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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDGAR HANSON,)
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Plaintiff)
pro se,)
)
v.)
)
ALEXIS HERMAN,)
U.S. SECRETARY OF LABOR,)
)
Defendant.)

NO. **CO1-0071** ~~2~~

**COMPLAINT FOR JUDICIAL
REVIEW OF SECRETARY'S
DECISION; COSTS AND
DAMAGES**

I. PARTIES

1. The plaintiff, Edgar Hanson, is a 34-year member in good standing and a 1999 candidate for the office of business manager of Local 302, International Union of Operating Engineers. Hanson currently resides in Washington state.

2. The United States Department of Labor is an administrative agency of the federal government headquartered in Washington DC. The Department regulates the activities of labor organizations which are involved in interstate commerce and in industries in which labor disputes would hinder or obstruct commerce. The Department, through one of its several agency divisions, also investigates internal union elections when timely complaints are properly filed. The Secretary of Labor is the chief administrator of the U.S. Department of Labor. The Department's district office is located at 1111 Third Avenue,

1 Seattle, WA 98101.

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3 II. JURISDICTION

4 3. This action involves a controversy arising
5 under 29 U.S.C. § 481, which governs election procedures for
6 local labor organizations. Local 302 of the International Union
7 of Operating Engineers (IUOE) is a "labor organization" within
8 the meaning of 29 U.S.C. Sec. 402(i). The plaintiff seeks
9 judicial review, and the U.S. District Court has jurisdiction
10 to consider this case, under 28 U.S.C. § 1337 as a case arising
11 under an Act of Congress regulating commerce. The Secretary's
12 decision not to sue Local 302 of IUOE is reviewable by the U.S.
13 District Court under the Administrative Procedure Act, 5 U.S.C.
14 §§ 702, 704 and under the reviewing standard specified in §
15 706 (2)(A). The Secretary's decision not to sue is not excepted
16 from judicial review by 5 U.S.C. § 701(a).

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18 III. GENERAL ALLEGATIONS

19 4. Plaintiff Edgar Hanson alleges that his rights
20 were infringed with resulting harm caused by intentional acts
21 of election fraud by the incumbent officers of Local 302 IUOE
22 during the 1999 general election of officers. Additionally,
23 the incumbent officers of the union intentionally violated
24 portions of Title IV of the Labor Management Reporting and
25 Disclosure Act (LMRDA), as well as the union constitution and
26 bylaws during the same election period. The incumbents committed
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1 their unlawful conduct in order to affect the outcome of the
2 election in their favor and to cause an intentional loss for
3 Edgar Hanson.

4 5. Hanson further alleges that his rights were
5 violated which resulted in harm when U.S. Secretary Herman failed
6 to bring suit against Local 302 in federal court to invalidate
7 and void the 1999 election and force a rerun.

8 6. Hanson possesses evidence which demonstrates
9 fraud and election violations committed by the incumbent officers
10 in the 1999 election. Hanson's evidence also demonstrates a
11 clear pattern of unlawful conduct, including perjury and fraud,
12 committed by incumbent officers during the 1996 election, in
13 which Hanson was also a candidate.

14 7. Hanson alleges and has evidence to prove that
15 the incumbent officers, and particularly Hanson's direct
16 opponent Clyde Wilson, hired Dave Clements of the accounting
17 firm Lockitch, Clements and Rice (LCR) to commit election fraud
18 in favor of the incumbents. Clements was not the low bidder
19 to serve as Election Supervisor. Wilson chose Clements to serve
20 anyway, even though some members from the rank-and-file proposed
21 that someone other than LCR supervise the election. Dave
22 Clements had a severe conflict of interest as LCR concurrently
23 served as the union's accountant and internal auditor. LCR
24 held that position previously for 30-years.

25 8. Hanson emphatically objected to the employment
26 of Dave Clements of LCR as the Election Supervisor, as Clements
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1 is a personal friend of the union attorney, Russell J. Reid.
2 Both Reid and Clements have been employed by Local 302 for at
3 least 30-years and are friends of the incumbents.
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5 9. Hanson alleges and has evidence to prove that
6 the incumbents hired Chris Gianelli of Service Printing to render
7 assistance in committing election fraud in favor of the
8 incumbents. Dave Clements recommended the hiring of Gianelli,
9 who also had a conflict of interest. Gianelli served as the
10 printer for the official union newspaper during the 10-year
11 period of the incumbent's administrations. Gianelli was also
12 hired to print the incumbent's campaign literature during the
13 same 10-year period.

14 10. Hanson submitted a timely complaint to the Office
15 of Labor-Management Standards (OLMS) of the U.S. Department
16 of Labor in Seattle, Washington. Hanson also submitted his
17 documented evidence to OLMS. Chief investigator and OLMS
18 Director John Heaney met privately with Hanson and examined
19 the "smoking gun" evidence. Heaney encouraged Hanson by stating
20 to him that an addendum to the initial report would be forwarded
21 to Washington, DC. Heaney also met with and interviewed other
22 witnesses, including Hanson's attorney, Hanson's election
23 observers and the King County Election Division (KCED)
24 superintendent, who was responsible for renting out the
25 electronic vote counting machines for the Local 302 election.

26 11. The manufacturer of the electronic vote counting
27 machine, Accu-Vote, stated that the manner in which Dave Clements
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1 operated the machine when using tampered ballots was inconsistent
2 with the design parameters required for obtaining accurate vote
3 counts. An Accu-Vote engineer from Texas stated that such use
4 employed by Clements was highly suspect and should have caused
5 the election to be invalidated.

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7 12. Documents provided by the U.S. Department of
8 Labor under the Freedom of Information Act (FOIA) undisputedly
9 show contradictory statements given by Chris Gianelli and the
10 KCED superintendent as to the preparation of ballots to be used
11 in the 1999 union election. Chris Gianelli was in a direct
12 conflict of interest with the union and had a reason to submit
13 false testimony to federal investigators. The KCED
14 superintendent had no known conflict of interest and therefore
15 no reason to provide false testimony. When the contradictory
16 statements were shown to federal investigators at the U.S.
17 Department of Labor, the OLMS Director recommended that plaintiff
18 Hanson sue the Secretary.

19 13. OLMS federal investigator Donald Logsdon
20 examined Hanson's evidence and stated in his own words, "that's
21 a damn good bit of investigation you guys conducted."

22 14. Plaintiff Edgar Hanson alleges and has evidence
23 to prove that the Secretary's decision to not sue Local 302
24 to void the 1999 election was made arbitrarily and capriciously.
25 The election results showed that only 168 votes separated
26 incumbent Wilson from challenger Hanson, the closest election
27 margin in the union's history. The ballot tampering and election
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1 fraud committed by the incumbents, Dave Clements, and Chris
2 Gianelli affected the outcome of the election.

3 15. Local 302 incumbents violated the LMRDA and
4 the union bylaws by admitting to the destruction of portions
5 of tampered ballots from the 1999 election.

6 16. During the tabulation of votes in August 1999,
7 plaintiff Hanson and his observers objected to the tampering
8 of ballots, a fact that Election Chairman Donald Webb disputes.
9 Webb was employed by the incumbents at the time of his position
10 on the Election Committee.

11 17. Hanson objected to the use of the union
12 headquarters in Bothell, Washington as the location for the
13 ballot tallies. The union headquarters is a new multi-million
14 dollar facility recently constructed by the incumbents. The
15 challengers and the rank-and-file are severely restricted by
16 the incumbents to access their own union hall.

17 18. The union publication "Loadline" was abused
18 by the incumbents as a campaign device to provide excess
19 publicity through print and photographs of the incumbents.
20 The Secretary stated that the "Loadline" was non-promotional
21 in nature, but a reasonable person would plainly see that the
22 "Loadline" is purely promotional and costs the membership a
23 huge financial sum.

24 19. Patterns of fraud and perjury have been
25 committed by union officers Allan Darr and Barry Riedesel, who
26 lied under oath in their depositions in the Albert lawsuit about
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1 their knowledge of union activities. Darr, the former editor
2 of the "Loadline" and a former Trustee was selected on January
3 5, 2001 by a committee of five members from the Executive Board
4 (including Barry Riedesel) to serve as the "unelected" new
5 business manager. Riedesel, the 1996 Election Chairman who
6 held the positions of business agent, Trustee of the \$2.5 billion
7 Retirement Fund, and "unelected" Vice President, won his first
8 election of V.P. by a margin of 60 votes in 1999. Riedesel
9 is also the current editor of the "Loadline."

10 20. Clyde Wilson retired as business manager on
11 January 1, 2001 (after serving only 16-months of a 36-month
12 term) because he knew that his election was illegitimate and
13 that evidence was mounting against him. Wilson retired in the
14 same manner as the previous business manager, Larry Johnson,
15 (who retired in 1997 after serving only 8-months of a 36-month
16 term), and Jack Jacubiec who retired after serving only 4-months
17 as the newly elected Financial-Recording-Corresponding Secretary.
18 Wilson, Johnson, Jacubiec and Riedesel are named defendants
19 in the Albert suit currently before the 9th Circuit Court of
20 Appeals.

21 21. A conspiracy exists at Local 302 to prevent
22 union democracy and the will of the membership in free, fair
23 and honest elections. The conspiracy consists of an oligarchy
24 of incumbents including: Darr, Wilson, Riedesel, Johnson,
25 Jacubiec, and the Local 302 union attorney, Russell J. Reid.
26 Also under investigation for involvement is the son of a former
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1 business manager, who is now employed as an investment manager
2 of the \$2.5 billion Retirement Fund which belongs to the retired
3 members of Local 302 and Local 612. The son was terminated
4 as an office assistant in 1988 by Val Albert who had become
5 the newly elected business manager. The union's attorney,
6 Russell J. Reid, was also terminated from employment by Albert.
7 After Albert's defeat in a fraudulent election in 1990, incoming
8 business manager Larry Johnson promptly rehired Reid. Presently,
9 Reid is Local 302's attorney, as well as attorney for the \$2.5
10 billion Retirement Fund of Local 302 and 612. Albert suit
11 defendants Johnson, Wilson and Jacubiec retired early after
12 becoming exposed for their misdeeds and unlawful conduct.
13 Without the legitimacy of an election, Darr was hastily placed
14 in the business manager's seat in January 2001 because he was
15 the remaining original conspirator and an un-named union
16 defendant in the Albert suit. Darr has never been a line officer
17 and has never been a bonafide candidate for business manager,
18 Local 302's top position. Vice-president Barry Riedesel was
19 passed over for business manager in preference of Darr, as it
20 would have been otherwise far too obvious that Riedesel received
21 the ultimate pay-off for his participation in election fraud
22 in 1996 while serving as the election committee chairman.
23 Riedesel would have been further exposed in the illegal plot
24 designed by Russell J. Reid and the union conspirators
25 to expel candidate Val Albert from membership in Local 302,
26 without the due process requirements under LMRDA, only two
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1 months after the fraudulent 1996 election.

2 22. In spite of all of the evidence that plaintiff
3 Hanson has acquired and presented to OLMS against Local 302
4 incumbent officers, Secretary Herman has rendered a decision
5 not to file suit and void the 1999 election. The Secretary's
6 decision can only be viewed as arbitrary, capricious, an abuse
7 of discretion, or otherwise not in accordance with law.

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9 IV. QUESTIONS FOR REVIEW BY THE COURT

10 23. The questions for review by the Court are based
11 on a record from issues raised by the plaintiff through direct
12 correspondence with the director of OLMS as well as the responses
13 provided by the Secretary through her Statement of Reasons.

14 24. The plaintiff has a very real fear, and there
15 is evidence to prove, that the manner, activities and conduct
16 by the incumbent officers and their service providers affected
17 the outcome of the 1999 election in favor of the incumbents.
18 The plaintiff also fears that abuses have become so
19 institutionalized in Local 302's election process that only
20 the Court can properly remedy the problem and restore union
21 democracy and honest elections.

22 25. The questions for the reviewing Court to
23 consider include, but are not limited to the following:

24 a. Did the Secretary act arbitrarily and
25 capriciously and abuse her discretion and act otherwise not
26 in accordance with law when she decided not to file suit against
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1 Local 302 to void the 1999 election of officers?
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3 b. Did the Secretary act arbitrarily and
4 capriciously and abuse her discretion and act otherwise not
5 in accordance with law when she concluded in her Statement of
6 Reasons that there were no violations of the Labor Management
7 Reporting and Disclosure Act by Local 302?

8 c. Did the Secretary act arbitrarily and
9 capriciously and abuse her discretion and act otherwise not
10 in accordance with law when the evidence presented by plaintiff
11 Hanson clearly demonstrates election fraud, LMRDA violations,
12 and constitution and bylaw violations by incumbent officers
13 of Local 302?

14 d. Did the Secretary act arbitrarily and
15 capriciously and abuse her discretion and act otherwise not
16 in accordance with law when the Secretary's own "Report and
17 Investigation" (obtained by the plaintiff under FOIA) clearly
18 shows contradictory testimony presented to federal investigators
19 by Chris Gianelli, the producer of union ballots, the union
20 publication and the incumbent's campaign literature?

21 e. Did the Secretary act arbitrarily and
22 capriciously and abuse her discretion and act otherwise not
23 in accordance with law when her own OLMS Director in Seattle
24 demonstrated amazement at plaintiff Hanson's "smoking gun"
25 evidence, and when OLMS investigator Don Logsdon stated that
26 the plaintiff's evidence was the result of a "damn good bit
27 of investigation?"
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f. Did the Secretary act arbitrarily and capriciously and abuse her discretion and act otherwise not in accordance with law when she stated that she found no evidence that Dave Clement's dual position as Election Supervisor and union accountant produced a conflict of interest or undermined the integrity of the election?

g. Did the Secretary act arbitrarily and capriciously and abuse her discretion and act otherwise not in accordance with law when she determined that the union member's newspaper "Loadline" was non-promotional in nature when an actual examination of the paper clearly demonstrates that the "Loadline" is a costly campaign tool used by editors Allan Darr and Barry Riedesel to benefit the incumbents in elections.

h. And finally, did the Secretary act arbitrarily and capriciously and abuse her discretion and act otherwise not in accordance with law when she dismissed Edgar Hanson's complaint?

V. PRAYER FOR RELIEF

Wherefore, plaintiff Edgar Hanson prays that this Court accurately review the arbitrary and capricious decision made by U.S. Labor Secretary Alexis Herman to not bring suit against Local 302 to void the 1999 election of officers, and that this Court review all of the evidence presented by Hanson.

Furthermore, that this Court remand the Secretary's decision so that a truthful re-investigation of the facts will