

SPEED FACTS



Union Election Postponed

March 19, 2020

Dear Brothers & Sisters,

As you have seen over the past few months our World is changing daily, if not hourly, because of the COVID19 also known as Coronavirus. With that said, it is with regret that I must inform the membership that the Department of Labor has forced the cancellation of the District election scheduled for Saturday, March 21, 2020 at the union hall because of the COVID19 concern. The District does not agree with this decision and had put our member's safety at the forefront while preparing for the election. This included hand washing and sanitization stations along with social distancing precautions as recommended by the city, county and state. I have included the Department of Labor's letter informing the District of their intentions to not recognize the election results, along with the response from our legal team at the International objecting to the decision without considering the precautions that have been taken.

International
Association of
Machinists and
Aerospace Workers



9000 Machinists Place
Upper Marlboro, Maryland 20772-2687
Area Code 301
967-4500

March 19, 2020

Brian Pifer
Chief, Division of Enforcement
Office of Labor-Management Standards
Division of Enforcement
Washington, D.C. 20210

RE: Case No.: 510:6017514(02)

Sent via Fax to 202-693-1343 and First Class Mail

Dear Mr. Pifer,

This is in response to your letter dated March 18 to DeWitt Darity refusing to supervise the election at District 837 in violation of our agreement with the Department. We find it deeply offensive that you would accuse us of putting our members into harms way. We laid out for your representatives in detail this week the many steps we were prepared to take to make sure the election was conducted in such a way that no one involved would be at any risk of passing on the virus. These steps go well beyond the steps taken by our employers, who continue to operate in what they believe to be a wholly safe manner. You have notably declined to take issue with the efficacy of those procedures.

We find it equally offensive that you would suggest that the election would be in violation of recommendations of the CDC or of a rule of the Missouri Department of Public Health. As your letter stops short of actually claiming that holding the election would be in violation of any state or federal recommendation, I assume you are well aware that holding the election would in fact have been fully in accord with federal recommendations and state law.

You point out that in our agreement with the Department we agreed that any dispute about the practicality of an election procedure would be decided by the Department. Of course calling off an election hours before it is to take place is not a dispute about an election "procedure." It is a flat out violation of our agreement that we would re-run the election under your supervision.

As you suggest that you will take legal action to invalidate the result of any election, there is no point in running it. Is the Department going formally to withdraw its Coronavirus guidance issued 48 hours ago that "Labor unions affected by COVID-19 must still make a good faith effort to conduct officer elections within LMRDA timeframes?" Generally speaking it is easier to request good faith efforts when they are reciprocated.

You say you will reschedule the election "in a mutually acceptable manner" "insofar as practicable in conformity with the IAM's constitution and bylaws" when it can be "safely" run given the Coronavirus pandemic. We cancel the election based on these representations. We assume your statement about mutual acceptability is an acknowledgement of the point we made to Ms. Prorise several days ago, that a mail ballot election would be the polar opposite of being in conformity with the bylaws and traditions of District 837, and that it would never be acceptable to the District to run an election on that basis. We of course do not know when the pandemic will abate, but we look forward to hearing from you on this matter when in the Department's view it is once again safe enough to hold an election on the terms you require.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Schneider".

Mark D. Schneider
General Counsel of the
International Association of Machinists and
Aerospace Workers

To date, this is all the information we have regarding the election, if you have questions please contact Dewitt Darity at 314-731-0603 ext 108. Stay safe and watch out for each other.

A handwritten signature in black ink, appearing to read "Earl Schneider".

President Directing Business Representative

IAM District 837



March 18, 2020

DeWitt Darity, Secretary-Treasurer
International Association of Machinists
District Lodge 837
212 Utz Lane
Hazelwood, MO 63042

Case No.: 510-6017514(02)

Re: Supervisory Election Instruction – Response Required by March 19, 2020

Dear Mr. Darity:

Pursuant to a November 25, 2019 voluntary compliance agreement between authorized officials of International Association of Machinists (IAM) District Lodge (DL) 837 and the Department of Labor's Office of Labor-Management Standards, IAM DL 837 agreed to conduct a new election for the offices of President/Directing Business Representative and Council Secretary-Treasurer, which were challenged in IAM DL 837's March 23, 2019 election.

This agreement provided that the remedial election was to be conducted under the supervision of the Secretary of Labor and in accordance with Title IV of the LMRDA, and insofar as lawful and practicable, in conformity with IAM's constitution and bylaws. In the fourth paragraph of the agreement, IAM DL 837 expressly agreed that "any dispute arising during the course of the supervised election as to the legality or the practicability of any election procedure shall be decided by the representative of the Secretary of Labor." Further, courts have upheld the Department of Labor's broad authority to make determinations in supervised elections pursuant to voluntary compliance agreements.

The OLMS-supervised election was scheduled to take place on Saturday, March 21, 2020, with polling hours from 6:00 a.m. to 6:00 p.m. However, due to the Coronavirus (COVID-19) pandemic, OLMS has significant concerns about holding this polling site election as scheduled, especially given the fact that retirees comprise a significant segment of your membership.

The Centers for Disease Control and Prevention (CDC) website advises that gatherings of 50 people or more should be postponed for 8 weeks, and urges that gathering in groups of 10 or more people should be avoided for approximately the next two weeks.

(See <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html> and https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf.)

Further, the attached March 15, 2020 Executive Order signed by St. Louis County Executive Sam Page states that it is "unlawful for any person to organize or to attend an intentional gathering of **more than 10 individuals of high-risk groups** as that term may be defined by the Director of Department of Public Health." (Emphasis added.) Relying upon CDC Guidance, Missouri's Department of Public Health states that "older adults" are high risk. <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>. The order further states that it is "unlawful for any person to organize or to attend an intentional gathering of 50 people or more in a single space or room."

On March 17, 2020, OLMS notified IAM DL 837 of its concerns about holding the polling site election as scheduled due to COVID-19, and you responded that IAM DL 837 intends to conduct the election as scheduled.

For the reasons stated above, OLMS instructs IAM DL 837 to postpone its election until further notice, and to reschedule in a mutually acceptable manner that ensures a reasonable opportunity for all members to vote in the election, and to do so safely in accordance with the executive order issued by St. Louis County as well as advisories issued by the CDC.

OLMS asks that you confirm your intention in writing no later than 5:00 p.m. EDT on March 19, 2020. If IAM DL 837 will not agree to postpone its election, the Department of Labor will reserve the right to take legal action to enforce the terms of the voluntary compliance agreement.

Sincerely,

A handwritten signature in blue ink that reads "Brian A. Pifer".

Brian A. Pifer
Chief, Division of Enforcement