

US judge imposes gag order against retired auto workers in UAW-GM case

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A US district judge in Detroit has imposed a gag order to block retired auto workers from scrutinizing the details of a new multi-billion-dollar retiree health care trust fund being set up by the United Auto Workers union.

The UAW was given control of the fund—known as a Voluntary Employees Beneficiary Association, or VEBA—in exchange for massive concessions it granted to the Big Three auto makers, General Motors, Ford and Chrysler, in labor agreements signed last year.

The VEBA deal generated widespread opposition from rank-and-file retirees because it relieves the employers of their obligation to provide medical benefits for former workers and their spouses, a right won by auto workers in the 1940s and 1950s. The auto companies will pay \$52 billion to rid themselves of \$88 billion in future health care costs for 750,000 current and future retirees and their dependents, making it all but certain that the fund will be depleted, leading the UAW to impose future benefit cutbacks.

The UAW and the auto companies are now seeking court approval for the deal before the US District Court. On December 27, Judge Robert Cleland issued a protective order to conceal all testimony, documents and other evidence in the case. According to the *Detroit Free Press*, Cleland issued a similar order in the UAW-Chrysler VEBA case on November 15.

Cleland gave the parties permission to designate documents as “highly confidential-eyes only” at any time and for a variety of reasons. The order includes all financial records of GM and the UAW and prohibits the release of any information that would cause the company, the union and any of its representatives “annoyance, embarrassment, or oppression” if used for purposes outside of the litigation.

The union and the company have much to hide from

workers who will be forced to pay ever greater out-of-pocket medical expenses and see their benefits erode. In an effort to sell the deal, UAW President Ronald Gettelfinger told his members a union-controlled trust fund would be much more secure than the employer-paid plan because the auto companies might declare bankruptcy and unilaterally cancel retiree benefits. The UAW VEBA, Gettelfinger claimed, which would begin dispensing benefits in 2010, would remain solvent for the next 80 years.

This was a cynical lie. From the beginning the trust will be under-funded by at least \$36 billion. Moreover, the UAW’s claims of long-term solvency were based on unrealistic estimates that health care costs, which have been rising at an annual rate of nearly 10 percent for the last 24 years, would rise by only 5 percent in year after 2013.

“They’ve got ridiculous assumptions on health care costs,” Lance Wallach, a VEBA consultant in the New York City area, told the *Detroit Free Press*. “It’s not even close to being realistic, it’s preposterous... Unless they make drastic changes to the way they treat health care, I’d be surprised if the money lasts 20 years.”

In reality, the VEBA was a massive pay-off to the UAW bureaucracy for its assistance in slashing labor costs, wiping out tens of thousands of jobs and imposing a contract that will reduce the wages of new-hires by half. The UAW will now control one of the largest private investment funds in the US, assuring that Gettelfinger and his cronies will become wealthy men.

In addition, since much of the funding for the VEBA has been paid in notes convertible to company stock, the UAW is expected to become the largest shareholder in GM and Ford, providing an extra incentive for the UAW bureaucracy to impose new concessions on its own members.

Judge Cleland's ruling is at least in part aimed at blocking further legal action by GM retirees. In 2005, hundreds of former workers filed a class action suit against the company and the UAW opposing the imposition of first-time-ever retiree health care concessions, which included the setting up of an initial VEBA.

The workers argued that the auto company could not renege on its legal and contractual commitment and rob them of medical benefits they worked three decades or more to earn. Moreover, they argued, the UAW had no legal standing to strip them of these benefits, especially since federal labor law does not automatically recognize the right of unions to bargain—in this case, negotiate the slashing of benefits—for workers who are retired and only tangentially covered by current collective bargaining agreements, and who cannot participate in rank-and-file ratification votes on the contracts.

Anticipating a wave of legal challenges by retirees, the UAW filed a complaint before Judge Cleland at the time asking him to legally sanction the agreement with GM. The legal action by the union was depicted as a fight against GM's threat to unilaterally terminate or modify retiree health benefits that are guaranteed under the collective bargaining agreement. The UAW complaint was filed in the name of two retired Michigan auto workers, whom the union asked the judge to accept as representatives in a class action on behalf of more than half a million retired autoworkers and their families.

This was all window dressing to give the appearance that the UAW was trying to defend the retirees' benefits and uphold the right of the rank and file to have a say in any changes. In fact, the opposite was the case.

According to an article in the *Detroit Free Press* at the time, "legal experts immediately suggested that [the UAW] took such an unusual step to keep disgruntled retirees from challenging the union's right to negotiate such concessions and tying the deal up in years of litigation."

In November 2005, Judge Cleland dismissed the objections of the retirees who opposed the UAW-GM settlement, making the specious argument that fewer than 1,250 people out of 476,000 retirees and dependents affected by the settlement objected to it.

Shedding all pretense of impartiality, the judge added: "The delay and risks of litigation have an impact not only on GM, UAW and the Class, but also on the families, businesses and communities that depend on GM's continued competitiveness and viability. Those interests are advanced by the Settlement Agreement."

Once again, with the collusion of GM and the federal judge, the UAW is seeking to gain legal sanction to strip auto workers and retirees of their hard-won benefits, while the union officialdom takes control of a multi-billion-dollar trust fund which will transform the UAW into a money-making business.

In an email message to the *World Socialist Web Site*, attorney Mark Baumkel, who represents retired GM workers fighting to block the conspiracy by the UAW and GM, said, "My view is that this entire episode has been a legal travesty. The retirees' vested health benefits were negotiated away by current UAW leadership which, under extremely well-established US Supreme Court precedents, lacked lawful authority to do so (because it is exclusive bargaining agent solely for current workers).

"This well-established limitation was circumvented via a conspicuous subterfuge of the UAW hand-picking counsel to 'represent' the retirees for purposes of rushing through an uncontested and unquestioned settlement binding on the entire class of retirees where all significant terms of the settlement had already been agreed to without any representation on behalf of retirees. The entire episode is an embarrassment to the legal system (and to the mainstream media for failing to discern and report on how such an obvious sham was permitted to so quickly slide through the court system without judicial resistance). Therefore, I am not surprised that the Detroit federal court may now wish to gag scrutiny adverse to expansion of this sham procedure."



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