

# JOAN LARSEN ON WORKERS' RIGHTS

## Highlights:

- Joan Larsen did not support workers' rights.
  - Larsen did not allow a city worker to tell her story to a jury.
  - Larsen favored denying a worker disability rights.
  - Larsen ruled to allow a company to offset workers' compensation costs with an employee's pension.
  - Larsen joined a ruling that denied workers their cost-of-living benefits.

## Larsen Did Not Support Workers' Rights

### LARSEN DID NOT ALLOW A CITY WORKER TO TELL HER STORY TO A JURY

#### Natasha Henderson Was Fired Days After She Reported That Flint Mayor Karen Weaver Was Moving Donations Away From A City Approved Fund

**Henderson Worked As The City Administrator Of Flint, Michigan, She Said That She Was Fired In Retaliation For Reporting Potentially Illegal Conduct By The Mayor.** According to People For The American Way, “Natasha Henderson worked as the city administrator of Flint, Michigan, when it was under state-controlled receivership. She alleged that in 2016, she was fired in retaliation for reporting potentially illegal conduct by the mayor, in violation of Michigan’s whistleblower-protection law and her First Amendment speech rights.” [People For The American Way, [10/17/18](#)]

**Three Days After Henderson Reported That Weaver Was Redirecting Funds To An Organization She Formed, She Was Fired.** According to People For The American Way, “City officials had requested that any private donations to help those affected by the lead crisis be made to a nonprofit fund administered by the Community Foundation of Greater Flint. Henderson learned that Mayor Karen Weaver was directing staff to funnel offered donations away from the city-approved fund and instead into a 527 organization that she had formed on her own. Henderson felt personally obligated to report this to the interim chief legal officer, Anthony Chubb. Three days later, the mayor met with Chubb and the city’s HR officer and Henderson was given a termination letter with no explanation.” [People For The American Way, [10/17/18](#)]

#### In A Dissenting Opinion, Larsen Wrote That Henderson Did Not Have Enough Evidence The Mayor Knew About Her Complaint

**Larsen, In A Break From The Majority That Allowed The Case To Go Forward, Said Henderson Did Not Have Evidence The Mayor Knew About Her Accusation At The Time Of Her Firing.** According to People For The American Way, “A three-judge panel of the Sixth Circuit ruled that her case could go to trial, but Trump judge Joan Larsen wrote a dissent that—if it became law—would make it extremely difficult for a fired whistleblower to ever make their case to a jury of their peers, both in public and in private employment. [...]Larsen would have prevented Henderson from making her case to a jury because, according to Larsen, Henderson hadn’t presented enough evidence that the mayor even knew about the accusation at the time of the firing. Judge Larsen relied on Chubb’s testimony that he had not told the mayor about it until after the firing. But rather than let a jury decide the factual question of timing and motive, as the other two judges directed, Larsen arrogated this role to herself.” [People For The American Way, [10/17/18](#)]

### LARSEN FAVORED DENYING A WORKER DISABILITY RIGHTS

#### Susan Card Was Diagnosed With Chronic Lymphocytic Leukemia And Was Told To Go On Disability, But Principal Life Denied Card Any Short-Term Disability Benefits

**Card Was Diagnosed With Leukemia By Her Doctor And Was Told To Go On Disability, However Principal Life Denied Her Any Short-Term Disability Benefits.** According to People For The American Way, “Susan Card worked as a licensed practical nurse at a long-term care center in Maine. In February 2013, Card’s primary care physician referred her to an

oncologist, who diagnosed her as suffering from chronic lymphocytic leukemia. Over the next several months, she experienced worsening and chronic fatigue and exhaustion, which her doctor determined, based on bloodwork and examination, was caused by her disease. He concluded that ‘she needs to go out on disability.’ [...] Several months later, Principal Life denied Card any short-term disability benefits.” [People For The American Way, [12/2/19](#)]

### **Card Sued For Her Benefits And Eventually The Sixth District Remanded Her Case To Have The Insurance Company Reconsider Her Claim**

**Card Sued Principal Life And Lost At District, However The Sixth Circuit Remanded The Case To The District Court To Have The Insurance Company Reconsider Card’s Claims.** According to People For The American Way, “In 2015, Ms. Card sued Principal Life in federal court under a federal law, the Employee Retirement Income Security Act (ERISA), which allows beneficiaries of certain insurance plans to recover benefits due to them that have been denied. Although the district court granted summary judgment to the insurance company, the majority of a 3-judge panel of the Sixth Circuit reversed. The majority explained that Principal Life’s denial was arbitrary and capricious because it failed to provide a ‘reasoned explanation’ based on ‘substantial evidence’ for its actions, and remanded the case to the district court to have the insurance company reconsider Ms. Card’s claims.” [People For The American Way, [12/02/19](#)]

### **Larsen Claimed That The Insurance Company’s Decision To Completely Deny Disability Benefits To A Woman With Leukemia Should Be Upheld**

**Larsen Wrote In a Dissent That Card’s Denial Was Based On Paper Reviews Of Her Case By Several Specialists And That Was Sufficient.** According to People For The American Way, “Trump 6th Circuit judge Joan Larsen dissented from an October decision in Card v. Principal Life Ins. Co. and claimed that an insurance company’s decision to completely deny disability benefits to a woman with leukemia should be upheld. The majority explained that the insurance company’s denial of her claim was arbitrary and capricious, and that she should have another opportunity to demonstrate that she should have received disability benefits under the insurance policy. [...] Larsen dissented, however, asserting that Principal Life’s denial should have been upheld. She claimed that the denial was based on paper reviews of Ms. Card’s case by several specialists, which was sufficient.” [People For The American Way, [12/02/19](#)]

## **LARSEN RULED TO ALLOW A COMPANY TO OFFSET WORKERS’ COMPENSATION COSTS WITH AN EMPLOYEE’S PENSION**

### **The Michigan Supreme Court Overturned A Ruling That Protected The Benefits Of Clifton Arbuckle, A GM Worker Who Was Injured On The Job**

**The Michigan Supreme Court Ruled That General Motors Could Reduce Costs Of Paying Injured Workers By Coordinating Disability Pension And Workers’ Compensation Benefits.** According to the Detroit Free Press, “The Michigan Supreme Court on Friday ruled that General Motors could reduce costs of paying injured workers by coordinating disability pension and workers’ compensation benefits. The ruling reverses a decision last year by an appellate court that protected the full benefits due to the late Clifton Arbuckle, a former GM worker who was injured on the job in 1991.” [Detroit Free Press, [7/15/16](#)]

**This Ruling Overturned A Previous One That Protected The Benefits Of Arbuckle, A GM Worker Who Was Injured On The Job In 1991.** According to the Detroit Free Press, “The Michigan Supreme Court on Friday ruled that General Motors could reduce costs of paying injured workers by coordinating disability pension and workers’ compensation benefits. The ruling reverses a decision last year by an appellate court that protected the full benefits due to the late Clifton Arbuckle, a former GM worker who was injured on the job in 1991.” [Detroit Free Press, [7/15/16](#)]

### **Larsen Opined That Arbuckle’s Benefits Were Not Protected**

**Larsen Wrote The Opinion For The Ruling, She Said Arbuckle’s Benefits Were Not Protected “Because The Parties’ Collective-Bargaining Agreements And The Subsequent Modifications To Them,”** According to the Detroit Free Press, “Justice Joan Larsen, who wrote Friday’s opinion, said, the automaker ‘may coordinate Arbuckle’s disability

pension benefits because the parties' collective-bargaining agreements and the subsequent modifications to them did not vest Arbuckle's right to uncoordinated benefits.'" [Detroit Free Press, [7/15/16](#)]

## **LARSEN JOINED A RULING THAT DENIED WORKERS THEIR COST-OF-LIVING BENEFITS**

**The Tennessee Valley Authority Cut Cost-Of-Living Benefits For The Board Of The Tennessee Valley Authority Retirement System Which Was Followed By A Lawsuit.** According to Case Text, "The Tennessee Valley Authority (TVA) provides funding for the Tennessee Valley Authority Retirement System ('the Plan'). A seven-member board ('the Board') administers the Plan and manages its assets. And the Plan, in turn, provides defined benefits to participants. That means the Plan, by way of the TVA's contributions, pays a pension benefit to participants in a defined amount. As is key here, the benefit includes a cost-of-living adjustment. [...] In 2009, the Plan found itself in financial trouble. Thanks in no small part to the recession, the Plan's liabilities exceeded its assets and it needed to make some changes to ensure its long-term stability. So the Board cut some benefits. These cuts included temporarily lowering cost-of-living adjustments while also increasing the age at which certain Plan participants would first become eligible to receive cost-of-living adjustments. This litigation followed." [Case Text, accessed [6/26/24](#)]

**Larsen Joined The Majority Opinion That Ruled The Board Had No Standing And Affirmed A Lower Court Ruling That They Suffered No Injury.** According to Case Text, "THAPAR, J., delivered the opinion of the court in which LARSEN, J., joined. [...] Because Plaintiffs have suffered no injury-in-fact, they have no standing, and we have no jurisdiction over their accounting claim. We AFFIRM the district court's ruling that the Board gave proper notice of the 2009 amendments, VACATE its ruling with respect to Plaintiffs' accounting claim, and REMAND with instructions to dismiss the accounting claim for lack of subject-matter jurisdiction." [Case Text, accessed [6/26/24](#)]

## **Larsen Ruled To Deport An Immigrant Seeking Asylum**

### **LARSEN UPHELD THE DEPORTATION OF AN IMMIGRANT THAT SOUGHT ASYLUM**

#### **Luis Eduardo Cuellar Garcia Left El Salvador For The U.S. Where He Was Designated A Special Immigrant Juvenile**

**Garcia Arrived To The U.S. By Himself At The Age Of 17, He Was Designated As An Unaccompanied Alien Child And Was Designated A Special Immigrant Juvenile.** According to People For The American Way, "Luis Eduardo Cuellar Garcia fled to the United States by himself to escape 'rampant crime and violence' and gang warfare in his native El Salvador at the age of seventeen. He was designated as an 'unaccompanied alien child' and, after a Texas juvenile court found that he should not be returned to El Salvador because he was receiving 'insufficient parental protection from gang attacks, was designated a 'Special Immigrant Juvenile.'" [People For The American Way, [7/23/20](#)]

#### **Garcia Was Deported Under A Trump Administration Policy**

**Due To A New Policy Adopted Under The Trump Administration Garcia Was Denied His Asylum Claim And Deported.** According to People For The American Way, "Without notice, the government applied a 'new, unwritten and informal' policy to Cuellar-Garcia, and argued that he must adjudicate his asylum claim in immigration court, rather than with USCIS. Based on the new policy adopted under the Trump Administration, the government asked that the immigration judge reconsider his decision to decline jurisdiction over Cuellar-Garcia. The immigration judge promptly did so, denied the asylum claim, and deported Cuellar Garcia in June 2019." [People For The American Way, [7/23/20](#)]

#### **Larsen Denied Garcia's Appeal For A Review Because He Was Not An Unaccompanied Alien Child**

**Larsen Joined A Ruling That Denied Garcia's Appeal Because He Was Not An Unaccompanied Alien Child Who Applied For Asylum.** According to People For The American Way, "Cuellar Garcia had sought to stay and contest the

deportation order against him. His request for a stay was denied, as was his petition for review in a 2-1 decision by Judges Thapar and Larsen in June 2020. Judge Thapar summarily ruled against Cuellar Garcia's claim that he should have received Special Immigrant Juvenile protections with USCIS, peremptorily holding that an immigrant like him must 'be an 'unaccompanied alien child' when he applies for asylum,' which was not the case here." [People For The American Way, [7/23/20](#)]