

# Longshoreman wants court records sealed

## Union official accused of sabotage cites Fifth Amendment concerns

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former longshore worker accused of sabotaging operations at United Grain, a Vancouver grain export terminal, during a labor dispute in December 2012 is seeking to seal a variety of court records in a related civil lawsuit against him. (Columbian files)

A former longshore worker accused of sabotaging operations at a Vancouver grain export terminal during a labor dispute in December 2012 is seeking to seal a variety of court records in a related civil lawsuit against him.

Todd Walker claims that public access to the documents would violate his constitutional right against self-incrimination, according to court records.

Clark County Superior Court Judge John Nichols said Monday that he's still considering Walker's request. He didn't give a timeline for a ruling.

The Clark County Prosecuting Attorney's Office considered whether to file criminal charges against Walker. In September it decided not to charge Walker based on a lack of evidence.

Walker's attorney, Gene Mechanic, argued in a motion to seal that public access to the court records, specifically ones in which Walker may invoke the Fifth Amendment, could generate "renewed interest in a criminal prosecution."

United Grain's attorney, Daniel Barnhart, said he's opposed to Walker's request.

"There is no basis to seal any of the documents filed in this case," Barnhart said Monday.

In his written opposition, he said that sealing the records would "violate the 'open courts' mandate of the Washington State Constitution."

Walker has not shown that there is a compelling reason to seal the records, "which overrides the public's right to the open administration of justice," Barnhart said, citing a Washington Supreme Court decision. Walker already pleaded the Fifth in past public hearings related to lawsuit.

"The cat is already out of the bag," Barnhart wrote.

In other action, Nichols on Monday imposed a protective order over all information gleaned during the lawsuit's investigative process, which is known as discovery. The order prevents attorneys in the case from disclosing any discovery information or materials marked confidential, except to each other and the judge. Mechanic and Barnhart mutually sought the order. Mechanic said he was concerned about his client's Fifth Amendment rights; Barnhart said he was concerned about security at the grain terminal.

Barnhart last month also asked the judge to compel Walker to answer his questions and turn over certain information as part of the discovery process, saying that Walker had not complied with his requests. Walker had cited his Fifth Amendment protections as his reason for not complying. Nichols directed Walker to provide the requested information to Barnhart, with a few exceptions.

Walker is now scheduled for a deposition Thursday.

United Grain has sued Walker for \$300,000, claiming damages to grain equipment at the Port of Vancouver and related losses from the temporary shutdown of grain-loading operations.

United Grain filed a lawsuit against Walker in February 2013. The company said that Walker, an official with the International Longshore and Warehouse Union, was assigned to work Dec. 22 at the company's terminal as a switchman, operating railroad switches to allow grain cars to be moved to and from the unloading area.

That day, the lawsuit alleges, Walker tried to sabotage the company's operations by "throwing a pipe into the drag chain conveyer" and pouring sand into a progressor gearbox.

The sabotage allegation prompted United Grain to lock out 44 union workers on Feb. 27. That lockout remains in place.

The ILWU denied any wrongdoing, accusing United Grain of fabricating a story to justify the lockout.

## Merit to claims

The National Labor Relations Board earlier this month found merit to claims of unfair labor practices filed by the International Longshore and Warehouse Union and United Grain Corp. against each other as part of a larger contract dispute between Northwest grain terminal operators and union dockworkers.

In separate complaints, the NLRB leveled multiple allegations at both parties, ordered them to respond by Friday and scheduled hearings before an administrative law judge in June and July in Portland. No rulings have been made.

The contract dispute centers on dissatisfaction over working conditions and job security for union employees.

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