



International Organic Inspectors Association  
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Phone/Fax: (406) 436-2031 • www.ioia.net

## **Informational Memo**

**Re: IOIA Position and Activities regarding Paul A. Rosberg v. Everett Lunquist et al.**

**Date: November 1, 2012**

**From: Margaret Scoles, Executive Director, on behalf of the IOIA Board of Directors**

**To: Colleagues in the Organic Sector**

This communication reports on events that led to a libel lawsuit between a certified organic operator and an IOIA inspector member, Everett Lunquist, and on IOIA's actions and ongoing activities related to the suit.

IOIA believes the far-reaching impact of this lawsuit could seriously undermine organic integrity. We seek support within the organic community to bring about the changes necessary to prevent similar suits in the future.

The Rosberg v. Lunquist lawsuit came about as a result of a written complaint to the NOP in 2008 by Everett Lunquist regarding a certified operator, Paul Rosberg, both residents of Nebraska.

Lunquist requested that the complaint be kept anonymous. The NOP investigated the complaint and subsequently revoked Rosberg's organic certification in 2011 for a period of five years. The NOP has confirmed in writing that the revocation of Rosberg's organic certification resulted from the NOP's independent investigation conducted after receipt of information from Lunquist.

Rosberg appealed the revocation in December 2011 and contacted NOP Appeals for information about the revocation. NOP Appeals inadvertently released the identity of Lunquist to Rosberg. In February 2012, Rosberg filed a libel lawsuit against Lunquist. Lunquist obtained legal counsel to defend the lawsuit. Among the actions the NOP took was to send a declaration to Lunquist's attorneys attesting to the validity of Lunquist's complaint.

At this time, the case is still open and in litigation.

At the very earliest stages of the case IOIA communicated with the NOP verbally and in writing, asking for a number of specific actions to mitigate the impact on both Lunquist and the organic sector. These included a request that the NOP office provide a public statement that Lunquist's complaint should have been held confidential and that the NOP cooperate with Lunquist's legal counsel indemnifying him for the reasonable costs of defending the suit.

In addition we asked the NOP to develop and provide specific and clear written guidance for its staff regarding handling of complaints and to make public the nature of all remedial actions it has taken. IOIA also asked the NOP to change procedural requirements, through rulemaking or by seeking statutory



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authority, if necessary, requiring the courts to consider complaints against inspectors, certifiers, and whistleblowers with respect to denial of certification or other conduct within the purview of NOP only if the complainant first utilizes an administrative investigation process within the NOP.

In response to our requests, the NOP office has confirmed that it is their practice to keep confidential the identity of complainants, that the release of Lunquist's identity was inconsistent with this practice, and that they acknowledge and regret the error. The NOP's communications with IOIA have also stated that the NOP is taking steps to prevent such releases in the future and that more details about these steps will be reported in upcoming Accredited Certifying Agent trainings.

IOIA supports these as important and appropriate steps. IOIA believes that the NOP has cooperated appropriately with Lunquist's legal counsel by providing the declaration attesting to the validity of his complaint. In response to IOIA's request that the NOP indemnify Lunquist for the reasonable costs of defending the lawsuit filed by Rosberg, the NOP has stated that they are unable to reimburse Lunquist for legal expenses.

And finally, the NOP informed IOIA it is not legally empowered to support complainants or to require that administrative processes be exhausted before the courts are involved. According to the NOP, both would require legislative action and approval in the form of statutory changes. IOIA is now investigating options for legislative action through counsel and elected officials. IOIA believes the organic community can enable such change and we will continue to work toward this end. IOIA also seeks partners in this effort.

Organic integrity relies on the ability of individuals to register complaints without fear of reprisal whether in litigation or attacks on the complainant's character. A "chilling effect" from the threat of disclosure and retaliation would make it much less likely that other inspectors will make complaints to the NOP to report suspected fraud, misconduct or other actions that undermine organic integrity.

The NOP's investigation confirmed that Lunquist's complaint was justified and the NOP revoked the challenged certification. The fact that an operation's organic certification was revoked by the NOP due in part to an anonymous complaint underscores the critical importance of preserving confidentiality and confidence to support continued use of the complaint process.

Individuals wishing to support Evrett Lunquist or to access more information about the case are encouraged to do so by contacting him directly at [www.lunquistlegalfund.org](http://www.lunquistlegalfund.org).

Individuals and organizations interested in joining IOIA to seek a statutory change are invited to contact Margaret Scoles, Executive Director of IOIA, or members of IOIA's Board of Directors at [www.ioia.net](http://www.ioia.net).

*IOIA is the professional organization of organic inspectors and offers training and networking world-wide for crop, livestock, and processing inspectors.*