

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CHARLES CHATTAS, ED MCGUIRE,  
JIM HASTINGS, BERNIE HICKEY, JR.,  
AND BOB PITLOCK

Plaintiffs,

vs.

LOCAL 134 IBEW, UNIFIED SOCIAL  
CLUB AND MIKE FITZGERALD,

Defendants.

NO. 99 C 400

RECEIVED  
DEC - 6 2000  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**NOTICE OF PRESENTMENT**

TO. Odelson & Sterk  
ATTN: Burt Odelson  
3318 W. 95th Street  
Evergreen Park, IL 60805  
FAX NO. (708) 425-1 898

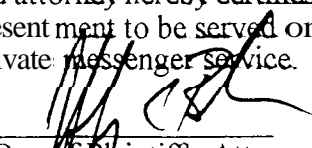
Gold & Polansky  
ATTN: Roger Gold  
77 West Wacker Suite 4025  
Chicago, IL 60601  
FAX NO. (3 12) 704-443 1

Patrick Calihan  
53 W. Jackson Blvd. Suite 1112  
Chicago, IL 60604  
FAX NO. (3 12) 922-7576

PLEASE TAKE NOTICE that on Tuesday, December 12, 2000, at 10:15 a.m., or as soon thereafter as counsel may be heard, the undersigned will appear before the Honorable James B. Zagel, in courtroom 2 103 of the United States District Court, Northern District of Illinois, Dirksen Federal Building, 219 South Dearborn, Chicago, Illinois, or before such other Judge as then may be sitting in his place, and shall then and there present PLAINTIFFS' MOTION FOR LEAVE TO FILE REVISED APPLICATION FOR LEAVE OF COURT PURSUANT TO 29 U.S.C. § 501(B) TO FILE ADDITIONAL COUNTS FOR RELIEF UNDER TITLE V OF LMRDA, a copy of which is hereto attached and hereby served upon you.

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on December 6, 2000, he caused a copy of the foregoing Notice of Presentment to be served on the above stated party at the abovestated address through the use of a private messenger service.

  
\_\_\_\_\_  
One of Plaintiff's Attorneys

DESPRES, SCHWARTZ & GEOGHEGAN #70814  
77 W WASHINGTON STREET - 711  
CHICAGO IL 60602  
(3 12) 372-25 11  
Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CHARLES CHATTAS, ED MCGUIRE, )  
JIM HASTINGS, BERNIE HICKEY, JR., )  
AND BOB PITLOCK )

Plaintiffs, )

vs. )

LOCAL 134 IBEW, UNIFIED SOCIAL )  
CLUB AND MIKE FITZGERALD, )

Defendants. )

**NO. 99 C 0400**  
Judge Zagel

**PLAINTIFFS' MOTION FOR LEAVE TO FILE REVISED APPLICATION  
FOR LEAVE OF COURT, PURSUANT TO 29 U.S.C. § 501(B), TO FILE  
ADDITIONAL COUNTS FOR RELIEF UNDER TITLE V OF THE LMRDA**

Plaintiffs, by their attorneys, respectfully move the Court, pursuant to the Federal Rules of Civil Procedure, for an order granting them leave to file a Revised Application For Leave Of Court, Pursuant to 29 U. S.C. § 50 1 (B), to File Additional Counts For Relief Under Title V of the LMRDA. In support of their motion, Plaintiffs state as follows:

1. On November 16, 1999, Plaintiffs filed their Verified Application For Leave Of Court Pursuant To 29 U.S.C. § 501(B) To File Count For Relief Under Title V of LMRDA (hereafter "Plaintiffs' Application")

2. On November 23, 1999, this Court denied Plaintiffs' Application on the grounds that Plaintiffs' Application and proposed Second Amended Complaint failed to state an appropriate claim for relief under Title V of the LMRDA.

3 On December 23, 1999, Plaintiffs filed their Notice of Appeal, in which they appealed, in part, this Court's ruling of November 23, 1999, denying them leave to file an additional count under Title V of the LMRDA

4. On October 18, 2000, the United States Court of Appeals for the Seventh Circuit reversed that part of this Court's November 23<sup>rd</sup> decision that concerned the issue of whether

Plaintiffs' Application stated an appropriate claim for relief under Title V of the LMRDA.

5. On November 1, 2000, defendants-appellees filed a petition for rehearing and petition for rehearing *en banc*. The United States Court of Appeals for the Seventh Circuit denied this petition in an order dated November 15, 2000.

6. On November 27, 2000, the Seventh Circuit issued its mandate in this matter to the United States District Court for the Northern District of Illinois.

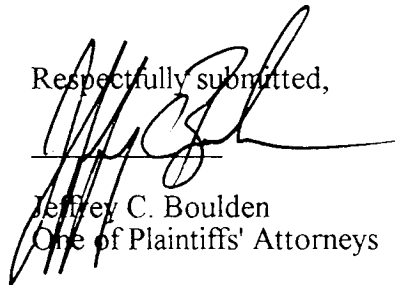
7. Since this matter was last before this Court, the Executive Board of Local 134 (International Brotherhood of Electrical Workers) issued a decision denying plaintiff Charlie Chathas' request, pursuant to Title V of the LMRDA, § 501(B), that Local 134 file suit against Michael Fitzgerald, Business Manager of Local 134. The decision of Local 134's Executive Board was set forth in a letter to Mr. Chathas dated January 28, 2000. See Exhibit A, attached. As the issue of the timeliness of Plaintiffs' Application is at issue, Plaintiffs seek leave to file a Revised Application to reflect this fact.

8. Plaintiffs' initial Application was incomplete, in that it sought relief only against Defendant Michael Fitzgerald for his role in the solicitation and/or collection of money from contractors on behalf of the Unified Social Club. Plaintiffs' Application was prepared as part of their response to Defendants' Motion for Permanent Injunction/Motion to Dismiss. However, Plaintiffs contend that **all officers of Local 134 who were involved in the solicitation and collection of money from employers on behalf of the Unified Social Club** are necessary parties who must be joined in these proceedings. Therefore, Plaintiffs seek leave to file their Revised Application, for the purpose of seeking leave to join these additional necessary defendants.

9. Since this matter was last in court, Mr. Fitzgerald issued "An Open Letter to the Membership of IBEW Local 134". See Exhibit B, attached. In this "Open Letter", Mr. Fitzgerald states, among other things, that Defendants' Motion for Permanent Injunction in these proceedings was motivated, in part, by a desire to save the members of Local 134 "another \$100,000.00 in legal fees". Thus, the "Open Letter" is admission that Local 134 provided counsel to Fitzgerald and paid

for the legal fees in the defense of this litigation against Fitzgerald and Local 134. Plaintiffs contend that the expenditure of money by Local 134 for the payment of the legal defense in these proceedings constitutes a misuse of union funds and/or property, constituting a separate and distinct claim under Title V of the LMRDA. The conduct complained of, the solicitation and/or collection of money by Fitzgerald and other officers of Local 134 on behalf of the Unified Social Club was clearly conduct outside the scope of the employment/authority enjoyed by Fitzgerald and his administration with Local 134. Thus, it was a clear misuse of Local 134's money to pay for the legal defense of this action. Plaintiffs seek leave to file an additional count under Title V based on this purported admission of misuse of union property and money. See Revised Application etc. and Revised Second Amended Complaint, attached. In addition, Plaintiffs seek an order barring Local 134 from providing for, or paying for, any future legal costs or fees of Mr. Fitzgerald, or any of the other Local 134 officers who may be joined, in these proceedings

Respectfully submitted,



Jeffrey C. Boulden  
One of Plaintiffs' Attorneys

Jeffrey C. Boulden  
DESPRES, SCHWARTZ & GEOGHEGAN  
77 West Washington Suite 711  
Chicago, IL 60602  
(312) 372-2511  
Atty. No. 70814