

Oregon court upholds racketeering, misconduct verdicts

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Nearly six years after two teachers unions sued ballot measure activist Bill Sizemore and his organizations under Oregon's racketeering statute, the legal end remains unclear.

On Oct. 4, the Oregon Court of Appeals upheld most of a September 2002 jury verdict that said groups created by Sizemore engaged in a pattern of criminal activity to place two anti-union initiatives on the ballot in 2000. As a result of that jury verdict, Multnomah County Circuit Court Judge Jerome LaBarre ordered Sizemore and his organizations to pay \$2.52 million in damages to Oregon Education Association and American Federation of Teachers—Oregon.

Sizemore appealed, and with the Oct. 4 decision, got a partial reduction of the damage award.

The Appeals Court had no disagreement with the facts that led the jury to find Sizemore's groups had committed fraud, forgery and filing of false documents.

"This case is not about innocent participation in the initiative process," wrote Appeals Court Judge Rick Haselton. "It is not about good-faith mistakes or errors in judgment . . . This case is about a calculated course of criminal conduct perpetrated for the express purpose of crippling, and even destroying, [Sizemore's] political opponents. For the Oregonians of a century ago, the initiative process meant pure, 'open' democracy, and (at least) most Oregonians would like to think that it still does. But this case involves the antithesis of that ideal: It involves cynical, criminal manipulation of the democratic process."

The jury found that a Sizemore employee had forged signatures on statements of sponsorship for Measures 92 and 98, and that paid signature gatherers forged signatures on initiative petitions, to such a degree that the initiatives would not have qualified without the fraud. Thirdly, the jury found that Sizemore's groups submitted false con-



OEA President Larry Wolf (left) and AFT—Oregon Executive Director Dick Schwarz claim victory in an Oct. 5 press conference following a decision of the Oregon Court of Appeals. The two unions sued ballot measure activist Bill Sizemore and won a 2002 jury verdict of fraud, forgery and racketeering.

tribution and expenditure (C&E) reports to the state of Oregon in order to conceal the names of individual donors and the illegal role of Sizemore's tax-deductible educational foundation (OTU-EF) in supporting Sizemore's political action committee (OTU-PAC.)

After the jury verdict, Sizemore filed another false C&E, formed new groups and transferred to them assets of the old groups to try to evade paying the jury award. In response, Judge LaBarre issued an injunction in April 2003 that dissolved OTU-EF, banned any successor charitable organization associated with Bill Sizemore from

contributing to any PAC for five years, and prohibited OTU-PAC from accepting donations from any tax-exempt charitable organization for five years.

Sizemore, whose ballot measures were intended to cripple union participation in politics, complained bitterly that the unions' lawsuit was intended to cripple his participation in politics. OEA and AFT—Oregon replied that they just want him to play by the rules, and pay the jury award for the damage he caused them.

Measure 92 would have required public employees unions to get annual written authorization from each member before using any dues money for politics. Measure 98 would have banned the ability of public employee unions to use payroll deductions to collect dues if any portion of the dues went for political purposes. Unions spent an estimated \$5 million to defeat the two measures on the November 2000 ballot, and voters rejected both. A month after that election, with evidence of fraud mounting, the two unions filed suit.

The jury found that Sizemore *intended* his measures to force the unions to spend funds to defeat them, in order to divert those resources from other efforts like ballot measures of their own, or representing members.

Notwithstanding the jury award and unpaid damages, Sizemore never left politics and is now collecting signatures to get those same proposals on the 2008 ballot.

He may be helped somewhat by the appeals court decision. While upholding most of the jury verdict and the injunction, the appeals court struck down, on a legal technicality, the jury conviction on the third count — that Sizemore's PAC had committed racketeering by falsifying C&Es. Striking down that conviction undid the parts of the injunction that restrained Sizemore's PAC. Part of the injunction was also remanded back to a lower court to decide: whether OTU-PAC can transfer assets (including computers and mailing lists) until the jury award is paid.

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