

MARBA MATTERS

GRIEVANCES AND ARBITRATIONS¹

Mid-America Carpenters Regional Council Arbitrations

MARBA received one arbitration demand this month regarding an alleged violation of Article X (Steward).

Laborers Joint Grievance Committee

The Laborers Joint Grievance did not meet in February. The next JGC is scheduled to be held on March 28, 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 met on February 1, 2023, beginning at 8:30 a.m. at the offices of Local 150 in Countryside to hear ten (10) grievances. The first two grievances were filed against the same employer and both grievances involved allegations that the Employer was using a non-bargaining unit employee to run a skidsteer and pumps/generators, respectively. The parties wound up settling both grievances just prior to hearing. The third grievance involved an allegation that the Employer was using a non-bargaining unit employee to operate a skidsteer. During the hearing, information was presented by the Employer that he was a current dues paying member and as a result he could not be considered to be a non-bargaining unit member. The Union agreed to postpone the hearing while it investigates the Employer's claims.

The fourth grievance involved an allegation that the Employer was using a non-bargaining unit employee to operate an Excavator. The parties settled the grievance during the course of the hearing. The fifth grievance involved an allegation that the Employer was using a non-bargaining unit employee to run the inside elevator. The grievance also contained an allegation that the Employer did not have the Employee's pay stub ready on time with the correct amount of pay. The Employer did not attend the grievance and as a result the JGC issued a decision in favor of the Union based on the testimony and evidence it presented.

The sixth grievance involved an allegation that the Employer had multiple non-bargaining unit employees operating several pieces of equipment. The Employer did not attend the grievance and as a result the JGC issued a decision in favor of the Union based on the testimony and evidence it presented. The last four grievances were all filed against the same company and all four involved the same allegation that the Employer was using multiple non-bargaining unit employees to operate multiple pieces of covered equipment despite being bound to the

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collective bargaining agreement through a Memorandum of Understanding. The Employer did not attend the grievance and as a result the JGC issued a decision in favor of the Union based on the testimony and evidence it presented.

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 February. The next regularly scheduled meeting is scheduled for March 30, 2023, at the Teamsters office in Burr Ridge, provided there are any cases set to go forward.

COLLECTIVE BARGAINING/LABOR ISSUES

2023 Negotiation Updates

MARBA has posted its list of 2023 Expiring Contracts on the MARBA website. You can access that list by clicking [here](#). The list will be used to form the basis of the Negotiation Update emails that will start going out in April/May. If you are not subscribed to the Negotiation Update email list or would like to add someone from your company to the list, please email ajanik@marba.org with the name and email address of who you would like to add.

If you happen to know of any contracts that may be expiring this year that are not on the current list, you may notify Aaron Janik using the email address in the paragraph above.

INDUSTRY NEWS

New Secretary Tapped to Lead U.S. Department of Labor

U.S. Department of Labor Secretary Marty Walsh has indicated he will be leaving the DOL in March to begin a tenure as the head of the National Hockey League Players Association. President Biden has said he intends to nominate the current Deputy Secretary of Labor, Julie Su, to take over for Secretary Walsh. Deputy Secretary Su first took on a role in government work in 2011 as labor commissioner in California after a long career as a civil rights attorney. Her confirmation as Deputy Secretary was along party lines 50-47.

Kennedy Construction Project Gets Green Light

The Illinois Department of Transportation announced the Kennedy Expressway, which is traversed by over 275,000 cars per day, is set to undergo a three-year repair project. The project will repair 36 bridge structures between the Edens Expressway and Ohio Street. The project also calls for patching pavement, painting Hubbard's Cave, replacing sign structures, and updating the access

system to the express lanes. It has been almost 30 years since the last time the Kennedy was rehabbed. The project is set to start the week of March 20 and is estimated to cost \$150 million.

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	January 2023 U.S. 3.4% (down 0.1%), Illinois 4.6% (48 th – Dec)
Labor Participation Rate	January 2023 = 62.4%, December 2022 = 62.3%
CPI All Urban Consumers	January 2023 over January 2022 = 6.41% 2 nd Half 2022 versus 2 nd Half 2021 = 7.71%
CPI Chicago All Items	January 2022 over January 2021 = 5.42% Annual 2022 = 7.55%
CPI Midwest All Items	January 2022 over January 2021 = 5.99% Annual 2022 = 7.99%
Union Membership	2022 = 10.1% (Private Section 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 2-23-23 6.50% up 0.18% over prior week Annual Average 5.34% (2022), 2.96% (2021), 3.11% (2020)
15 Year Fixed Mortgage	Week Ending 2-23-23 5.76 up 0.25% over prior week Annual Average 4.58% (2022), 2.27% (2021), 2.61% (2020)
Brent Crude Oil Price	\$83.57 per barrel (as of February 28, 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	0.1% above revised December rate 27.3% below January 2022 rate
Privately Owned New Housing Starts	4.5 % below revised December rate (+/-15.9%) 21.4% below January 2022 rate (+/-10.6%)
GDP	Q4 2022 (2 nd) +2.7% Q4 2022 (Adv) +2.9% Q3 2022 (3 rd) +3.2%

Q3 2022 (2nd) +2.9%

DJIA

32,642.07 as of February 28, 2023 (4:00 p.m.)

34,086.89 as of January 31, 2023 (3:00 p.m.)

32,871.62 as of December 28, 2022 (4:00 p.m.)

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

Illinois Supreme Court Issues Long Awaited Ruling on Biometric Information Privacy Act

The Illinois Biometric Information Privacy Act was enacted in 2008 and has been the subject of much scrutiny since its enactment. Companies such as Facebook, Snapchat, Tik Tok, and Google have all been sued under BIPA claims. Facebook, last year, issued settlement checks up to \$397 per claimant to Illinois residents pursuant to a class action settlement for its violation of the Act.

Most recently, the Illinois Supreme Court issued a decision that many in the class action world have been waiting for. The case, referred to the Illinois Supreme Court by the 7th Circuit, captioned *Cothron v. White Castle System, Inc.*, addressed the issue of whether BIPA claims accrue each time a private entity scans an individual's biometric identifier and transmits such a scan to a third party, or only upon the first instance of such a collection and transmission of information.

The Illinois Supreme Court, in a divided opinion, held that each time a private entity scans and transmits such biometric information a claim accrues under BIPA. In the *Cothron* case, the Plaintiff had been employed by White Castle since 2004, four years prior to BIPA being enacted. Shortly after she began working at White Castle, the company started requiring employees to scan their fingerprints to access pay stubs and computer terminals. In 2008, BIPA was enacted. According to the Plaintiff, White Castle did not seek her consent to obtain her biometric information until 2018, ten years after the act was in effect. White Castle argued her claim accrued in 2008 when the Plaintiff scanned her fingerprint for the first time after BIPA was enacted. The Plaintiff argued BIPA allows for claims each time she scanned her fingerprint. The Supreme Court held that each time the Plaintiff scanned her fingerprint a claim accrued under BIPA. Damages under BIPA call for \$1,000 per negligent violation or \$5,000 per reckless and willful violation.

If an employee scans in and out of work per day that would equate to \$2,000 per day per employee. In a company as large as White Castle, going back five years (the length of time the court has ruled BIPA claims run) the figures can be quite high. Some estimates have put the potential damages in the White Castle case to be as high as \$17 billion dollars (9,000 employees). White Castle has indicated this ruling has the potential to bankrupt the company. The Court stressed the importance of the Illinois Legislature in reviewing BIPA and addressing any concerns regarding potentially business devastating damages. The Court also indicated courts have discretion in awarding damages that, "result in the financial destruction of a business."

UPCOMING SEMINARS/EVENTS

CONSTRUCTION SAFETY COUNCIL SAFETY EXPO

THE ANNUAL CSC SAFETY EXPO WILL BE HELD IN CONJUNCTION WITH ASSOCIATION OF SUBCONTRACTORS AND AFFILIATES OF CHICAGO (ASA)

DATE: MONDAY MARCH 6, 2023, AND TUESDAY MARCH 7, 2023
 TIME: 9:00 A.M. TO 4:00 P.M. AND EXHIBITORS RECEPTION 4:00 P.M. TO 6:00 P.M.
 LOCATION: DRURY LANE CONFERENCE CENTER OAKBROOK TERRACE
 COST: \$399 ALL ACCESS PASS
 CONTACT: REGISTER BY CLICKING [HERE](#)

CALENDAR

MARCH 7	1:00 P.M.	CONTINGENT WORKFORCE WEBINAR (ONLINE)
MARCH 8	6:00 P.M.	PCA MEMBERSHIP MEETING (SCHAUMBURG)
MARCH 14	1:00 P.M.	PROTECTING DATA WEBINAR (ONLINE)
MARCH 21	1:00 P.M.	NLRB WEBINAR (ONLINE)
MARCH 28	9:00 A.M.	LABORERS JGC (BURR RIDGE)
MARCH 28	1:00 P.M.	WAGE AND HOUR WEBINAR (ONLINE)
MARCH 30	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?

Daylight Savings Time begins on March 12th. Don’t forget to “spring forward”.
 Also, occurring on March 12th, the 34th Anniversary of the Invention of the World Wide Web.

**ALL 30 MLB TEAMS OPEN THE SEASON ON MARCH 30
 THE FIRST TIME SINCE 1968 EVERY TEAM WILL PLAY ON THE SAME DAY**

