

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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|--------------------------------|---|----------------------|
| MARY CORNER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 20-cv-_____ |
| |) | |
| LOCAL 7140, NORTHWEST ILLINOIS |) | Judge: |
| AREA LOCAL OF THE AMERICAN |) | Magistrate Judge: |
| POSTAL WORKERS UNION, |) | |
| |) | |
| Defendant. |) | |

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

1. In this action, a union member who is running for union office seeks to enforce her legal right to communicate to her fellow union members about her candidacy by having the union disseminate her campaign literature, at her own expense. She has asked to allow her chosen mailing vendor to mail literature that she designed, but the union has refused to allow her vendor to send out the literature unless the vendor uses as the return address a post office box chosen by the union. Because the candidate’s request to be allowed to do a mailing using the candidate’s chosen return address was a reasonable one, and because the union has not been willing to grant that request, plaintiff now sues to require the union to allow her to distribute her campaign literature that way.

JURISDICTION AND VENUE

2. The Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1337 and 29 U.S.C. § 481(c). The Court has venue under 28 U.S.C. § 1391 and 29 U.S.C. § 481(c).

PARTIES

3. Defendant Local 7140, Northwest Illinois Area Local of the American Postal Workers Union (“Local 7140”) is a local labor organization, affiliated with the American Postal Workers

Union (“APWU”), that is certified as the representative for collective bargaining purposes for employees of the United States Postal Service (“USPS”) working at post offices in the Lakeland and Central Districts in the northwestern part of Illinois. It is headquartered in Elmhurst, Illinois.

4. Local 7140 is “labor organization” within the meaning of Section 3(i) of the Labor-Management Reporting and Disclosure Act of 1959 (“LMRDA”), 29 U.S.C. § 402(i), and a “local labor organization” within the meaning of 29 U.S.C. § 481(b).

5. Plaintiff Mary Corner is member in good standing of Local 7140, and is a citizen of Illinois.

FACTS

6. As required by 29 U.S.C. § 481(b), Local 7140 will soon be holding its triennial election of officers. Corner is running for local union president, which is an “officer” within the meaning of 29 U.S.C. § 402(n). Although the ballots were originally scheduled to be mailed this spring, the date of mailing has been suspended indefinitely in response to the coronavirus pandemic.

7. Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), requires unions to comply with all reasonable requests from members to distribute their campaign literature to all members by mail or otherwise.

8. The incumbent president of Local 7140 writes and prints at union expense a periodic newsletter that is provided to the membership at workplaces where Local 7140 represents its members; the president is also able to go into those facilities in the course of her official duties to speak with the union electorate in person. Corner does not have comparable access to the membership.

9. Corner has asked Local 7140 to be allowed to send her campaign literature to the union-

member electorate by mail, at Corner's own expense. However, Local 7140 has refused to allow her literature to be sent to the membership unless the mailing facility that Corner has chosen to send her literature signs an agreement providing that it will place on any mailing the return address chosen by the union: a post office box in Elmhurst, Illinois.

10. Corner has reasonably requested that her campaign literature bear the return address of her choosing, and does not agree to Local 7140's requirement that she use a return address of its choosing, because:

(a) The interpretive guidelines issued by the Secretary of Labor concerning the conduct of internal union elections forbids unions from "regulat[ing] the contents of campaign literature which candidates may wish to have distributed by the union." 29 C.F.R. § 452.70.

(b) Corner does not want her returned mail to be delivered to a post office box in a facility that is within the control of Local 7140's officials, because she does not trust the officials not to arrange to intercept the returns.

(c) Corner needs to know which copies of her campaign literature are returned because the address provided by the union for that member was incorrect, so that she can take extra steps to try to get her campaign literature to those members for whom Local 7140 does not have good mailing addresses;

(d) Corner needs to know which copies of her campaign literature are returned because the address provided by Local 7140 that member is incorrect, so that she can develop a potential list of ballots to be challenged because they were received after being sent to such an address and then, presumably, returned blank and unopened to the post office box that is

chosen by Local 7140; and

(e) Corner needs to know which copies of her campaign literature are returned because union's address for that member is incorrect so that she can determine whether Local 7140's mailing list for its members is potentially flawed enough to support a possible challenge to the election as a whole.

11. Corner appealed to the APWU from Local 7140's refusal to allow her to do her campaign mailing with the return address of her own choosing. On May 8, 2020, the APWU ruled that Local 7140 must allow Corner to use her preferred return address because, under the guidelines established by the Secretary of Labor, 29 CFR § 452.70, unions may not censor or regulate the content of candidate mailings.

12. Corner was prepared to file this action to obtain her statutory right to do the campaign mailing; the complaint was ready for filing on Monday, May 18, 2020. In reliance on the APWU's ruling, she did not file suit on that date

13. Despite this ruling, Local 7140 has continued to refuse to allow Corner to send out the campaign mailing with the return address of her choice.

CAUSE OF ACTION

14. Corner's request that she be allowed to have her campaign literature mailed using her own chosen address is a reasonable request. By refusing to grant that request, Local 7140 violated section 401(c) of the LMRDA.

15. The violation of the LMRDA is causing irreparable injury to plaintiff by preventing her from communicating with the union electorate.

WHEREFORE, Plaintiff prays the Court to enter a judgment as follows:

A. Declaring that plaintiff's request to use a return address of her choice is a reasonable request under the LMRDA, 29 U.S.C. § 481(c).

B. Enjoining defendant to promptly provide the membership mailing list to plaintiff's chosen mailing house for the sending of campaign literature to the union membership without requiring the mailing house to use a return address selected by defendant;

C. Awarding plaintiff her reasonable attorney fees and costs; and

D. Awarding such other relief as may be just and proper.

Respectfully submitted,

/s/ Paul Alan Levy
Paul Alan Levy
(pro hac vice to be sought)

Public Citizen Litigation Group
1600 20th Street NW
Washington, D.C. 20009
(202) 588-1000
plevy@citizen.org

/s/ Robin Potter
Robin Potter
(Illinois Bar No. 3123932)

Potter Bolanos LLC
Suite 2600
111 E. Wacker Drive South
Chicago, Illinois. 60601
(312) 861-1800
robin@potterlaw.org

Attorneys for Plaintiff Mary Corner

June 1, 2020

VERIFICATION

My name is Mary Corner. I am the plaintiff in this action. Pursuant to 28 U.S.C. § 1746, I hereby certify under penalty of perjury that the factual allegations in paragraphs 1, 3 to 6 and 8 to 13 are true and correct, Executed on May 30, 2020.

Mary Corner