

You-Just-Can't-Win Dept.: Firm Sues Workers for Failing to Strike

By ROBERT S. GREENBERGER

Staff Reporter of THE WALL STREET JOURNAL

An Ohio nursing home is suing a union because the union *didn't* go on strike.

When the Service Employees International Union's contract with Colonial Manor Nursing Home near Youngstown expired in May, both sides decided to keep negotiating. But talks bogged down, and the union rejected a management offer. In late June, the union's members authorized a strike. The union gave Colonial a 10-day notice of a strike, as required by federal law.

The nursing home responded by recruiting, interviewing and training people to fill the 47 jobs it expected to be vacant on July 12, the day it believed the strike would begin. Colonial, a subsidiary of Health Enterprises Inc., says this effort cost \$15,000.

'They All Came to Work'

"We had everybody there on July 12," but the union workers "never went on strike. They all came to work," says Bertyl Johnson, Colonial's vice president and general counsel. "We had to meet payroll for two staffs for a couple of days."

So the company struck back in Trumbull County court, asking \$3 million in punitive damages in addition to actual costs. Mr.

Johnson concedes he isn't aware of any precedent for the action. But "when you think you have a wrong committed against you, you're entitled to go to court," he says. "They told us they were going to strike and they didn't."

Kenneth Lewis, the union local's president, says a company official told him "he'd sue me, but I thought he was kidding. Our lawyer thought it was hilarious; he never heard of such a thing."

Strike-Threat Weapon

The union claims it made it clear that it was willing to keep negotiating despite the strike threat. "The threat of a strike is a bargaining tool," Mr. Lewis says. "It's more meaningful than a strike itself, once the employer finds out the membership is dead serious."

Meanwhile, the union's members are still working at Colonial, even though neither the labor dispute nor the lawsuit has been resolved. A tentative contract agreement unraveled. Now the union's Mr. Lewis sounds a little like he might be unleashing the strike-threat weapon again.

"I was delighted when I thought we could settle this thing without a strike," he says. "Now I'm a little dismayed and angry."

647461P13-13