

Will Lehman challenges Biden administration's refusal to investigate voter suppression in the UAW elections

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Attorneys for Will Lehman, a Mack Trucks worker and socialist candidate for president of the United Auto Workers, filed a motion in Michigan federal court last week seeking to reverse the purported “dismissal” of his election complaint by the Biden administration’s Acting Secretary of Labor Julie A. Su.

Lehman has been fighting for nearly a year to challenge the results of the 2022 UAW national leadership elections, which saw a historically low turnout of 9 percent of the eligible voters. Lehman has gathered and presented evidence that the union bureaucracy deliberately failed to give adequate notice of the election to eligible members and retirees, which resulted in a turnout that disproportionately favored the bureaucracy’s favored candidates.

Lehman’s legal challenges have been met with what his latest brief calls “slow-walking, stonewalling, and procedural gamesmanship from the union leadership, the monitor [appointed to oversee the election], and ultimately by the Department of Labor.”

Lehman’s brief describes an interlocking web of legal Catch-22s that effectively prevent union members from asserting their rights. Under the Labor-Management Reporting and Disclosure Act of 1959, Lehman is prohibited from filing a lawsuit in his own name to challenge the election. Instead, he is required to submit a complaint to the Biden administration’s Department of Labor and request that the government initiate a lawsuit on his behalf.

But before he is allowed to submit his complaint to the Department of Labor, he must first file a “protest” within the union and wait for that “protest” to be adjudicated internally. In Lehman’s case, by the time the union adjudicated (and dismissed) all of his protests, the Department of Labor took the position that his complaint was “untimely” and too late.

In his brief in support of the motion, which was filed in the federal District Court for the Eastern District of Michigan, Lehman argues that he followed all the rules precisely, and that the Labor Department’s purported dismissal of his complaint on procedural grounds of “untimeliness” was “arbitrary, capricious, and contrary to law.”

As such, Lehman has asked federal district court judge David M. Lawson to “overturn the illegitimate procedural grounds advanced by the Department for dismissing his complaint and send Lehman’s complaint back to the Department for a genuine and

substantive investigation on the merits.”

In the introduction to his brief, Lehman points out that the same Judge Lawson had already ruled on November 23, 2022 that his complaints regarding the low turnout in the UAW election were “serious and should cause concern that a less-than fulsome response from the membership may portend election results that are not genuinely representative of the will of the voters.” But at that time, the judge ruled that Lehman must submit his complaints to the Secretary of Labor first.

As his latest brief explains, “Lehman did exactly what the Court instructed him that he must do: he exhausted his internal remedies and timely presented his complaints to the Secretary of Labor. But the Secretary of Labor arbitrarily threw out Lehman’s complaints as ‘untimely.’”

By sidestepping his complaint on arbitrary procedural grounds, Lehman argues, the Labor Department is shirking its legal obligation to investigate his complaints of widespread voter suppression.

Will Lehman, a 35-year-old auto worker in Macungie, Pennsylvania, announced his candidacy for president of the UAW in June 2022. His campaign was based on restoring power in the union to rank-and file members and abolishing the UAW apparatus of highly paid bureaucrats who are actively hostile to the interests of the rank and file.

Lehman’s campaign stood for the rights of the rank and file in the union, advancing a fighting program to win back decades of concessions. As the only candidate to run openly as a socialist, he won 4,777 votes, or nearly 5 percent of the votes cast.

Due to massive corruption in the union leadership, which resulted in the criminal convictions of dozens of union officials, including two former national presidents, the 2022 UAW presidential election was conducted under the supervision of a court-appointed monitor. Instead of UAW presidents and other top executives being handpicked by the UAW apparatus itself, as in the past, a referendum paved the way for direct elections.

On July 27 of last year, Lehman was formally nominated as a candidate at the union’s 38th Constitutional Convention in Detroit. Lehman campaigned aggressively across the country at factory gates and through social media to notify rank-and-file auto workers of his candidacy and his program.

However, once voting began, it became clear to Lehman and his

supporters that the majority of eligible voters either did not know about the election at all or had never received a ballot in the mail.

In his motion filed last week, Lehman summarized the record of his timely protests against voter suppression, and showed that all of the “delay” has been attributable to deliberate slow-walking by the monitor and the government.

- **November 9, 2022:** Well before the voting closed on November 28, 2022, Lehman submitted a timely and valid protest to the court-appointed monitor. The protest stated, “It is clear that a substantial portion of the 1 million-plus UAW membership either doesn’t know there is an election, doesn’t know they are eligible to vote, or hasn’t received a ballot.” Lehman wrote that “serious action must be taken” to inform members of the election.

- **November 11, 2022:** The court-appointed monitor acknowledged receipt of Lehman’s protest and promised a “more comprehensive response.” However, no comprehensive response was ever provided.

- **November 17, 2022:** Having received no substantive response from the monitor to his protest, Lehman filed an emergency lawsuit demanding that the judge take action to guarantee the right of rank-and-file workers to cast a meaningful vote in the election. In a hearing on the case on November 22, the judge agreed that Lehman’s “grievances certainly are serious” but said that the complaint “must be presented to the Secretary of Labor,” which in turn required Lehman to first “exhaust” the internal union procedures.

- **December 19, 2022:** As the monitor still had not responded to his earlier protests, Will Lehman filed a detailed post-election protest to the monitor. This protest, which included surveys of rank-and-file members at locals around the country as well as audits of union social media pages, documented the widespread lack of awareness of the election among UAW members and confirmed the warnings that Lehman had made in November.

- **March 19, 2023:** After sitting on Lehman’s complaints for months, the monitor denied and dismissed all of Lehman’s protests. Lehman’s pre-election protests were deemed invalid, and the post-election protest was deemed “untimely.” But the monitor’s response indicated that it was a “final decision” and that Lehman was free from there to file his complaint with the Department of Labor.

- **March 29, 2023:** Ten days after receiving the monitor’s final decision, Lehman submitted a timely complaint to the Department of Labor, well within the 30-day deadline that was legally required.

- **June 29, 2023:** The Labor Department dismissed Lehman’s complaint with a three-sentence letter that gave no reasons. It was only after Lehman filed the current lawsuit against the Acting Secretary and the Department of Labor that the government issued a “Statement of Reasons” that claimed that Lehman’s complaint was supposedly “untimely.”

In a legal brief filed last month in opposition to a similar motion by the government, Lehman compared the conduct of the monitor to “a sports player who holds the ball to run out the clock,” which the brief called “especially inappropriate given that it is Lehman’s own union dues that are being used to pay the monitor to engage in this kind of gamesmanship with his complaints.”

Lehman’s briefs expose the year-long effort to sidestep, duck, and evade the proof of voter suppression that Lehman gathered and submitted. In waging this fight on behalf of the rights of the rank-and-file, Lehman has been met with stonewalling and attempts at procedural evasion from the union, from the court-appointed monitor (which consists of management’s lawyers), as well as from the Biden administration.

In his latest brief, Lehman exposed the irrational and inconsistent arguments being advanced by the Biden administration to bury his complaint. Using brazen circular logic, for example, the Labor Department argues that Lehman’s pre-election protests were not valid because the monitor “did not adjudicate any of the issues in [Lehman’s] email communications as would be required if such communications were formal pre-election protests.”

In other words, the monitor ignored the protests Lehman submitted, so those protests therefore must not have been valid! In addition to being circular logic, submitting the protests by email was specifically required by the election rules themselves.

Lehman’s election lawsuit is reaching a critical phase at a time of acute crisis within the UAW. The current UAW leadership under president Shawn Fain is encountering broad rank-and-file opposition as it seeks to cram down sellout contracts with the Detroit Three that achieve none of their workers’ demands in the ongoing contract fight, which Fain has hamstrung by limiting strike action to a handful of workplaces while keeping the rest of the workforce on the job.

Lehman’s brief emphasizes that the central issue in the case is the rights of rank-and-file union members to “meaningfully participate in democratic union elections, including the right to receive adequate notice of the election,” which are nominally protected under US labor law.

Until the defects in the UAW election are addressed, Lehman’s brief states, “Lehman and the thousands of workers who voted for him will continue to regard this election and the leadership that it produced as, in the Court’s words, not genuinely representative of the will of the voters.”

If the judge determines that the Labor Department’s decision was “arbitrary, capricious, and contrary to law,” the judge can order the Acting Secretary to reopen consideration of Lehman’s complaint.

Lehman’s brief states: “This Court should tell the Department of Labor to stop giving Lehman the run-around by granting this motion, requiring the Department to perform its legal obligations and investigate the merits of Lehman’s timely complaint.”

A decision on Lehman’s motion is expected within the next one to two months.



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