

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

BRITTNEY C. BOYD, Plaintiff,

v.

Case No. 2:25-cv-01225-LK

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 701, et al., Defendants.

PLAINTIFF'S RESPONSE FOR CLARITY AND CORRECTIVE ACTION TO ORDER DENYING
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

TO THE HONORABLE COURT:

Plaintiff Brittney C. Boyd respectfully submits this response to the Court's September 4, 2025 Order denying her Emergency Motion for Temporary Restraining Order (Dkt. No. 23). This filing is intended to clarify and correct the evidentiary record. Plaintiff is not at this time renewing her request for injunctive relief. A Second Amended Complaint will be filed for public docketing, which will include formal requests for preliminary injunctive relief and summary judgment.

INCORPORATION OF SEALED RECORD

Plaintiff respectfully clarifies that this filing does not present new evidence. Rather, Plaintiff incorporates by reference the Sealed Complaint filed on August 28, 2025, together with all

exhibits submitted therewith. These materials remain under seal as part of the Court's record.

For the Court's convenience, those sealed exhibits include but are not limited to:

Exhibit A (Divorce Decree, June 15, 2001)

Exhibit B (Vital Records establishing Plaintiff as sole biological heir)

Exhibit C (Contradictory Beneficiary Determinations)

Exhibit D (2024 Payment Evidence totaling \$130,000+)

Exhibit E (John Hancock Gag Communications)

Exhibit F (CPF Participant Collapse and Swing Summary)

Exhibit G (Zero Participants with Assets Summary)

Plaintiff directs the Court to those sealed filings as the operative evidentiary record. Reliance solely on Defendants' March 28, 2025 denial letter overlooked this contradictory record.

THE MARCH 28, 2025 DENIAL LETTER IS FRAUDULENT AND NON-COMPLIANT

On March 28, 2025, Defendants produced a letter through Local 302/612 counsel (Ex. I) stating Plaintiff “was not designated as his beneficiary.” This was the first written denial ever issued in six years, filed in a separate Pierce County case rather than served on Plaintiff.

Fraudulent on its face:

Robert Smith retired out of Local 701. All 302/612 credits and contributions rolled into 701 in 1999 when he transferred. By 2019, 302/612 had no jurisdiction or authority over his benefits. Yet the March 28 letter purported to speak for 302/612 as if it controlled those benefits.

Non-compliant with ERISA § 503 (29 U.S.C. § 1133; 29 C.F.R. § 2560.503-1):

No reasons beyond a conclusory statement. No reference to plan provisions. No description of materials needed to perfect a claim. No explanation of appeal rights. No documents provided (SPD, amendments, designation forms, or calculations).

(See Fraudulent Denial Checklist, Ex. J).

Contradicted by the record:

Prior payments (Ex. D). Probate decree naming Plaintiff sole heir (Ex. B-1, B-2, D). OEFCU acknowledgment of Plaintiff as beneficiary (Ex. D-2).

As the Supreme Court held in *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101 (1989), unsupported denials are entitled to no deference. Courts reject positions that “defy common sense.” *Tapley v. Locals 302 & 612 of the Int’l Union of Operating Engineers*, 728 F.2d 701, 704 (5th Cir. 1984). And in *Cunningham v. Cornell Univ.*, 2018 WL 4279466

(S.D.N.Y. 2018), fiduciaries who withhold required documents while denying benefits violate ERISA.

TIMELINE CLARIFICATION

Feb 26, 2019: Robert Delane Smith dies intestate (Ex. C). Plaintiff requests plan documents. None provided. Plaintiff told she has “no standing” and is “not a beneficiary.”

2019–2023: No probate opened; Plaintiff continues requesting documents.

Feb 2024: Plaintiff’s home is destroyed by fire. In the aftermath, Plaintiff learns for the first time that her father left no will and that she is his sole heir.

May 2024: Probate opened in Pierce County (Ex. D).

June 21, 2024: Probate closed after 22 days; decree confirms Plaintiff sole heir (100%). Attorney Weissmuller closed estate prematurely, excluding pensions and benefits.

Late 2024: WSBA grievance filed against Weissmuller (Ex. G).

Feb 2025: Pierce County lawsuit against Weissmuller filed (Ex. H).

Mar 28, 2025: Josephson files fraudulent denial letter (Ex. I) in that case. Fraudulent Denial Checklist (Ex. J) demonstrates non-compliance with ERISA.

June 2025: John Hancock gag orders confirmed (Ex. K).

Sept 2025: TRO denied; Court relied on the denial letter while overlooking this contradictory evidence.

CONFIRMATION OF STANDING THROUGH PROBATE

On June 21, 2024, Pierce County Superior Court confirmed Plaintiff as sole heir (100%) of Robert Delane Smith's estate (Ex. D). This directly contradicted Defendants' "no standing" narrative.

DIVORCE DECREE VS. ADMINISTRATIVE CONDUCT

Divorce Decree (2000, Ex. A) What Actually Happened

Severed ex-spouse's rights in Robert's pension; preserved Plaintiff's rights as his daughter.
Administrators treated Plaintiff as having "no standing" while allowing Marvin Smith to intercept notices and assert rights.

Required updating of beneficiary designations consistent with decree. Plaintiff denied access for six years; first denial letter only in 2025.

Duty to provide plan disclosures at death. No disclosures from 2019–2025; only irregular denial letter filed in unrelated litigation (Ex. I).

Fiduciary duty to honor decree intent. Gag orders (Ex. K) and selective payments (Ex. D) while withholding the 401(k) balance.

RELIANCE ON ATTORNEYS

In 2024–2025, Plaintiff relied on estate attorney Thomas Weissmuller, who in turn relied on union/plan counsel. Weissmuller admitted that a post-death beneficiary switch would violate fiduciary law and entitle Plaintiff to treble damages. Yet he accepted union counsel’s framing of “fiduciary substitution” and discouraged Plaintiff from pursuing subpoenas.

PRO SE STATUS

Plaintiff is not pro se by choice. After being denied representation and blocked from legal aid, Plaintiff was forced to proceed alone. Courts construe pro se filings liberally and afford leniency in meeting technical requirements. *Cunningham v. Cornell Univ.*, 2018 WL 4279466, at *5 (S.D.N.Y. 2018).

NEXT STEPS

This response is not a renewed motion for injunctive relief. Plaintiff will file a Second Amended Complaint for public docketing, including requests for preliminary injunctive relief and summary judgment.

At this stage, Plaintiff seeks only to ensure the record accurately reflects the evidentiary and procedural context surrounding the TRO denial.

Respectfully submitted,

Brittney C. Boyd

Pro Se Plaintiff

King County, Washington

CERTIFICATE OF SERVICE

Because this case remains under seal and defendants have not yet appeared, Plaintiff has not been able to effect service of this response. Plaintiff respectfully requests that the Court direct service of this response, together with the forthcoming Second Amended Complaint, by the United States Marshal pursuant to 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4©(3).

Brittney C. Boyd

Pro Se Plaintiff

