

Will Lehman replies to Biden's Department of Labor in ongoing lawsuit to demand rerun of UAW election

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Will Lehman, the Mack Trucks worker and a socialist candidate for president of the United Auto Workers last year, filed an amended complaint in federal court Tuesday against the US Department of Labor's decision to sanction the disenfranchisement of hundreds of thousands of UAW members during the union's elections. Lehman filed the legal complaint in the US District Court for the Eastern District of Michigan, which is expected to rule later this year on his demand for the rerun of the election so that all UAW members can fully participate.

On June 30, Biden's Department of Labor denied Lehman's challenge over the conduct of the UAW election, in which only 104,000 of the union's 1.1 million active and retired members participated, the lowest turnout by percentage of any union election in US history. Labor Department officials ignored overwhelming evidence presented by Lehman which detailed how the UAW bureaucracy failed to follow court orders to update members' mailing addresses or adequately publicize the election. They also ignored evidence of the gross conflict of interests of the two law firms used by the court-appointed UAW Monitor to oversee the election process, including their close connections and ongoing legal work for General Motors and other auto companies with UAW contracts.

Providing no explanation for its decision, the Department of Labor's three-sentence ruling ended with, "A statement of reasons setting forth the basis for this decision will be mailed to you at a future date."

Lehman filed a lawsuit against the DOL on July 3, and more than a month later its Office of Labor-Management Standards (OLMS) sent Lehman its "statement of reasons." The August 8 letter not only ignored the detailed evidence of voter suppression and the UAW Monitor's conflict of interests but added a whole set of spurious and self-contradictory procedural arguments to justify its denial.

This hinged around the claim that Lehman's "post-election" complaints were "untimely filed" because they involved allegations of misconduct that occurred before the ballots were due on November 28, 2022. In November, however, Lehman sued the UAW to force it to provide notice to the membership

and at that time federal judge David Lawson, the UAW Monitor and the Labor Department all said Lehman could not go to court to protect workers' rights until the election was concluded.

In Tuesday's court filing, Lehman's attorney said the DOL's rejection was "arbitrary and capricious." The amended complaint refuted the claims that Lehman's challenge of the monitor's denial of his protest was "untimely," pointing to the election rules requiring that "post-election" complaints be filed with the UAW Monitor within 15 days of the unofficial announcement of 2022 election results, a deadline Lehman's counsel confirmed with the UAW Monitor.

When the 122-page protest filed by Lehman on December 19, 2022 was rejected by the Monitor three months later on March 19, 2023, Lehman filed a complaint with the Department of Labor just 10 days later. "Accordingly, the DOL lacks any plausible ground to reject the central allegations in Lehman's post-election complaint on procedural grounds," the amended complaint states.

The filing then takes apart the ridiculous claims by the DOL that Lehman should have filed his complaint, which centered on the fact that the historically low turnout was the product of deliberate voter suppression by the UAW bureaucracy, *before* the results of the election were known:

Adopting the positions taken by the Monitor in rejecting Lehman's complaint, the DOL purported to determine that Lehman should have instead made his protest as a 'pre-election' protest--before the votes were cast. But since Lehman could not have proved that the turnout was low before the vote tally, this is a procedural requirement that would have been impossible for Lehman to fulfill without the aid of a time machine.

Lehman's post-election protest featured an audit, surveys, and other evidence gathered after the election, which could not have

been presented earlier because it did not exist and could not have been gathered yet. This included an audit of all UAW social media sites and a survey of rank-and-file members, which disclosed “conclusive evidence” that the UAW bureaucracy did as little as possible to inform members about the election. Although this complaint was filed within the 15-day deadline, the Monitor and the DOL claimed the audit and surveys were merely “allegations” and not filed on time.

“This is absurd on its face. Lehman could not make a protest based on this evidence before the low turnout prompted him to investigate and discover it,” the latest filing states.

Lehman’s attorney noted that the DOL took the exact opposite position in November 2022 when it argued for the dismissal of Lehman’s pre-election lawsuit, which requested an emergency court intervention to extend the ballot counting deadline by one month to ensure broader participation by the rank and file. At that time, when only a preliminary tally of a fraction of the votes cast was available, the DOL demanded the judge toss out Lehman’s lawsuit on the grounds that the data presented by Lehman were only “estimates” and that it was “entirely premature to use any participation numbers.”

Lehman’s amended complaint explains:

In other words, DOL suggested in November 2022 that it would be impossible to evaluate whether an election violation occurred until after the votes were all tallied. But when Lehman promptly protested after the votes were tallied, the DOL switched its position from 'premature' to 'too late.' These inconsistent positions underscore the entirely arbitrary and Alice-in-Wonderland manner that Lehman's protest has been handled.

In addition, Lehman’s attorney says, the rank-and-file candidate made numerous pre-election protests that were ignored by the UAW Monitor. This includes protests against the UAW bureaucracy’s efforts to undermine Lehman’s candidacy by denying him access to membership lists and email addresses and engaging in acts of intimidation against campaign supporters. In a November 11, 2022 communication with the UAW Monitor, Lehman demanded immediate action to 'protect the right of workers to vote given the massive problems that appear to exist with workers receiving their ballots' and protested the Monitor's failure to respond to previous protests.

According to the DOL, these were not “protests” but only “generalized grievances,” arguing absurdly that they were conveyed in letters that were not captioned “protests” or “complaints.” Moreover, the DOL contends that Lehman’s pre-election protests were not legitimate “protests” because the Monitor did not act on them!

The filing concludes by pointing to the motivations behind the DOL’s decision to sanction an election that stripped UAW members of the right to vote and installed a long-time union bureaucrat, Shawn Fain, with the votes of only around three percent of the membership.

On July 19, 2023, before the DOL issued its 'statement of reasons,' Shawn Fain met with President Joe Biden in-person at the White House. The substance of the discussion between Biden and Fain has not been publicly disclosed, except that it related to the looming prospect of a strike in September upon the expiration of auto contracts with 170,000 workers at Ford, General Motors and Stellantis in the US and Canada. This conduct taints the DOL's 'statement of reasons' rejecting Lehman's complaint on purported procedural grounds. It suggests that the decision to bury Lehman's complaint had been made long before, and it was just a matter of cobbling together a pseudo-legal justification for a result that the government was already treating as an accomplished fact.

The Biden administration’s sanction of this electoral travesty demonstrates its complete contempt for the democratic rights of workers. After outlawing the strike by railway workers and working with the union bureaucracies to impose sellout contracts on dock and UPS workers, the Democratic administration of Joe Biden is seeking to prop up the Fain administration, which it is now using to suppress the opposition of rank-and-file workers and impose the dictates of the auto corporations.

From the beginning of his campaign, Lehman argued that the democratic rights of autoworkers would not be advanced by replacing one union bureaucrat with another but by abolishing the whole UAW bureaucracy and transferring power from the apparatus to the workers on the shop floor through the formation of rank-and-file committees in every factory and work location. With the contract for autoworkers a week away, the fight to expand these committees is more urgent than ever.



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