

Judge hears union lawsuit: IBEW sued over MEA project

By **LEE JORDAN**
Alaska Star Editor

A civil trial over alleged **violence** on the part of union picketers against an open shop contractor is being conducted in Anchorage Superior Court this week. It is **related** to bitterly-fought campaigns for **seats** on the boards of directors of area utility cooperatives and conflicts over contracting policies.

Utility **Construction Inc.** is suing the International Brotherhood of Electrical Workers (IBEW) over events which occurred during **construction** in 1986 of a **Matanuska Electric Association (MEA)** project to extend power to the **Eklutna** water treatment plant. **Aaron Downing**, a former electrical contractor who was defeated in his 1995 bid for re-election to the MEA board of directors, was an owner of the **contracting firm**.

The suit is **being heard before** a jury in the **courtroom** of Judge Brian Shortell.

"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**," said **Lee Ann Gerhart** in a "fax update" from **Citizens** for an Independent Chugach Electric (CICE). Gerhart **said** she is a volunteer with the **non-profit** group.

"**No non-IBEW** companies will bid (under new open bidding by-laws of the utilities) if this kind of activity is condoned in our **community**," Gerhart said.

IBEW Business Agent Gary Brooks could not be reached for comment yesterday.

CICE court observers said witnesses for the contractor told the **jury** about personal threats they said were made by **pickers**, which at one time were said to number about 100 people. Anchorage police and Alaska State Troopers spent **considerable** time at the site, observing and enforcing a temporary **restraining**

order obtained by the contractor against the union.

Employees described threats, damage to equipment, rock-throwing and shots fired. David Lee Johnson testified that he "was extremely **afraid**" during a confrontation with picketers.

In a deposition, Joe W. Carter said that he was District Engineer for MEA in Eagle River and was in an MEA vehicle when he was threatened at the site. He said he did not observe **any** acts of violence. He also said he did not observe any actions of the contractor which were unsafe.

Brooks testified that the company's witnesses were "not describing an organization that I am familiar with."

Retired lineman Steve Lund of Eagle River testified that he was at the site **three** times during the **picketing**. He had once worked for Downing and "thought a lot of him."

Lund stated that he joined the picketing **because** he "didn't like what (Downing) was doing. I felt like he deceived me and I had a responsibility to show I didn't approve of it."

Lund said the picketers remained at least 200 feet away from workers as required by the **court** order. He said there was "general heckling," but he saw no acts of violence.

Lund said the contractor employed "unskilled" people to do a dangerous job. "It was obvious they didn't know what they were **doing**!"

Testimony regarding a possible "Molotov cocktail" near the road was not given to the jury. **Contractor** employee Tom Cox said that when **enroute** to the project one **afternoon** he had seen a man holding a bottle with a flaming rag extended from its mouth. Cox said the man ran into the woods when he attempted to **warn** Downing. He said a **police** officer who passed told him he had not seen anything **suspicious**.

Downing vs. IBEW trial winds down

By **LAURA MITCHELL HARRIS**

Frontiersman reporter

ANCHORAGE — An Anchorage jury is hearing evidence this week in a 10-year-old lawsuit between a local non-union electrical contractor and the International Brotherhood of Electrical Workers union.

Palmer-based Alaska Utility Construction Inc., owned by Aaron Downing, is suing the union for damages related to alleged harassment and illegal attempts to force the company to sign an agreement with the IBEW. Alaska Utility was build-

ing a powerline extension for Matanuska Electric Association to the Eklutna water plant in the summer of 1986. Allegedly, the union picketed the workers, fired gunshots and threw rocks at the workers, threatened violence and death, and disrupted the workplace, according to court testimony.

The trial is winding down this week and is expected to go to jury deliberations today. The case has been transferred several times from state to federal court.

Downing is an outspoken critic of the union and used to serve on MEA's board of directors.

METRO

ANCHORAGE DAILY NEWS

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CICE

Decade after nasty confrontation, contractor takes union to court

By **IZZ RUSKIN**
Daily News reporter

No one said a union picket has to be pleasant, but a Matanuska Valley contractor claims the International Brotherhood of Electrical Workers went much further when it protested at his job sites a decade ago.

The union launched a monthlong "campaign of violence" against Alaska Utility Construction, the company's attorney, Tom Owens, told a Superior Court jury Wednesday.

The principal owner of the company, Aaron Downing, and his workers testified that pickets spat on them, threatened to kill them and to rape their families. Worse, the AUC witnesses said, the union supporters

threw rocks, brandished weapons, vandalized equipment and fired shots in the night.

"This is abundant evidence of **out-of-control** violence," Owens argued.

The union's **lawyer** said the **only** one on a campaign was **Downing**, who despises the **IBEW**.

"The truth is, this was just another picket," attorney Dale House told the jury. "Picketing is something unions do."

And even if a lineman or two broke the law, it wasn't the union's doing, House said.

Downing is **seeking \$176,000** for the business losses and expenses he says he incurred because of the union. He also asked the jury for punitive damages.

The **IBEW** initiated a picket in 1986, when

Downing's nonunion company got a job near **Glennallen** moving a powerline. The pickets followed the company to its next two job sites that summer, in a Palmer subdivision and in **Eklutna**.

No one was seriously injured at any of the sites, but one of the AUC workers was hit in the neck with a rock, the company witnesses said. Another day, they said, the AUC foreman was harassed by about 20 protesters, who surrounded the small pickup he was driving, pounded on it, bounced it and spat on the windshield.

"There were **enough** of them that they **could** physically pick it up and drop it," Phil Downing, Aaron's son and a company worker, testified.

Phil Downing also told of a time he was working in a ditch, burying **electrical** cable for the Palmer subdivision job. Protesters stood above him, a yard or less away, taunting him and throwing **rocks**, he said. Downing said he looked up at **them** when a rock hit a piece of equipment next to him. Among the pickets at the rim of the ditch, he said, was Steve Shemel, the union employee who led the pickets. Shemel, he said, **held** up his fists, and the man next to Shemel kicked another rock into the **ditch**.

"He asked me if I'd made my **will** out yet," Downing said of the **unidentified** protester.

The company workers also say some of

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IBEW: Contractor says pickets, threatened workers

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their equipment was damaged: A hydraulic hose was cut on a backhoe, holes were punched into a **truck's** radiator, and someone destroyed a recently planted power pole by sawing it nearly in half at the base.

A small cardboard sign was left at the scene: "Check this one. This is one of **many**."

Tom Cox, a man hired to guard the equipment at night, said shots were often fired at his camp at the Eklutna site.

He could hear bullets **slap**-ping through the trees, he said, accompanied by shout-ed insults and expletives other witnesses said were common during the picket.

House, in his closing argument Wednesday, said the shots Cox heard could've been coming from a nearby shooting range.

In June 1986, during the Eklutna project, Aaron Downing obtained a court order to keep the protesters behind a barricade. Helene Antel Brooks, a union lawyer, testified last week that she

carefully explained the order to the linemen but had concerns they wouldn't follow the restrictions. After that, the union withdrew its endorsement of the picket, she said, and isn't responsible for any illegal activity that may have later happened.

"They were acting as individuals," she said.

Owens, though, argued that the union had the power to monitor the protesters and could have disciplined members who violated the court order. The IBEW started the protest, whipped the mob into

action, then "**took** its name off the marquis," Owens told the jury. Anyway; he alleges that union members **commit**-ted violence both before and after the union withdrew its endorsement.

The lawsuit took a decade to get to trial. Downing filed it in state court but it was moved to federal court, only to be moved back to state court. Downing also said he wasn't able to pursue it for months at a time because he was working in remote parts of the state and because of an illness in the family.

BUSINESS

ANCHORAGE DAILY NEWS SATURDAY, September 7, 1996

Union must pay

Nasty pickets cost \$425,000

By LIZ RUSKIN
Daily News reporter

A Superior Court jury has stung the International Brotherhood of Electrical Workers union with a \$425,000 punitive damages verdict for violence on its picket lines in 1986.

The IBEW Local 1547 targeted Alaska Utility Construction, a small Matanuska Valley-based company, when the nonunion company got a contract to move a powerline in the Glennallen area. The pickets followed the company to its next two job sites that summer, in a Palmer subdivision and in Eklutna.

Aaron Downing, the principal owner of the company, waited 10 years for his day in court. His lawyer, Tom Owens, had asked the jury for punitive damages of \$2.5 million or more.

"It if stops them from doing to another family what they did to my family, then it's enough," he said as he left the courthouse after the

IBEW: 'Reign of terror'

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verdict was read Friday evening. "If they do it again, then it's not enough."

The IBEW's business manager, Gary Brooks, and the union's lawyer, Dale House, said the union never supported acts of violence. What Owens characterized as a "reign of terror" was really just a limited number of violent acts committed by individuals and not encouraged by the union, House told the jury.

Downing, his son and others who worked for the company testified during the trial that they endured taunts and death threats from the protesters. They also said the pickets, who vastly outnumbered them, threw rocks, spat on them, vandalized equipment and brandished weapons. On a couple of occasions, witnesses said, the protesters brought children to the picket line, and the children emulated the adults, shouting epithets and calling the workers "rats." No one was seriously injured.

In addition to the punitive damage award, the jury awarded AUC \$11,600 in compensatory damages for such things as business loss-

es and damaged equipment. AUC sought more than 10 times that amount.

The IBEW can appeal the verdicts to the state Supreme Court.

Local 1547 has about 5,000 members, ranging from linemen to nurses to office workers at the Alaska Court System. The local collected \$5.86 million in dues last year, Brooks said.

Owens argued to the jury that substantial punitive damages were warranted to deter future acts of violence and because the union fostered "a culture of violence."

"Think about what that institution is teaching those children," he urged.

House told the jurors they have no evidence from the intervening years that the union needs any deterrence.

Owens had tried to introduce evidence of violence on a 1987 IBEW picket line in Anchorage, where a non-union worker was beaten, but Superior Court Judge Brian Shortell ruled the evidence of the later incident was not relevant.

That worker also filed a lawsuit against the IBEW, which the union settled for \$150,000, Brooks said.



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September 5, 1996

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Union lawsuit goes to jury

By LEE JORDAN
Alaska Star Editor

A damage suit filed against the International Brotherhood of Electrical Workers (IBEW) by former contractor Aaron Downing was to go to the jury yesterday after summations by lawyers for the two sides.

The suit alleges that IBEW members threatened and intimidated employees of Downing's Utility Construction Inc. who were working on a project at Eklutna in 1986. Downing's firm was installing lines to connect the municipal water treatment plant to Matanuska Electric Association Inc. (MEA) lines along the Glenn Highway.

IBEW maintained in its response to the charges that the union was looking out for the interests of its members and wanted to insure that the work was being done safely. The union also said its members have First Amendment rights to express their opinions. Members denied violating a court restraining order which directed them to re-

main 200 feet away from any contractor employee.

Workers, some of whom were identified as part owners of the company, said they were frightened by actions of the picketers who at times were said to number as many as 100 persons.

Downing said the decade-old legal action has been delayed by a number of factors, including a shift at the request of IBEW from state to federal courts. Downing also was out of the area for nearly a year and unavailable.

"It just stretched out and stretched out," Downing said,

Downing was elected to the MEA board of directors in 1992. He was defeated in his 1995 bid for reelection after a bitterly-fought campaign in which he was targeted by a heavily-financed opposing campaign.

While on the board, Downing fought against policies that guaranteed contracts for construction work to contractors with IBEW employment agreements*

Contractor wins lawsuit, union says they'll appeal

By LEE JORDAN
Alaska Star Editor

International Brotherhood of Electrical Workers (IBEW) Local 1547 was told by an Anchorage jury Friday to pay a former contractor \$1,600 in actual and \$425,000 in punitive damages.

The lawsuit filed by Aaron Downing of Alaska Utility Construction was related to a 1986 project at Eklutna which was picketed by IBEW members. Anchorage police were called in to enforce a restraining order after threats were levelled by pickets against Downing, his family and his employees.

Saying the union intends to appeal, IBEW Business Manager Gary Brooks called the award "excessive" and "grossly unjust."

"I've spent more than that in legal fees," Downing commented after the verdict was in.

"We can't allow those types of actions in our society. Somebody has to stand up and say it's not tolerated," the retired contractor said. He said he and others who were targeted by the picketers "were terrified" by the actions. His daughter and his grandchildren were threatened with harm, he said.

An appeal of the verdict "means only that the union hasn't learned anything by the jury's decision. It means they think they're right and will keep on doing this kind of thing," Downing said.

"It is truly disappointing that the jury was unable to look to the

evidence and past the emotional appeal presented by Downing's lawyer," Brooks was quoted as saying in a prepared statement issued Monday.

Downing's attorney, Tom Owens, told the jury that IBEW "fosters a culture of violence." He was prohibited by Judge Brian Shortell, however, from describing actions during a strike against Chugach Electric, including an incident shown on television news in which a person chased and struck another person with an IBEW picket sign.

Owens asked for an award of \$22 million in damages which he said would cause the union to go to its membership with a special assessment. That, he suggested, would cause the membership to "do something about this culture of violence."

IBEW Attorney Dale House pointed out that there were changes in the union leadership during the 10 years since the Eklutna incidents occurred. Many of those involved in the picketing were no longer active with the union, he said.

The actions described by Downing and his associates "were actions of words" on the part of individuals who had strong feelings, the jury was told. House said the union "has difficulty controlling this kind of situation."

"We are confident that in the final analysis we will prevail and continue to afford working men and women the representation they deserve," Brooks said.

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C96-89

Hostile pickets cost IBEW union

By LAURA MITCHELL HARRIS
Frontiersman reporter

ANCHORAGE — The International Brotherhood of Electrical Workers union must pay a local non-union company \$425,000 in punitive damages for allowing its members to wage a **violent** picket in 1986.

An Anchorage Superior Court jury ruled in favor of Alaska Utility Construction and its owner, Palmer resident Aaron Downing.

"We're definitely investigating the appeal avenue," IBEW spokesperson Anne Hays said Monday. IBEW Business Manager Gary Brooks echoed this citing the "grossly unjust damage award."

The plaintiffs alleged that IBEW picketers used a **campaign** of violence against AUC workers in the **summer** of 1986, the plaintiff's attorney, Tom Owens, told the jury **Friday**.

The IBEW had the **responsibility** to monitor the **activities** of its protesters instead of initiating the picket, getting its members **involved** and then trying to step back from taking responsibility for what happened later, Owens said.

After 10 years, Downing said he's happy it's **finally** over.

"I feel vindicated. I'm pleased a powerful labor union got its fingers slapped for doing these types of things. We just can't allow these types of tactics," Downing said Monday.

But attorneys for the IBEW said the union cannot be held responsible for the actions of its members.

The AUC workers were

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IBEW: Union to appeal verdict in picket case

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building a power line extension for Matanuska Electric Association to the **Eklutna** water plant. Due to the company's non-union status, the IBEW workers picketed and were accused of firing gunshots and throwing **rocks** at the workers, threatening violence and death, and disrupting the workplace, according to court testimony.

Several AUC employees, in-

cluding Downing and his son, testified that they were outnumbered by the picketers who would **heckle** the workers, surround AUC vehicles and **generally intimidate** the workers.

Downing obtained a temporary restraining order against the picketers requiring they stay behind a barricade. However some of the union members passed the barricade and continued to picket.

Some of the IBEW picketers testified that each member had

free will and went past the barricade against the union's directive.

IBEW attorney Helene Antel Brooks testified she went over the conditions of the restraining order with the members and told them to either follow it or **stop** picketing.

Gary Brooks, the union business manager, said the union considers this round one in a very **lengthy** legal proceeding. He said he's confident the union will prevail in the next round of proceedings.

"It is truly disappointing that the jury was unable to look to the evidence and past the emo-

tional appeal presented by Downing's lawyer," Brooks said.

"The evidence presented to the jury, when evaluated outside of the impassioned pleas offered by Downing's counsel, just doesn't support a finding of damages and certainly doesn't justify the excessive award."

The jury members also awarded AUC \$11,600 for lost business expenses, though AUC had asked for about 10 times that amount. Downing said his attorney's fees will take up most of the awarded damages.

ARECA 9-96

Iron Oosik

Fred Braun (right), on behalf of the HEA board, presented the not-so-coveted ARECA Power Award, aka Iron Oosik, to the Chugach board of directors (Ray Kreig, President, accepting) for certain actions. Kreig said his board was proud of some of those actions. Chugach chooses the next victim.

