

In novel tactic, Cintas workers sue unions

By Kris Maher

When a union organizer showed up unexpectedly at Elizabeth Pichler's Bethlehem, Pa., home on a cold Saturday afternoon in February 2004, she shut the front door on him.

"It annoyed me that anybody could go and get information about me and come to my house," says Ms. Pichler, a 64-year-old receptionist at uniform company Cintas Corp.

A handful of co-workers at the company's Emmaus, Pa., plant were also annoyed about visits to their homes and complained to their managers. They eventually learned that the union had traced their home addresses from license plates in the company parking lot. That made them angry enough to meet with lawyers provided by the company and then file a suit in June 2004 alleging their privacy rights had been violated.

It's highly unusual for workers to bring a lawsuit against a union trying to organize, and the case is threatening to send ripples through the labor movement. Labor experts regard the joint campaign by Unite Here and the International Brotherhood of Teamsters to organize laundry workers and truck drivers at Cincinnati-based Cintas as the most important current union drive apart from the battle to persuade Wal-Mart Stores Inc. to let unions represent its workers.

The lawsuit against Unite Here highlights the staunch antiunion position of Cintas, which has funded the suit and fought unionization at every turn. But it also points to deeper problems facing the labor movement -- involving its image in the eyes of workers and even how deeply divided employees within the same company can be about joining a union. Ms. Pichler, for instance, had long experience with unions when she worked previously at Bethlehem Steel and now considers herself antiunion. "Long ago, they may have had their time, but not now," she says.

At the same time, the case has stirred the fervor of workers who are pro-union. Eleuteria Mazon, a 54-year-old seamstress at a Cintas plant in Schaumburg, Ill., says that fliers inviting her to join the class-action lawsuit by calling a toll-free number were attached to her paycheck and tacked to a company bulletin board from the summer of 2004 until early this year.

Some workers felt intimidated by the fliers, she says, while others were angry at what they saw as company-sponsored harassment.

"There are a couple of workers on the company side, and they are going to do whatever the company wants," Ms. Mazon said through a Spanish-language interpreter about the handful of workers who originally filed the lawsuit. "In my plant there are no people against the union. There are a lot of people who are afraid to support the union because of the retaliation that the company may have against them."

Pamela Lowe, a spokeswoman for Cintas, said the company respects the rights of its employees to choose union representation. She also denied that the lawsuit was intended to intimidate workers. "This is a lawsuit brought by our employees to vindicate their privacy rights," she said. "Many employees came to us to complain about the union coming to their home and in some instances frightening their families."

Workers in the lawsuit said their rights had been violated under the little-known Driver's Privacy Protection Act of 1994, which prohibits the disclosure and use of personal information obtained through motor vehicle records, with a limited number of exceptions, including use by courts or law-enforcement agencies. This past June, U.S. District Judge Stewart Dalzell granted class-action status to the case and said that any worker whose license plate allowed the union to obtain personal information from motor vehicle records between July 1, 2002 and Aug. 2, 2004, could stand to receive \$2,500 in damages for each time the union used it to make home visits or mail materials, for example.

Paul Rosen, a partner of law firm Spector Gadon and Rosen in Philadelphia, which is representing the workers, said more than 1,000 Cintas workers will be members of the class.

According to legal documents in the case, union organizers admitted to gaining access to motor vehicle records from Pennsylvania and eight other states with the aid of a private investigator. After Judge Dalzell ruled that only 12 plaintiffs could pursue legal action against the Teamsters, the union, without admitting wrongdoing, reached a settlement with them for a total of \$6,000. The liability facing Unite Here, excluding punitive damages, will depend largely on the size of the class and the number of times the union tried to contact workers, but labor law experts said the liability could rise to tens of millions of dollars. "Based on the evidence

adduced so far, Unite faces an uphill battle to avoid liability," wrote Judge Dalzell in a May 2005 opinion.

"I don't see how they can avoid liability," says John D. Canoni, a partner in the labor and employment practice of Nixon Peabody LLP in New York, who is not involved in the case. "The law says they can't do this and they did it." He believes the case has already caused unions to stop accessing motor-vehicle information, hampering their ability in some cases to track down home addresses.

Unions traditionally canvassed door to door as a way to sell their message to workers, but most often rely on workers to pass along home addresses of co-workers, say labor experts. A victory for the plaintiffs in this case could cast a shadow over such recruiting methods even if home addresses are obtained by other means.

The lawsuit will have a "very chilling effect" on workers' willingness to support the organizing drive at Cintas, says Marick F. Masters, a professor of business administration at the University of Pittsburgh. Meanwhile, a large financial penalty could seriously restrict the union's other organizing activities.

Officials at Unite Here maintain that organizers didn't break the law. "This is Cintas trying to squash the union's ability to talk to folks," says Liz Gres, an organizing director at Unite Here, which represents 450,000 mostly apparel, hotel and laundry workers. The union argues that the company pays "poverty level" wages of between \$7 and \$9 an hour to most production workers and subjects workers to unsafe working conditions at many plants. The organizing campaign is critical because the union argues that Cintas, which has 28,000 workers nationwide, is depressing labor standards throughout the entire laundry industry.

Ms. Lowe, of Cintas, says the company's safety record is "30 percent better than similar size facilities," according to 2004 U.S. government statistics, and that its wages are based on marketplace conditions and "are competitive in every marketplace."

The lawsuit was filed against the Teamsters; the Union of Needletrades, Industrial and Textile Employees, before it merged with the Hotel Employees and Restaurant Employees International Union in 2004; and Bruce Raynor, the president of Unite Here. Unions have failed to organize

any Cintas locations after years of efforts, but the company employs some workers represented by unions in locations it acquired.

Some labor experts say the lawsuit brought by workers against the union should be credited to the company as well, arguing it would not have gotten off the ground without support from Cintas and that the lawsuit raises the bar on aggressive counter-tactics used by companies. The lawsuit was "devilishly clever on the part of the company, no question about it," says Mr. Canoni of Nixon Peabody. "I mean, how many people knew about this law?"