

PRESS RELEASE

FEDERAL APPEALS COURT UPHOLDS \$1.7 MILLION VERDICT AGAINST UNION'S PICKETING, BANNERING, AND HANDBILLING CAMPAIGN

A federal appeals court has upheld a \$1.7 Million jury verdict for a small Atlanta drywall contractor that had been subject to what the Defendant Carpenters' union called an "area standards" campaign. The union contended its extensive publicity campaign was only designed to publicize the alleged low wages paid by the "open shop" contractor, Fidelity Interior Construction of Suwanee, Georgia. The union's campaign consisted of picketing, bannering, and handbilling activities, often at office buildings where Fidelity Interiors was, had or might be working. The union argued that its tactics were merely First Amendment "free speech". However, a federal court jury in Atlanta, as well as the District Court judge, and now the 11th Circuit Court of Appeals, have ruled to the contrary and found that the union campaign was designed to coerce innocent third parties to stop doing business with Fidelity. The appeals court also found that the federal secondary boycott law, designed to protect innocent third parties against coercive activities of a union, was violated by such tactics.

A number of general contractors testified at trial that Fidelity would have been hired but for the threats and other activities of the union and that they and other innocent third parties would be harassed and pressured by the union. Faced with this coercion, several general contractors, property managers, and even tenants of these third parties did cease doing business with Fidelity. Among other things, the Federal Appeals Court indicated that jurors may consider the entire course of conduct of the union to determine whether its actions are coercive, and examine things like warning letters, banners, and handbills, as well as threats to picket, to determine whether the union intended to involve innocent third parties in its dispute with their "target", Fidelity Interior. The Carpenters' union flunked this test. In addition, the wording on the picket signs and the chants of picketers confused by-standers as to which business the picketing was actually directed, a violation of secondary boycott laws. Additionally, and in breach of federal labor laws, the union did not seek to limit its activities to lessen disruption to third parties. Instead, the screams and chants of the picketers referring to "rats" had just the opposite effect.

The Federal Appeals Court rejected the union's argument that the jurors were not entitled to award damages based on lost opportunities to bid, indicating that the union could not contend that damages could not be measured with precision because this was a situation that the union alone was responsible for creating. The Court stated: "this...go[es] beyond the Union's alleged desire to...level the playing field; this is a blatant elimination of competition."

The Fidelity's attorneys, Jim Wimberly and Kathleen Jennings of Atlanta, stated that: "this case shows that a union cannot hurt innocent third parties by improperly playing the "free speech card". Fidelity's owner, Ray Gunter, said his company was

reduced in size from about 55 employees to only 12 during the Carpenters' picketing campaign. "I wanted to bring this case to set a legal precedent; not just to right a wrong against my company, but to make sure that other innocent parties would not be treated in this manner. It has been a long hard battle, but our faith has seen us through."

The case is *Fidelity Interior Construction v. Southeastern Carpenters Regional Council*.
For more information contact:

James W. Wimberly, Jr.
Wimberly, Lawson, Steckel, Schneider & Stine, P.C.
Suite 400, Lenox Towers
3400 Peachtree Road, N. E.
Atlanta, GA 30326
Phone: 404-365-0900
Fax: 404-261-3707
jww@wimlaw.com