. Alexander Testimony - Electrician. Lived in Alaska since 1953. IBEW member since 1965; on IBEW Executive Board; in 1986 was Assistant Business Manager (for Anchorage Unit) to Jack Hull. Debbie Sibertson was an IBEW picket coordinator in charge of getting picketers assembled and on site. These are the rules for IBEW picketers she sent to the general membership (referring to a detailed list of proper picketing guidelines). Behavior that members are expected to conduct themselves by.

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Alaska Utility Construction vs IBEW Union Harassment Lawsuit
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Rule #8 - "Do not engage in any arguments - conduct yourself courteously at all times. Do not use obscenities. Do not block entrances to the job site."

What does this mean (from July 1, 1986 IBEW meeting minutes)? "MEA pressure on Downing to continue; NLRB ruled in Downing's favor." Answer: Downing was requesting an extension on his contract and we wanted to see if we could prevent this from occurring. Our contractors get the work done on time and we felt it would be unfair if he got an extension.

Cross-Exam by plaintiff's attorney - Do you agree that all picketers at Eklutna would have known what the rules of proper picketing are? Yes - every member of the IBEW received copies of the picketing rules in the mail. What would the IBEW do if IBEW-sanctioned picketers violated the rules? We could bring charges - but the violators may not be in the realm of our responsibility. Did you think that IBEW had any responsibility when your sanctioned picketers misbehaved? Until now, I was not aware this had ever happened. You mean IBEW picketers never before misbehaved? No, I think it did happen before. Did the IBEW take any disciplinary action on a member who misbehaved on a picket line in prior years? I don't recall any disciplinary actions ever being taken in that circumstance. Did you or anyone else in the IBEW ever go out to start an investigation to see whether your Eklutna picketers were obeying the TRO? I do not know if anyone ever went out to investigate. Did you or anyone else in the IBEW ever start an investigation into TRO compliance? I do not know.

THOSE INTERESTED ARE ENCOURAGED TO ATTEND. PROCEEDINGS WILL CONTINUE WEDNESDAY AUGUST 28 IN COURTROOM 602 IN THE NEW NESBETT COURTHOUSE AT 4th & "I" St FROM 8:30 TO ABOUT 12:30. The IBEW defense will continue. It is expected that IBEW linemen will testify. On Thursday it is understood that Helene Antell Brooks, IBEW Attorney and wife of Gary Brooks will testify.

**WE HAVE LOST OUR VOLUNTEER COURT REPORTER!
CITIZENS FOR AN INDEPENDENT CHUGACH ELECTRIC needs a
volunteer to continue to take these notes during the trial on late
morning on Wednesday and on Thursday and Friday. We
unfortunately must otherwise stop making these daily reports.
PLEASE CALL THE CICE OFFICE IF YOU CAN HELP 274-CICE.**



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August 28, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harassment Lawsuit - Progress Report #5

Today's Proceedings (8/28/96) - Defendant's case continued with testimony from linemen William Seitz (CEA), Steve Lund (retired) and Michael Hodsdon (CEA) and retired IBEW executive recording secretary Renee Barnes.

Attorneys trying this case before Judge Brian Shortell are: Tom Owens (Owens & Turner) for Plaintiff, Alaska Utility Construction and Dale House (Lane Powell Spears Lubersky) for defendant IBEW Union.

Testimony of William Seitz - Power-lineman. IBEW member since 1971, journeyman since 1976. Described training to become a journeyman – apprenticeship school (joint NECA/IBEW) for 6 months, serve 8000 hours under supervision of journeyman lineman, and pass an exam. He had worked for Aaron Downing in the past and has known him since 1974. He picketed at Eklutna 1-1/2 hours Friday, 2 hours on Saturday, and stopped by on Sunday, June 20-22, 1986. He believes he attended a union meeting Friday June 20. *Does the Union have the power to tell you to NOT go picket?* Not really. *If the Union said "no", would you go?* Yes. *Why did you go?* Freedom of speech, freedom to assemble. He observed AUC workers framing and setting a pole and 10-15 police. He saw the police arrest one picketer. He did not see any picketers impede AUC, saw no violence, did not hear any threats, nor did he see Steve Shimmel, whom he described as "big", "happy-go-lucky", "good people." *Did you get sued?* Yes, by AUC. *Did you do anything which would have prevented AUC from doing their work?* No. He also testified that his feelings about the union are "mixed", that he doesn't like the current "spreadoutness" of the IBEW, referring to the inclusion of non-craft workers into the union.

Cross examination by plaintiff attorney - *Did you ever see the TRO?* I believe I did. *Did anyone ever explain the TRO to you?* I believe, yes. *When you went up Saturday was there a barricade and a sign?* Yes. *Did you go past it?* Yes. *Did you walk within 200 feet of the workers?* Yes. *Is it true that the people there were IBEW workers that you knew?* I'd say most of them. *Do you know whether Bud Fritz was disciplined by IBEW for working for AUC?* I believe he was.

Redirect by defense - *Did the police try to stop your passing the barricade or try to restrain you?* No.

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Alaska Utility Construction vs IBEW Union Harassment Lawsuit
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Testimony of Steve Lund - Retired lineman. Became a lineman and joined IBEW Local 1547 in 1955. Became a journeyman in 1958. I was the first to become a journeyman through hours. Prior to that you were referred. It's been a good trade, building power and telephone lines. It's taken me around the world. *You've worked for Aaron Downing?* Yes, Downing Electric in early 1970's. He was hiring union hands at that time. *Did you engage in picketing?* We had a non-union contractor, but from a different trade, after the earthquake. We were told to run the non-union contractor out-of-town. *Did you hold some feelings for Aaron in 1966?* I knew the man quite well and thought a lot of him. *Why did you go up to Eklutna?* I didn't like what he was doing. I felt like he deceived me and I had a responsibility to show I didn't approve of it. *There is evidence of a lineman meeting on June 20th.* I do remember a meeting. "There's been a TRO - don't get so close to the job. Observe the distance factor. Don't get near the equipment or the workers." *How was the meeting conducted?* I believe Shimmel and Alexander were there. They said, "Stay the hell away from the people. Observe the injunction." *Does the union have the power to stop picketing?* What each person does is their decision. They tell us not to go or to observe the injunction. I got the message. I personally went three times. There were a lot of people. The Downing crew was there -- there weren't more than 5-6 people. They were pretty much together. They were framing a pole. There were almost as many police as picketers. 30-40 picketers. *Were there bathroom facilities?* I found a bush.

Did you see Aaron Downing? Yes. Aaron motioned me over, but I ignored him. That would violate the injunction. I never saw anyone violate it. There was lot of hooten' and hollerin' and heckling. If they saw anyone screwing up, they'd comment. "Hey dummy, don't you know..." General heckling. *What kinds of words?* Some kind of rough. Some nasty words. *Did you any physical violence or damage to the AUC equipment?* No. They parked equipment so it was hard to get around it and still observe the injunction. *What did the police do?* There was a police photographer. All they did was observe and just be there. AUC crew were always in police's view. *Do you feel that violence could be useful?* Not with that many police there. *What about if they weren't there?* I don't know anyone there who would maim, kill or destroy Aaron Downing. *Did the picketers do anything to endanger AUC?* AUC was a bigger danger to themselves. Aaron hired unskilled people to do a dangerous job. It was obvious they didn't know what they were doing. *How do you feel about 1547?* I AM 1547. I am very proud to be an IBEW worker.

Testimony of Michael Sam Hodsdon - Journeyman Lineman since 1984. My father was in the trade. We enjoyed security and a sense of pride, and I carried on the tradition. In apprenticeship school, you study theory of electricity, rigging, knot tying, pole climbing. Must complete 4000 hours before you can work on energized line; then you go to hot school. In the first 4000 hours you do cold work, menial work, like hand-digging, framing the poles, a little climbing.

When he went to Eklutna, he was unemployed as of the day before (payroll checks bounced which violated the Union contract -- eventually paid through Union intervention). Father and I walked up to the work site. I saw some people, policemen, Cross examination by plaintiff attorney and workers doing construction. I cannot

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Alaska Utility Construction vs IBEW Union Harassment Lawsuit
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recollect how many people. I remember one framing a pole, putting hardware on. *Did you ever put frames on bottom-side up?* Yeah, once. *How many policemen?* I remember one. I asked a policeman if and where we were allowed to be. *How many picketers?* Maybe 20, maybe less. I was there I think on Thursday around lunch time. *Did you hear any threats?* No. *Witness any property damage?* No. *Did AUC make any progress?* Yes, framed a pole and lined up material. I was there 1 hour total time. *Were you sued?* Yes, to my surprise. *Was Steve Shimmel there?* No, not to my knowledge.

Cross examination by plaintiff attorney - *In the beginning [as an apprentice], you were allowed to work on cold construction. Is that the kind of work going on at Eklutna?* Yes. *You were there for about one hour?* Yes, total time, including walking from the car and back.

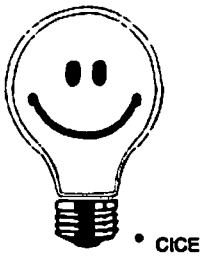
Testimony of Renee Barnes - Came to Alaska in 1945. Began working for Anchorage Telephone Utility in 1969 (prior to that, Matanuska Telephone). Joined IBEW in 1970. Became active in IBEW administration. Left IBEW in 1990 or 1991 after retirement. In summer, 1986, was recording secretary for Local and attended executive Board meetings and wrote minutes. Minutes were not verbatim recordings. They include topics for discussion, attendees, action and results of actions. Meetings were 4 to 8 hours long.

Cross examination by plaintiff attorney - *In Unit 101 July 17, 1986 meeting minute, it says, "Need some new faces to picket at Eklutna. How come the guys on the books are not doing their picket duties?" Would meeting minutes go to the Executive Board?* Yes. *So Executive Board would know about the recruiting for pickets at Eklutna?* Yes and at other sites. *Do you recall the picketing at Eklutna?* Yes. *Does Executive Board have authority to direct members?* Yes. *Did Executive Committee take any steps to stop recruitments of picketers?* I don't remember it coming up at Executive Board meetings. Sanction was withdrawn when the TRO was issued. The witness agreed that Shimmel's signature at the Unit 101 meeting would indicate he attended.

Reargument points of admissibility - Yesterday's preliminary ruling on inadmissibility of plaintiff-witness testimony regarding Molotov Cocktail upheld.

THOSE INTERESTED ARE ENCOURAGED TO ATTEND. PROCEEDINGS WILL CONTINUE THURSDAY AUGUST 29 IN COURTROOM 602 IN THE NEW NESBETT COURTHOUSE AT 4th & "I" St FROM 8:30 TO ABOUT 12:30. The IBEW defense will continue. On Thursday it is understood that Helene Antell Brooks, IBEW Attorney and wife of Gary Brooks will testify.

WE HAVE LOST OUR VOLUNTEER COURT REPORTER!
Citizens for an Independent Chugach Electric needs a volunteer to take notes during the trial Thursday and Friday. We must otherwise stop making these daily reports. PLEASE CALL THE CICE OFFICE IF YOU CAN HELP, 274-CICE.



**CITIZENS FOR AN INDEPENDENT
CHUGACH ELECTRIC**

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September 5, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harassment Lawsuit - Progress Report #6

Thursday's Proceedings (8/29/96) - No CICE court reporter was present but we understand that IBEW general counsel Helene Antel Brooks (wife of Gary Brooks) testified that the union was not responsible for any of the actions of their picketers that may have been improper. Any of that was individual action of those expressing their constitutional right to free speech. The union did not and would never condone unlawful acts.

Out of presence of the jury, Matanuska Electric Association board vice president Barbara "Tamie" Miller testified that she was a member of the MEA board when the vote to award the Eklutna contract to Alaska Utility Construction was made in the spring of 1986. She said that Gary Brooks, then MTA Shop Steward and IBEW member, was also on the MEA board at the time of the vote. She testified that Brooks said there could be violence if the contract was awarded to a non-union contractor and that he offered to pay the \$300 difference in the bids out of his own pocket. Judge Shortell ruled that this testimony could not be presented to the jury.

Friday's Proceedings (8/30/96) - Canceled due to illness of defense attorney Dale House.

Today's Proceedings (9/4/96) - Wednesday - Case Summation - Last day of trial.

Tom Owens (for plaintiff) - Closing argument main points. The jury must decide:

1. Was there a campaign of violence against AUC and their employees?
2. Was IBEW responsible?
3. What damages were suffered?
4. Should IBEW be punished for their actions?

1. Was there a campaign of violence against AUC and their employees? Each of you gets to decide what is violence. What is unacceptable violence? Evidence showed you that there was not just severe threats but vulgar, gross actions. You have heard the testimony of employees and families. Rifle display by picketers in front of contractor's employees at Glennallen. Threats to kill employees that were just trying to do an honest job that they won in open and fair competition. They had done nothing against the IBEW Union. Rocks thrown by picketers standing above innocent workers

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in a trench trying to do their jobs. Picketers spitting on them, which in all cultures is a degrading act against another human being. Firing rifle shots at night coming from above at Eklutna while at the same time yelling horrible vulgar threats "you better get out," "RATS" etc. Sharpened picket stake placed on the jugular of Phillip Downing as threat is made. One employee hit in the neck by a rock and quits. A mob surrounding a truck and yanking it up and down and spitting. These actions are unrebutted in any testimony from defendant IBEW Union.

They also attempted to kill people by sabotage - sawing through a power pole. An employee could have been killed had this not been discovered. Threatening rape and horrible vulgar comments about workers' family members, daughters, wives. Picketers even brought children to participate in these vulgar affairs. Think about what this is teaching their children about life. Abundant evidence of out of control violence. Testimony of Anchorage Police supervisor Del Smith: "A large show of force was absolutely necessary to prevent injury and violence at Eklutna". Required 20-30 officers, riot bus, SWOT Team, and police helicopter in attempt to keep employees of AUC from being shot by snipers. A Superior Court judge had to be convinced that the IBEW Union was threatening violence and assaulting individuals before such a temporary restraining order (TRO) would be signed.

What evidence has been introduced by the IBEW to convince you that all this stuff didn't happen? Answer: They provided a number of witnesses who actually testified that they weren't there! There was a 30 day campaign of violence against AUC by IBEW. IBEW provided only 4 witnesses who were there only a brief time - 15 minutes, ½ day, 1 hour, a few hours - and testified that they didn't see anything going on except the police arresting someone. You will get Jury Instructions that will tell you that if a party doesn't bring forth evidence to rebut charges against them, you may consider that it is evidence of the weakness of their case.

2) Was the IBEW responsible for the campaign of violence against AUC? There is both direct and circumstantial evidence tying IBEW to this campaign. "IBEW Business Manager Jack Hull: "We sent the picketers to Eklutna", "We prepared the picket signs." Very strong & very powerful circumstantial evidence: Steve Shimmel told Downing "Remember what happened at Homer? [A man was beaten in Homer.] All you have to do is sign up with IBEW. If you don't, there will be trouble." Lineman Unit 101 meeting minutes 4/26/86: "Picket program going well." Jack Hull: "If Aaron Downing went union we would get more money for the Union." IBEW footprints are everywhere. Gary Brooks: "The Union can discipline picketers who misbehave on the picket line". Exhibit 41: Lineman meeting in July - long after issuance of the TRO by the Superior Court: "We need more pickets at Eklutna - Why aren't the men out there?" Evidence established irrefutably that IBEW was responsible for everything taking place before the TRO. Their lawyer tried a slick maneuver to avoid responsibility. Note that I tried to get Mrs. Brooks to read the IBEW constitution, page 89 on the stand during her testimony, but she refused because it says, "The local Union can discipline their members for violating local rules." They could have controlled the picketing had they been so inclined. Mrs. Brooks tries to disassociate the IBEW from all this, but they

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started rolling this destructive ball down the hill to injure, maim and even try and kill Aaron Downing and his workers, and now they expect us to allow them to wash their hands of the effects! Remember also that she tries to claim she was unaware of the necessity for the TRO while at the same time she was married to Anchorage Police Capt. Del Smith who testified earlier that he was trying to protect the AUC workers. Incredible that she claimed to be surprised when it was issued.

3) What damages did AUC suffer because of the IBEW campaign of violence? The IBEW interfered with the AUC contract with MEA and made it more difficult for them to complete their contract. Damage to property - stealing tools, anchors. You have heard the testimony given on the damages which have carefully been computed to total \$175,591.96. No evidence has been introduced by IBEW to refute or rebut any of these computations!

4) Punitive Damages. Now we ask you to speak on behalf of the community as a jury to the question - *Should IBEW be punished for what they have done?* You are speaking on behalf of your children, my children, those you don't even know. Should they be allowed to spread this legacy of violence throughout our community? The Bible says "They spat upon him" describing one of the most despised actions of one man to another. The IBEW actively promoted this kind of behavior with their own paid employees. You can do something about this. You are here to serve your community. You could do it by rejecting this kind behavior by a labor union that wanted to force these people to be its members. We ask you to reject violence.

Rebuttal by IBEW attorney Dale House - Mr. Owens has just taken you on a trip to a dark and forbidding place - the mind of his client - Aaron Downing - not the real world! The evidence shows that Mr. Downing hates the union he has worked tirelessly against since 1986. He tried to break the union efforts against him - but he failed. He is trying to destroy the union and the security it provides to its members. The police told you what happened at Eklutna - nothing! They kept the peace. Capt. Del Smith did not witness one incident of criminal conduct. Some of his officers said the police pressure was somewhat of an overreaction. The police video tape showed nothing - you can view it yourself. That is what really happened. What could have happened with that many policemen out there? Downing never asked for more police to be sent.

Downing is a man who had his electrical fitness certificate revoked by the Alaska Department of Labor after insistence by the IBEW. Downing is the aggressor in this case - not the union. All of the people testifying are shareholders and friends of Downing's company that will share in any money awarded as damages. There is little documentary evidence supporting Downing's claims. Mr. Owens is trying to portray a situation of great violence - he used the word "violence" 84 times in his closing to you. He seems to compare this to the terrorism of the Oklahoma City and Atlanta bombings, trying to incite passions to award a large sum of money to the detriment of Local 1547 of the IBEW Union. Mr. Owens used the word violence, but I don't think a single witness used the word violence. Only 2 arrests were made for disorderly conduct at Eklutna and none were apparently prosecuted. No AUC workers complained to the

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police. The only campaign of violence is being conducted by Aaron Downing. Downing has been active against the union in utility board campaigns.

There is no evidence to support such a award of damages against the IBEW. The only damages by the IBEW against Downing exist only in Downing's mind. It takes 8000 hours of training to be a journeyman lineman -- the same time as it takes to go to college. These linemen had a lot at stake - they were out of work. They wanted safe working contractors. AUC (Downing) represented a former friend who used to hire union hands. Now in their time of difficulty he hired those people with no electrical experience (although they did have other outside work experience). They regarded Downing as a traitor who wanted more for himself. These men picketed on their own against Downing. They were fully self-motivated.

Debbie Sibertson testified that she didn't send pickets to Glennallen or Granite Heights. Congress has specifically authorized labor to inflict economic harm on employers from lawful picketing. There is no evidence of physical violence - the rocks only landed at somebody's foot or hit a compactor tool. At Eklutna - the actual evidence of violence was minor. Apparently someone shoved Downing and was arrested and taken away - no lasting harm. The night guard testified he heard shots at night, but what went on at night doesn't hurt AUC - they work during the day. And how credible is his testimony - he's working for only \$7.50/hr! Would you continue to work under those conditions? He kept a diary and didn't record being shot at. There was a shooting range nearby.

There is no evidence linking the property damage to picketers or the IBEW except in the mind of Aaron Downing. This case is only about words and physical presence of picketers. Bad words, but words spoken at construction sites - *this wasn't a tea room!* These men's livelihood were at stake. Our system allows freedom of expression. The First Amendment allows messy discourse and can be freely made. These were big, burly linemen (who go out in the middle of the night to restore power). They need to be able to express their thoughts in their own words and terms. You weren't there - look at the conduct of those who allegedly received these death threats. They didn't report them to the police - the workers just kept on working.

There is no evidence that the IBEW ever condoned the actions of the picketers. On the contrary, the IBEW sent instructions to act in a lawful fashion. Helene Antel Brooks told members to comply with the TRO. In the absence of real documentary evidence that IBEW directed harm, Downing is blaming dead guy, Steve Shimmel. This was just another picket action as far as the union was concerned - look at it from the union's point of view. The men's jobs were at stake. Mrs. Brooks' response to the TRO was "If something unlawful is going on out there - it's got to stop". She did not oppose the TRO. She talked to Shimmel and said, "Get the linemen in here to talk about it". The lineman had strong views. These guys were upset that a court order did not allow them to walk along the roadway. She took an unpopular step of withdrawing union sanction of the picketing. Union has never been found to violate the TRO, by this court, even though Downing tried. Lineman meetings are simply informal meetings that may be held at the union hall. In their minutes they said: "Voted to break away from Local 1547

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and form our own local" passed unanimously. "We are having to battle the non-union element as well as our own brothers".

Downing claimed home office expenses as damages. He claimed AUC lost money because they lost other work being unable to bid other work. It is a new company. They might not have been the low bidder on other work they bid and in fact were not the low bidder on at least one job they bid. He had 19 days off in the period of picketing that he claims he couldn't work. He could have bid jobs during those days.

A punitive damage claim requires that IBEW -- by clear and convincing evidence (not preponderance) -- acted outrageously. There is no evidence linking the union to outrageous conduct except in Downing's mind. We are here because although he believes in free speech for himself he doesn't believe in it for others, the IBEW. Downing, not the union, has the burden of proof. His impassioned pleas to you are based not on the evidence but on a story in Downing's mind.

The only possible verdict in this case under the evidence you have been given is in favor of the IBEW.

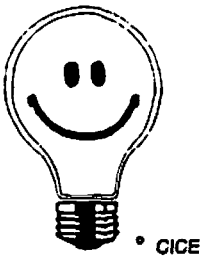
Rebuttal by plaintiff attorney, Tom Owens - The IBEW's theme is that "Nothing happened!" *Should they be allowed to avoid responsibility for the mob because the massive and diligent police presence caused the IBEW to fail in their attempts?* No! They are saying to you: **I was shooting, but I missed! So, you should let me go!**

They said Debbie Sibertson never sent anyone out to picket. Look at Exhibits 89, 90, and 91 and you will see that she was giving credit to IBEW members for services rendered for picketing at Eklutna AFTER THE TRO! Lawful picketing may inflict economic damage. This is NOT lawful picketing - It is not constitutionally protected speech to threaten to rape someone, spit on someone, throw rocks.

Downing had work from the moment he went into business - one job after another for 2 years except for the gap in work at the end of the Eklutna job. If you find the IBEW's actions were taken with reckless disregard of the rights and safety of others, you must find them liable for their actions. *Is it highly probable that the IBEW engaged in outrageous conduct?* I think you will find the answer is yes. Overwhelming evidence that the answer is yes.

Jury Instructions - A long, detailed decision road map was set out by Judge Shortell for the jury. Union is responsible for harm if (in general) the jury finds that: Plaintiff's charges are more likely true than not. That one or more union officers were negligent, where negligence is the failure to use reasonable care by a reasonably prudent person. Punitive damages may be found only if IBEW's conduct was outrageous and malicious by clear and convincing evidence. It will not be enough to be more likely true than not. Amount will be proven by a short proceeding after overall verdict is rendered.

CASE WAS GIVEN TO THE JURY SHORTLY AFTER NOON.



**CITIZENS FOR AN INDEPENDENT
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September 9, 1996

CICE FAX UPDATE

Alaska Utility Construction vs IBEW Union Harassment Lawsuit - Progress Report #7

**JURY DELIVERS
VERDICT AGAINST IBEW
ON ALL ISSUES AND
AWARDS \$425,000 IN
PUNITIVE DAMAGES**

Friday's Proceedings (9/6/96) - Court reconvened at 11 a.m. to hear verdict returned by jury. While waiting for judge to appear his secretary came in and told the attorneys that Channel 2 News called the judge and asked to bring in their cameras. The younger IBEW attorney remarked "Cameras - Jesus Christ!"

Judge Shortell opened the envelope and read the jury verdict on the four questions:

| | |
|--|----------|
| <u>Was there a campaign of violence against AUC and their employees?</u> | YES |
| <u>Was the IBEW responsible for the campaign of violence against AUC?</u> | YES |
| <u>What damages did AUC suffer because of the IBEW campaign of violence?</u> | \$11,600 |
| <u>Should IBEW be punished for their actions and punitive damages awarded?</u> | YES |

Jury chairman said the vote was unanimous on some of the questions; 10 or more out of 12 jurors on the others.

Judge Shortell asked why Gary Brooks was not present in court. IBEW attorney, Dale House, said that he told Mr. Brooks to stay close but he didn't -- he is at Big Lake. Court recessed until afternoon session to determine the amount of punitive damages and to give Gary Brooks time to get in from Big Lake.

Punitive damage proceeding - Discussion between attorneys on whether evidence of IBEW violence during Chugach Electric strike in 1987 can be presented to jury. Judge Shortell asks the testimony be presented without jury then he will rule.

Plaintiff attorney, Tom Owens: IBEW has never disciplined their members for violence or other picketing like the Chugach Electric Strike in 1987. I intend to show that the IBEW fostered a culture of violence. In 1987, IBEW member dragged a man and beat him severely in front of TV cameras. Punitive damages are needed to deter these kinds of actions. I want to ask Mr. Brooks about this incident that happened on the Chugach picket line a year after the events at Eklutna.

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**Alaska Utility Construction vs IBEW Union Harrassment Lawsuit
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Assets of the IBEW Union - The IBEW is in a profit position because they have already been paid \$220,000, by insurance, to cover the \$11,000 in damages awarded this morning by the jury to IBEW because of the actions of their picketers at Eklutna.

Argument over whether IBEW has additional bonding. IBEW in past has refused to produce bond documents for which they have been fined in federal court for failure to respond to our requests for production.

Court reconvened at 1:30 pm - Gary Brooks Testimony - (without jury) *Was the IBEW involved with picketing against Chugach Electric? Yes, from March to July 1987. Was there violence during the Chugach picketing? I am unaware of any violence during that picketing. Was the IBEW sued by a non-union worker's widow? I can't recall the situation. Did the suit allege that the picketer was beaten by the IBEW picketers? Too long ago - I can't recall. Do you remember the IBEW was accused of sponsoring picketing and of beating the non-union contractor's employee. Owens shows Brooks settlement papers signed by IBEW. Did the IBEW settle the case? Yes for \$150,000 and the insurance cost. Did you ever see a news broadcast of the beating? Yes. What did it show? Basically an individual was chasing and striking another individual. Was there an indication that an IBEW picket sign was present? Yes.*

Judge Shortell ruled that this testimony is not relevant under Rule 403 and cannot be heard by the jury.

Insurance Coverage - Gary Brooks (cont'd) - Given a copy of IBEW Liability Insurance Policy. *What are the limits? \$2.5 million. Are you covered now? No. Did you ever receive money? Yes \$220,000. Why did you receive this claim payment? Our carrier was negotiating with Downing to settle the case and we vehemently opposed any settlement with Downing. We negotiated to prevent that settlement with Downing. Insurance Co. paid IBEW \$220,000 and we released them from any further obligation on this claim. Judge Shortell rules that jury cannot be told anything about the insurance settlement.*

Jury now brought in for continued open testimony by Gary Brooks: *Exhibit 54 - Is the LM-2 annual Dept. of Labor financial report under your signature? Does this show the assets of IBEW? Yes. What are the 1995 total receipts? \$6.2 million. What are the actual assets of Local 1547? \$1.7 million. What is the \$220,000 on the form? Is it set aside to cover a potential liability from this lawsuit? Yes. What are the average dues that an IBEW member pays? There are two options. An "A" member pays \$21/month. A "B" member pays \$10/month. Both also pay 2.5 % of their gross pay. What were the total 1985 dues collected? \$5.85 million. Does the IBEW have the ability to make a special assessment against the IBEW members? Objection from defense attorney - overruled by judge. Answer: Members must debate and approve any fee levied. If the IBEW incurred a large debt - you could go to the membership and ask them to cover that debt? In that case the administration or any member could propose a dues increase or a flat fee.*

Defense rebuttal: *How many members in IBEW now? 5,000. What trades? All walks of jobs. Nurses, court system employees, hospital employees. Only 250 of our members are lineman. Are construction lineman a subgroup? Yes. They are not employed by a utility but are employed by contractors. These would be the ones affected by AUC. Half of our lineman (125 or so) are construction lineman. IBEW is a tax exempt, not-for-profit organization. What are the total assets at the end of 1995? \$3.3 million; total liabilities are \$1.6 million. Net*

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Alaska Utility Construction vs IBEW Union Harrassment Lawsuit
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assets \$1.7. *Schedule 5 is fixed assets valued at \$1.7 million - are all of these assets at risk in this case?* It is my understanding that they are.

Redirect from Plaintiff - *What was your answer to the level of picketing activity by IBEW since Eklutna?* Judge interrupts, says there was no answer, directs Brooks to not respond. *Was there pull tab gambling income in 1995?* I can't recall. *Owens directs Brooks to look at LM-2 Form.* Answer: There is \$46,000 in pull tab revenues in 1995.

Jury Summation by Tom Owens - It is time for you speak on behalf of all those who are voiceless. This is clearly not pleasant and I do not intend to go over again what you have heard about in this trial. During jury selection each of you was questioned about your feelings on violence: If it was appropriate would you award punitive damages?

This is not a McDonalds hot coffee case. This is about what goes to the heart of community values. What do you want to do about that? The IBEW Union's conduct is a terrible disservice to all of the peaceful, hard-working IBEW members themselves. Think about what this culture of violence does to these people!

There are two purposes for punitive damages - 1) Punish wrong doers. 2) Deter future conduct. Focus on deterrence. You have the opportunity to speak for all of us who can't speak. You can render a great service to the entire community by deterring the IBEW from hurting the whole community, hurting their own membership. Now you must decide how to deter future conduct like this.

Discussed this chart displayed to jury:

Amount of Award:

- Outrageousness
- Importance of Policy
- Community damages
- Wealth of the IBEW

Outrageousness - "I don't have to tell you -- You know in your hearts and in your bone marrow how reprehensible the conduct engaged in by the IBEW in this particular case was. You have been living it for two weeks." *Importance of Policy* - The IBEW is a Local Union. They are members of our community. You are going to be speaking about your feelings about violence and policies to be used against it. *Community Damages* - This is a unique case. The effective work of the police protecting Aaron and Aaron hiring security kept the actual damages low. The IBEW should not be allowed to benefit from the work done by the police. *Wealth of the IBEW* - No message that you send will have any affect unless it is enough to hurt IBEW. The \$220,000

fund is already sitting there. One way to decide is to multiply the fund by 10 - \$2.2 million. Six months of their income would be \$3 million. They had a mandatory picketing requirement. What is the value of these services - picketers, rock throwing services, spitting services, stake poking services? They got \$5 million of these services during 90 days of picketing @ \$28/day x 250 lineman x 8 hrs.

They have the ability to raise money by getting the membership to vote to raise the money - That is an interesting opportunity for you. If you awarded \$2.5 million this a disservice to every IBEW member. That would be a special assessment of \$500 per member. If they have to go to their membership for this - What do you think the members are going to do to the IBEW leadership? If they have to raise this money from the workers (vast majority of whom are unaware of what their leadership is really doing) -- those members are going to do something about this culture of violence in their union. Each of them can afford it and they will be mad and they will deter future conduct. You have probably heard this quotation: "All that is

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necessary for evil to prosper is for good men to do nothing." Send a message to the IBEW to rally all the good men and women of the IBEW not to "set by doing nothing!"

Defense Attorney, Dale House, Summation - I ask you to put things in perspective. This happened 10 years ago. There has not been any evidence that there is a need to deter - IBEW accepts your determination of outrageousness. Remember that the conduct was related to the IBEW in a rather weak fashion. Steve Shimmel is no longer a part of IBEW; Jack Hull is no longer IBEW Business Manager, Gary Brooks is. Bear in mind that picketing was going on. Related to their way of life, we allow a full expression of words in our society. Most of the actions were words. They were self-motivated and had strong feelings - the parent organization is filled with difficulties in controlling this kind of situation. Mr. Owens is asking you to award punitive damages hundreds of times his actual damages - "do right for the community by paying me money". I suggest to you that the compensatory damages you award are of great significance in your determination of punitive damages.

Mr. Owens focuses on a fund set aside for liabilities. Just because someone has insurance or sets aside money doesn't mean they should be penalized. Mr. Owens suggests "send them a message!" The IBEW administration acted promptly to join with the court that if there was something improper going on it should be stopped. Mr. Owens talks about disservice - You have a potential of doing tremendous disservice against an organization where most of its people now were not there ten years ago. See the claim for punitive damages for what it really is - a windfall - "do justice by paying me money".

Judge Charge to Jury - The law provides no fixed measure as to the amount of the punitive damages you assess. Jury retires to deliberate. About two hours later they return with a verdict of \$425,000. Jury is polled at request of Mr. Owens. Two said they voted no on the award. Jury thanked and excused.

RECENT MEDIA COVERAGE - Channel 2 News provided very well done coverage of the trial verdict. It was the second lead story (after a bank robbery) on the 6pm newscast that included parts of Tom Owens charge to the jury and Gary Brook's reactions afterward on the courthouse steps. Channel 2's achievement in accurately capturing the issues was particularly significant because they only had an hour between the time the last punitive damages verdict was announced and their air time. They also covered it again on the ten o'clock news with different clips (Tom Owens and Gary Brooks). CICE has a tape of both segments which is available to those interested.

The next morning, the second excellent story by Liz Ruskin on this case appeared on the front page of the business section of the Anchorage Daily News. The earlier story was on the front page of the Metro section on September 5.

CONCLUSION - By providing the lowest cost, qualified bid, Alaska Utility Construction (AUC), won a contract from Matanuska Electric Association, an electric cooperative, to construct a power line near Eklutna, Alaska. A small family-owned business with less than a half dozen employees, many of whom were family members, AUC came to grief from massive picketing and harassment by the IBEW Union because they would not sign a union agreement.

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**Alaska Utility Construction vs IBEW Union Harrassment Lawsuit
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The jury's verdict in this case has punished the IBEW Union, for the first time, for the unacceptable behavior of its members. AUC owner Downing said after the trial, *"[If the punitive judgement] stops them from doing to another family what they did to my family, then it's enough -- if they do it again, then it's not enough."*

The jury was forced to deliberate without knowledge of a number of important pieces of information. Although IBEW attorney Dale House told the jury that they were given no evidence from the years after 1986 that the union needed deterrence from these actions, in fact the jury was not allowed to hear about:

- The violent 1987 IBEW strike against Chugach Electric Association which began only seven months after the Eklutna events. This strike included sabotage against co-op facilities, extensive area wide vandalism-caused electrical outages, a chain dropped across the transmission line bringing power into Anchorage, the beating of non-union Chugach and contractor employees and the payment of \$150,000 by the IBEW in one of the incidents to a man's widow to settle a liability suit.
- A Molotov cocktail attempt against AUC owner Aaron Downing.
- The unnecessary and excessive costs borne by electric ratepayers in the Alaska Railbelt as a result of the interference by the IBEW in the free, open and competitive contracting process that everywhere else has traditionally delivered the best deal for the public in our economic system. This interference has taken two forms:
 - 1) *Mob action and intimidation of non-IBEW contractors and employees.* With over \$40 million a year in utility capital construction and maintenance in the railbelt, electric consumers have a lot at stake in this issue. Each time a company is intimidated and afraid to bid on a project, the resulting reduced competition can be expected to increase the costs to the cooperative or municipal utility. This unnecessarily drives up the rates consumers pay.
 - 2) *Massive IBEW Union political activity in co-op elections.* Since 1987, the IBEW and its allies have secretly paid for many of the campaigns of candidates for the boards of directors of Chugach, Matanuska and Homer Electric Associations. Directors whose campaigns have been so financed have controlled the boards of directors for most of the years since 1987 at Chugach and Matanuska Electric and probably for most of the years since 1989 at Homer Electric.
- Gary Brooks himself being placed on the Board of Directors of Matanuska Electric Association with an IBEW-financed campaign. At the April 12, 1986 MEA board meeting he did not declare the conflict of interest that he had as an IBEW member and shop steward. He did not excuse himself from the executive session of the board when the Eklutna job contract was considered and he is not known to have disclosed that ½ of his wages at the time were being paid by the IBEW. He made a comment during the public part of the board meeting that if the Eklutna contract was awarded to AUC there could be violence. During that period Brooks attended all the MEA board strategy sessions concerning the co-op's labor negotiations with the IBEW.
- A more complete picture of IBEW Union finances and how they use their discretionary funds. For instance in the Chugach Electric elections in April of this year IBEW

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engaged in such a massive smear campaign of lies against candidates disfavored by the IBEW that it provoked editorial comment and censure in the Anchorage Daily News/Voice of the Times (4/5/96), in the Alaska Star (3/30/96), and by the president of the Chugach Electric Board in the April/May issue of the newsletter sent to all customers, the Chugach Outlet. Additional post-election rebuke of the IBEW was delivered in an Anchorage Daily News/Voice of the Times column estimating that IBEW spent over \$200,000 on its Chugach smear campaign, dwarfing the amount of money spent in campaigns by candidates for the Anchorage Assembly and School Board (5/28/96). In past years the IBEW has spent lavishly on campaign materials and mailouts so expensive that one knowledgeable campaign consultant commented that no Alaska governor's race nor Anchorage mayoral election has used such costly printing and materials.

- The substantial cost to the Municipality of Anchorage and the State of Alaska for the police protection necessary to prevent even more serious IBEW inspired violence at Eklutna. Anchorage taxpayers footed the bill for deployment of hundreds of hours of police time and the state troopers had to field a helicopter team, all at great expense not enumerated to the jury.
- The waste of many tens of millions of dollars which have undoubtedly been caused by the IBEW Union's improper and reprehensible actions in the points above since 1986. These costs have had to be paid by every Railbelt electric ratepayer through higher than necessary bills.

WITH THESE LIMITATIONS, THE JURY DID A GOOD JOB WITH THE INFORMATION THEY WERE PERMITTED TO HAVE. FOR THEIR THREE WEEKS OF SERVICE ON THIS TRIAL THEY DESERVE THE THANKS OF EVERYONE IN THE COMMUNITY WHO VALUES JUSTICE OR WHO PAYS AN ELECTRIC BILL.

This has been a very important trial because if the public is ever to realize the benefits of lower cost utility construction and maintenance, ALL contractors must obviously be protected from this kind of damage and harassment. With the phasing-in of the new open bidding bylaws at Chugach and Matanuska Electric Associations, how can non-IBEW companies bid if this kind of activity were to be condoned in our community?

IBEW HAS STATED IT WILL APPEAL. THE OUTCOME WILL BE CRITICAL IN THE BATTLE TO ENSURE THAT THE PUBLIC REALIZES THE BENEFITS IT IS DUE FROM FREE, OPEN AND COMPETITIVE BIDDING.