

1 BEFORE THE NEVADA STATE LABOR COMMISSIONER
2 CARSON CITY, NEVADA
3

4 IN THE MATTER OF:)
5 LABORERS' INTERNATIONAL UNION)
6 OF NORTH AMERICA, LOCAL 169,)
7 Complainant,)
8 v.)
9 FRAZIER MASONRY)
10 City of Sparks)
11 City of Sparks/Red Development –)
12 Galaxy Theater)
13 PWP #WA-2013-244)

Case No. 23411

FILED

MAR 24 2016

NEVADA
LABOR COMMISSIONER - CC

ORDER OF EXCLUSION PURSUANT
TO NEVADA ADMINISTRATIVE CODE
SECTION 607.340

RECEIVED-CITY OF SPARKS

MAR 28 2016

COMMUNITY SERVICES
ADMINISTRATION

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15 On March 16, 2016, a Pre-Hearing Conference was held in the matter of
16 *Laborers' International Union of North America, Local 169 v. Frazier Masonry*.
17 Present were: Michael Langton, counsel for Local 169; Richard "Skip" Daly, Business
18 Manager/Secretary-Treasurer for Local 169; City of Sparks and its counsel;
19 Resource Direct Consulting (RDC); Frazier Masonry; Deputy Attorney General,
20 Melissa Flatley, for the Office of the Labor Commissioner; and Investigator, David
21 Gould.

22 The Labor Commissioner encouraged the parties to discuss settlement or that
23 an Order would be issued; pursuant to NAC section 607.300, subdivision (7), "parties
24 shall make a good faith effort to resolve the matter through settlement or stipulation."
25 Frazier Masonry indicated they wanted to resolve and settle the matter, and that they
26 had a "blank check." During the discussion it became evident that Mr. Daly had never
27 provided Mr. Langton with the April 14, 2014 Determination and Investigative
28 Findings of the City of Sparks concerning a Complaint filed by Local 169 in

1 December of 2013 against Frazier Masonry.¹ At this point, Mr. Daly abruptly started
2 to rise from his seat and threatened in a loud and aggressive voice while pointing,
3 "saying this is goddamned ridiculous and we'll sue your ass in court," referring and
4 gesturing to the Labor Commissioner. Mr. Daly shoved his chair aside, threw open
5 the conference room door in a demonstration of excessive force and agitation, and
6 left the hearing. This action was witnessed by all parties/representatives present at
7 the hearing.

8 The conduct of Richard "Skip" Daly on March 16, 2016, was discourteous,
9 disrespectful, and showed outright contempt for the Office of the Labor
10 Commissioner, the Labor Commissioner, the parties involved, and for the process
11 itself.

12 Under broad authority from the Legislature to make any regulations required
13 to effectuate the enforcement of labor laws in Nevada, the Office of the Labor
14 Commissioner previously enacted Nevada Administrative Code (NAC) section
15 607.340.

16 NAC section 607.340 states as follows:

17 **NAC 607.340 Conduct and Exclusion of persons**

- 18 1. Any person appearing in a proceeding shall conform to recognized
19 standards of ethical and courteous conduct required before the
20 courts of this State. Every party to a hearing, his representative and
21 all spectators must conduct themselves in a respectful manner.
22 2. Contumacious conduct by any person at a hearing before the
23 Commissioner is a ground for the exclusion of the person from the
24 hearing and for the summary exclusion of the person from further
25 participation in the proceedings. The Commissioner will bar any
26 person excluded pursuant to this subsection from attending any
27 further proceedings of the Commissioner unless the Commissioner
28 grants a petition to rescind the exclusion pursuant to subsection 3.
3. A person excluded from proceedings by the Commissioner pursuant
to subsection 2 may petition the Commissioner to rescind the
exclusion. The Commissioner will grant the petition if he finds
sufficient evidence that the contumacious conduct that led to the
exclusion of the person will not reoccur.

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¹ The City of Sparks Determinations' were issued on January 22, 2014 and April 14, 2014.

1 Based on this contumacious behavior, the Office of the Labor
2 Commissioner/Labor Commissioner hereby excludes Richard "Skip" Daly from any
3 further proceedings and/or hearings before the Office of the Labor
4 Commissioner/Labor Commissioner pursuant to NAC section 607.340, in this matter
5 and any other matter now pending or not yet filed, until this Order is revoked by
6 petition. This Order shall be incorporated in to all other proceedings in which
7 Local 169 is an interested party.

8 To the extent that there are any pending proceedings and/or hearings that are
9 before the Office of the Labor Commissioner/Labor Commissioner that involve
10 Local 169 where Richard "Skip" Daly was to be called as a witness, Local 169 may
11 submit an Affidavit of the testimony to be offered to the Office of the Labor
12 Commissioner/Labor Commissioner. The Affidavit will be evaluated as to its
13 relevance to the pending matter. If it is determined that it is relevant, it will be
14 admitted into evidence. If it is irrelevant, immaterial, or unduly repetitious, or that
15 there is no personal knowledge of events that are the subject matter of the
16 proceeding and/or hearing, it will be excluded pursuant to NAC section 607.410 and
17 Nevada Revised Statutes (NRS) section 233B.123.

18 Local 169 shall designate another representative or their Counsel to appear at
19 proceedings and/or hearings that may be pending before the Office of the Labor
20 Commissioner/Labor Commissioner.

21 **THEREFORE IT IS HEREBY ORDERED:**

- 22 1. Richard "Skip" Daly, Business Manager/Secretary-Treasurer, Local
23 169, is hereby excluded from any further proceedings and/or hearings
24 before the Office of the Labor Commissioner/Labor Commissioner
25 pursuant to NAC section 607.340.
- 26 2. Local 169 may submit an Affidavit for Richard "Skip" Daly for
27 proceedings and/or hearings currently pending before the Office of the
28 Labor Commissioner/Labor Commissioner where Richard "Skip" Daly

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was to be called as a witness for Local 169. The Affidavit will be evaluated for admission pursuant to NAC section 607.410 and NRS section 233B.123.

3. Local 169 shall designate another representative to appear at proceedings and/or hearings pending before the Office of the Labor Commissioner/Labor Commissioner.

Dated this 24th day of March, 2016.



Shannon M. Chambers
Labor Commissioner
State of Nevada