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<http://www.rew-online.com/2014/05/06/construction-unions-going-after-alter-ego-contractors-as-profits-shrink/>

Construction unions going after alter-ego contractors as profits shrink

By Konrad Putzier

A Long Island-based contractor was forced to pay \$6 million to labor groups for breaking a collective bargaining agreement.

The settlement is one of the largest in a growing number of “alter ego” lawsuits amid fierce competition between union and non-union workers.

In the lawsuit filed in January 2013, labor groups Metal Lathers Local 46 and Council of Carpenters accused River Avenue Contracting of creating alter ego companies and using them to hire non-union workers.

River Avenue assumed the names RNC Industries and Extreme Concrete Corp., but kept the same employees and address, the suit alleged — in effect breaking a collective bargaining agreement.

The \$6 million settlement reached in March reflects the money lost to various union funds.

River Avenue, which specializes in concrete construction and excavation, has worked on more than a dozen publicly funded affordable housing projects in New York City, including L&M Development’s Navy Green and Harlem River Point. River Avenue declined to comment for this report.

Lawyers say these lawsuits have become more frequent recently, partly as a result of shrinking profit margins and the rise of non-union labor in contracting.

“The growth of alter ego suits tends to coincide with an industry being under financial stress,” said lawyer Thomas Kennedy, who represented Local 46 and has fought several alter ego lawsuits. “I have seen the same happen in the garment, printing and light manufacturing industries.

“Generally, if an employer is doing fine with unions making lots of money, they stay put. But if competitive pressure is there, they often try to set up an alter ego company.”



RICHARD ANDERSON

Richard Anderson, president of the trade group New York Building Congress, said that the current boom in New York construction activity has increased competition among construction companies and between union and non-union workers. “Everyone is looking to reduce costs, and one way of doing that is to employ non-union firms,” he said.

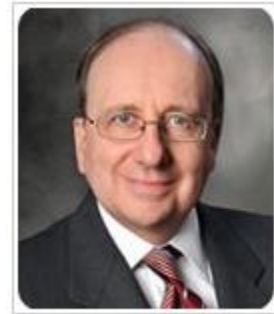
The growing frequency of lawsuits filed by labor groups can be partially explained as a reaction to this competition.

Another explanation may lie within the federal court system, under which alter ego lawsuits generally fall.

James Terry of law Firm Zetlin & De Chiara LLP, who has represented several contractors, said federal courts have become better at handling alter ego suits. This means cases can be processed fairly quickly, making it less onerous to sue.

“These are attractive cases for unions because the nature of the federal system makes them more expeditious than under an overburdened state course system,” Terry explained.

“It is likely we will see more of these lawsuits – the success rate is such as to encourage them.”



JAMES TERRY