

MARBA MATTERS

GRIEVANCES AND ARBITRATIONSⁱ

Mid-America Regional Council of Carpenters Arbitrations

MARBA received one arbitration demand this month regarding alleged violation of Articles 4.4 (Minimum Hours After Work Commenced) and 20.9 (Miscellaneous Provisions).

Laborers Joint Grievance Committee

The Laborers Joint Grievance Committee did not meet in March. The next JGC is scheduled to be held on April 25, 2023, at the Burr Ridge office of the Laborers, provided there are any cases set to go forward.

Operating Engineers Joint Grievance Committee

The Operating Engineers Joint Grievance Committee did not meet in March.

The next regularly scheduled Local 150 JGC is scheduled to be held on April 5, 2023, at 8:30 a.m. at the offices of Local 150 in Countryside, IL. There are currently two (2) grievances on the docket.

Teamsters Joint Grievance Committee

The Teamsters Joint Grievance Committee did not meet in March. The next regularly scheduled meeting is scheduled for April 27, 2023, at the Teamsters office in Burr Ridge, provided there are any cases set to go forward.

COLLECTIVE BARGAINING/LABOR ISSUES

2023 Negotiation Updates

The 2023 Negotiation Updates emails have started. You can find the previous weeks' update by clicking [here](#). There have been some groups that have already started meeting and there has been one settlement reached in the Chicagoland area. However, many of the Associations/Trades have yet to begin negotiations or have just started. The updates will continue until all the contracts expiring in 2023 listed have been settled. To have your name added to the update distribution list please email Aaron Janik, Executive Director, at ajanik@marba.org.

INDUSTRY NEWS

Laborers Apprenticeship Fund Issues Letter Regarding Mandatory Apprenticeship Program

The Laborers Apprenticeship Fund recently issued a letter to all contributing contractors in the industry reminding them about the Mandatory Apprenticeship program. The letter, which contractors should have received by now, can be found on the MARBA website or by clicking [here](#).

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	February 2023 U.S. 3.6% (up 0.2%), Illinois 4.5% (46 th)
Labor Participation Rate	February - 62.5%, January 2023 - 62.4%, December 2022 - 62.3%
CPI All Urban Consumers	February 2023 over February 2022 = 6.03% 2 nd Half 2022 versus 2 nd Half 2021 = 7.71%
CPI Chicago All Items	February 2023 over February 2022 = 4.73% Annual 2022 = 7.55%
CPI Midwest All Items	February 2023 over February 2022 = 5.56% Annual 2022 = 7.99%
Union Membership	2022 = 10.1% (Private Sector 6.0%) 2021 = 10.3% (Private Sector 6.1%) 2020 = 10.8% (Private Sector 6.3%) Rate of Unionized Construction Workers = 11.7% (2022) 12.6% (2021), 12.7% (2020), 13.6% (2019), 13.8% (2018)
30 Year Fixed Mortgage	Week Ending 3-23-23 6.42% down 0.18% over prior week. Annual Average 5.34% (2022), 2.96% (2021), 3.11% (2020)
15 Year Fixed Mortgage	Week Ending 3-23-23 5.68% down 0.22% over prior week. Annual Average 4.58% (2022), 2.27% (2021), 2.61% (2020)
Brent Crude Oil Price	\$77.50 per barrel (as of March 23, 2023) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	13.8% above revised January rate 17.9% below February 2022 rate

Privately Owned New Housing Starts	9.8 % above revised January rate (+/-15.5%) 18.4% below January 2022 rate (+/-8.9%)
GDP	Q4 2022 (3 rd) +2.6 Q4 2022 (2 nd) +2.7% Q4 2022 (Adv) +2.9% Q3 2022 (3 rd) +3.2%
DJIA	32,723.65 as of March 30, 2023 (12:30 p.m.) 32,642.07 as of February 28, 2023 (4:00 p.m.) 34,086.89 as of January 31, 2023 (3:00 p.m.)

JANIK'S J.D. – AN UPDATE ON LABOR/CONSTRUCTION LEGAL ISSUES
AARON JANIK – EXECUTIVE DIRECTOR MARBA

BIPA Back in the News

Illinois’ Biometric Information Privacy Act (BIPA) has been one of the most hotly litigated pieces of legislation since its enactment. Within the past few months, the Illinois Supreme Court issued a decision that put the spotlight on BIPA and damages (the White Castle decision). Another decision issued by the Illinois Supreme Court earlier this month directly impacts federal labor laws. The case, *Walton v. Roosevelt University*, involved a union member’s claim that the Employers’ use of biometric information used for purposes of timekeeping violated BIPA. The circuit court rejected arguments the Employer made that BIPA was preempted by federal labor law. Specifically, the University argued Walton was a union member and the University was party to a collective bargaining agreement with his Union. That collective bargaining agreement contained a broad management rights clause. The broad management rights clause, the University argued, gave the Employer the ability to determine the manner in which employees clocked in and clocked out. The University cited a case out of the Seventh Circuit holding when claims required the interpretation of a collective bargaining agreement, federal law preempts BIPA. The Circuit Court although rejecting the Employers argument, citing a close call on the issue allowed for an interlocutory appeal, certifying the question of “whether Section 301 of the LMRA preempts BIPA claims asserted by bargaining unit employees covered by collective bargaining agreement”.

The Appellate Court ruled that Section 301 of the LMRA does preempt a BIPA claim. The Appellate Court cited a decision issued by the Seventh Circuit in 2021 that found Section 301 of the LMRA preempts a BIPA claim. The Appellate Court held the 2021 decision was nearly indistinguishable from the *Walton* case. The Illinois Supreme Court affirmed the Appellate Court’s decision holding that at least two decisions issued by the Seventh Circuit answer the question in the affirmative. Furthermore, the Illinois Supreme Court held the U.S. Supreme Court, federal courts, and district court interpretation of federal laws is binding. In the absence of a U.S. Supreme Court decision on that matter, the Illinois Supreme Court found the weight of a federal circuit and a district court interpretation of federal laws depends on factors such as uniformity and soundness of the decision. In this case two decisions in the affirmative were controlling factors as it relates to uniformity.

Thus, the Illinois Supreme Court reasoned the Appellate Court’s decision was uniform and decided the question in favor of the University.

The takeaway from this case should be viewed narrowly. First, a collective bargaining agreement must contain a management rights clause broad enough to cover clocking in and clocking out. Second, this decision does not mean a BIPA claim would necessarily fail if it made it to court or that a court would decline to rule on a BIPA claim. Rather, the decision seems to imply a bargaining unit member first must proceed through the collective bargaining agreements’ grievance procedure before taking their BIPA claim to court. Third, the NLRB’s General Counsel issued a memo within the past year that has put Employers on notice with respect to technology and employees rights. Any change at the NLRB could impact federal law which would open cases such as the *Walton* case to a greater degree of scrutiny. The decision can be found by clicking [here](#).

UPCOMING SEMINARS/EVENTS

GIVING BACK TO THE COMMUNITY

THE GLCA WILL BE JOINED BY LAKE COUNTY BUILDING TRADES AND THE NORTHEASTERN ILLINOIS FEDERATION OF LABOR IN DISTRIBUTING EASTER DINNER BASKETS TO LAKE COUNTY RESIDENTS

DATE: SATURDAY, APRIL 8, 2023
 TIME: 8:30 A.M. TO 12:00 P.M.
 LOCATION: ZION CITY HALL
 2828 SHERIDAN ROAD
 ZION, IL 60099
 COST: NO COST
 CONTACT: REGISTER BY EMAILING TIM@GREATLAKESCA.ORG

CALENDAR

APRIL 4	1:00 P.M.	TEAMSTERS NEGOTIATIONS (MARBA)
APRIL 5	8:30 A.M.	OPERATORS JGC (COUNTRYSIDE)
APRIL 6	11:00 A.M.	IIIFFC SEMINAR (NAPERVILLE)
APRIL 11	12:00 P.M.	MARBA BOARD (DES PLAINES)
APRIL 12	11:00 A.M.	BRICKLAYERS NEGOTIATIONS (ELMHURST)
APRIL 21	11:00 A.M.	CISCO ANNUAL LUNCHEON
APRIL 25	9:00 A.M.	LABORERS JGC (BURR RIDGE)
APRIL 25	12:00 P.M.	LERA EVENT (CHICAGO)
APRIL 27	9:00 A.M.	TEAMSTERS JGC (BURR RIDGE)

¹ Information for MARBA Matters was obtained from the following sources: BNA Construction Labor Reports, Crain’s Chicago Business, Northwest Times of Indiana, Chicago Tribune, and Sun-Times, CDQ, and the BLS, as well as various websites and other publications.

Did You Know?

People often associate April 1 with April Fool’s Day. However, April 1 is also known as International Pillow Fight Day. Also occurring in April, Administrative Professional’s Day (April 26th).

