

Two Court Decisions Strengthen Worker Rights

Two decisions in cases involving railroad employees—one by the U.S. Supreme Court and another by a U.S. District Court—could help strengthen the rights of employees working in many other industries as well.

The case before the Supreme Court involved an employee of the Burlington Northern and Santa Fe Railway who filed sexual harassment charges. Her supervisor retaliated by transferring her to a more difficult job and then suspending her for 37 days.

The Court ruled that when an employer retaliates against an employee

for filing a discrimination complaint, the employee can sue to claim damages not only for the original discrimination, but for the impact of the retaliation as well.

The other decision involved the Family and Medical Leave Act (FMLA) and of the freight railroads ordering employees to use up their vacation time (even if it has already been used to schedule a future planned vacation) rather than take the unpaid leave they are entitled to under FMLA to care for a sick relative, deal with their own health problem, or care for a newborn.

“That right is something we bargained

for and that I earned,” says Stan Conner of Local 1086. “I was very upset.”

The railroads claimed that since FMLA gives employers the right to require the use of vacation, it didn’t matter what the contract said.

U.S. District Court Judge Wayne Andersen ruled that the railroads were wrong.

“No employer can rely on the FMLA to supersede existing contractual terms,” Judge Andersen ruled, if a collective bargaining agreement “gives employees the right to determine

Local 1086 Chairman Stan Conner, shown here with his wife Markanna, was one of many railroad employees

forced to use vacation time—rather than unpaid leave—to take time off under the Family and Medical Leave Act.

when, or in what manner, they take accrued vacation and/or personal leave.”

“This is a very important decision for any NCFO member covered by a contract that gives them rights to schedule their vacations,” points out NCFO President George Francisco. “Unfortunately, the judge didn’t take the next step and rule that our contract clearly gives employees that right. But if the railroads are foolish enough to waste their money—and yours—by taking this issue to arbitration, we will win there, too,” Francisco adds.

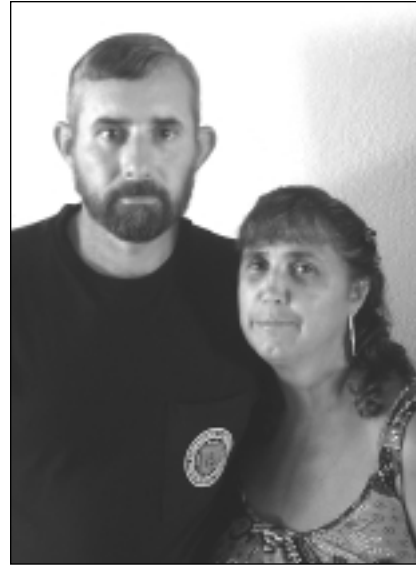


Photo: Thomas Hall

Labor United for Fall Elections You Can Make a Difference

SEIU and the other unions that split from the AFL-CIO to form Change to Win (CTW) will be working side by side with the AFL-CIO to fight for working families in the upcoming Congressional, state and local elections.

The National Labor Coordinating Committee (NLCC)—to be chaired by AFSCME President Gerald McEntee with a CTW vice chair—will “implement a unified union member mobilization effort to the maximum extent possible.”

Three key things that you can do to help are:

- 1 Make sure that you and all eligible family members are registered to vote;
- 2 Sign up to contribute to the Firemen & Oilers Political League; and
- 3 Volunteer your time to make calls, distribute fliers and help out in other ways.

Contact your local union or rail local chairman for information on all these ways to make a difference this November.

I n s i d e	
Pension Rip-off	2
Coalition Building Plays in Peoria	4
Test Your Knowledge, Win a Prize	6
Benefits & Discounts: Just for You	7

Ask President Francisco

In the Winter 2006 Journal I began answering a question posed to me by Local 320 member Phyllis May about the state of the pension system in our country. I focused on the rapid decline of top-of-the-line defined benefit pension plans, and their replacement with individual savings plans that offer no guarantees for retirees. Below I discuss a few other aspects of what is nothing less than a pension/retirement crisis.

Pension reform legislation passed in 1974—which was billed as protecting workers and their pensions, and in some ways did—opened the door to treating pension funds as cookie jars to be raided, regardless of the human misery caused.

As *Time* reported, in the 1980s, “corporate raiders, speculators, Wall Street buyout firms and company executives” walked away with an estimated \$21 billion. The movie *Wall Street*, with Michael Douglas, captured what this was all about.

Congress finally took action in 1990 to discourage pension fund raiding by taxing any money taken out.

But much damage was done. Exxon, to cite an example, removed \$1.6 billion from its pension plans in 1986 “because they were deemed over-funded.” Today, the pension funds of the most profitable company in the history of our planet have only enough money in them to pay 61 percent of promised benefits.

The 1974 law, known as ERISA, has actually encouraged the under-funding of pensions. Single company pension funds were under-funded by a whopping \$450 billion by the end of last year.

Hundreds of companies have been able to dump their pension obligations on the Pension Benefit Guarantee Corporation (PBGC), which was set up under ERISA to insure benefits for workers and is funded by taxes on employers. But ERISA is now \$23 billion in the red. This means that

taxpayers like you and me may wind up having to pay to provide the reduced pension benefits that retirees get when their companies dump their responsibilities.

Naturally, President Bush and the Republican leadership in Congress want to pass legislation that will, in many ways, make things even worse—especially by encouraging more companies to eliminate defined benefit pensions.

Disappearing Health Care

I want to touch on other aspects of the retirement crisis, one of which is the disappearing health benefits for retirees. Between 1998 and 2004, the percentage of companies employing 200 workers or more providing retiree health coverage dropped drastically from 66 percent to 36 percent. Hundreds of thousands of Americans who thought they had the promise of health benefits for life, painfully found out otherwise.

As I mentioned in Part I, President Bush speaks glowingly of the “ownership society” in which everyone has an individual retirement account, or 401 (k). When created, they were meant to provide tax breaks for high-salaried, white-collar managers: not to replace solid pensions.

But now they are rapidly replacing pensions. Yet most Americans find it very difficult to save, given the stagnant wages (median household income declined three percent from 2000-2004), soaring health care costs

The Journal, National Conference of Firemen & Oilers' Newsletter, is the quarterly publication of and for the membership of the National Conference of Firemen & Oilers (NCFO).

NCFO PRESIDENT
George J. Francisco, Jr.

NCFO SECRETARY-TREASURER
John R. Thacker

CONFERENCE VICE PRESIDENTS
Paul V. Shiplett
Sharon A. Munley
Robert S. Franco
Timothy P. Healy
Ronald H. Kirschner

The Journal, National Conference of Firemen & Oilers' Newsletter, is published quarterly by the Conference of Firemen & Oilers, SEIU, NCFO, 1023 15TH ST NW 10TH FL, WASHINGTON, DC 20005. Tel: (202) 962-0981, Fax: (202) 872-1222. Periodicals Postage Paid at Washington, D.C. and additional offices USPS 017-471.

Postmaster: Send address changes to *The Journal*, NCFO, 1023 15TH ST NW 10TH FL, WASHINGTON DC 20005



and disproportionate tax burden on working families. The percentage of income that Americans are managing to save is the lowest it has been in 75 years, while credit card debt is at an all-time high.

And lest we forget, Bush—and the greedy who back him—still wants to privatize Social Security in order to make it a Wall Street crap shoot in which only investment companies are guaranteed winners.

Despite all of this, NCFO has continued to do well by its members, but there is great reason for all working Americans to be scared—and angry—about what is taking place.

The true meaning of President Bush's “ownership society” turns out to be, in reality, a society in which everything in society is arranged to benefit the owners.

Big Bounce in Boynton Beach

Labor relations between Local 1227 and the South Florida city of Boynton Beach have been contentious for years, with pay lagging behind other jurisdictions for both blue and white collar employees. After



long political and legal battles and work to strengthen the union, the blue collar unit finally settled a long-standing contract dispute, making impressive wage gains which were duplicated in the three-year contract ratified by the white collar unit. In addition to implementation of reclassifications, minimum and maximums in each job classification were boosted over 25 percent, wages were raised across the board by 11 percent and merit increases will range from 6 to 12 percent during the course of the contract. In this photo, members of the blue collar unit demonstrate outside a City Commissioners meeting last year, demanding a fair contract.

Badger Honored by Political Leaders in Delaware



After some 37 years as an NCFO member working for Delaware's Wilmington Housing Authority—and serving for the last 25 of those as Local 473's chief steward there—Clinton Badger recently hung up his tools. But before he could quietly slip out the back door, he was honored with citations and proclamations from both the Wilmington City Council and the state's governor, citing his dedicated service as a union leader, political activist and community volunteer. Badger is shown here with Delaware Governor Ruth Ann Miner (D).

Members Have Big Fish to Fry at Youth Fishing Rodeo, They Quietly Protest Negotiations Brush-off While Aiding Kids

As they have for many years, Local 439 members working at the CSX Locomotive Shop in Cumberland, Maryland, volunteered their time for the Battie Mixon Fishing



Rodeo, of which CSX is a corporate sponsor. But angered by the freight carriers walking out on national negotiations in Washington and by contracting out of some of their work, many volunteers wore their union colors to make a quiet protest. At the same time, they helped more than 1,100 area children participate in the fishing contest, giving them gifts with the union logo. Local 439 also circulated a petition in the shop, filed a grievance and succeeded in getting the contractor removed.

NCFO-UP Craft Training Booklet for New Hires

“With 50 percent of the union mechanical employees working for Union Pacific due to retire within the next seven years, we had to make sure that there will be well-trained union members to replace them,” says NCFO System Council 19 Assistant General Chairman Jim Larreau. Larreau, along with Louis Taylor of Little Rock, Arkansas, Local 718; and Buck Deterding of North Platte, Nebraska, Local 403; and training department representatives authored *New Firemen & Oilers: On-The-Job Training Booklet*. The groundbreaking guide was introduced in pilot programs utilizing NCFO members as full-time trainers and now is being introduced throughout the Union Pacific system. “We expect that there will be up to 10 NCFO members working fulltime as trainers when the program is running at full steam,” Taylor notes. “This approach is crucial to making sure that NCFO work remains NCFO work for future generations,” adds Deterding.



Coalition Building and Political Action Play Well in Peoria for School Employees

Small NCFO Group Wins Big Political Victory With a Lot of Help from Its Friends

Illinois Local 8 member Michael McKee will never forget the day last year when fellow negotiating committee member Donny Motteler first raised the idea of getting rid of their worst bosses.

No, he wasn't initiating a conspiracy to commit murder. Rather, he was thinking that since they were employees of the Peoria School District and an elected school board called the shots, perhaps the union could do something about electing more union-friendly people to the board.

"We can't keep going on like this and have to try something different," McKee recalls Motteler saying. "There are school

contract struggle when those jobs were in grave danger.

The district had hired a comptroller to do something about cutting costs and bringing down the district's budget deficit.

"He had a record and reputation of contracting out custodial work to private firms and of union busting," McKee explains. "And he was pretty much given a free hand to do whatever he wanted."

One of the first things the new comptroller did was to announce unilateral imposition of a radical change to health benefits and a large increase in employee contributions.

He did this at the regular meeting of the insurance committee, which included representatives of all the unions representing school employees, seven local unions in all, from four different national unions (NCFO/SEIU, the American Federation of Teachers [AFT], the State, County and Municipal Employees, and the Fraternal Order of Police).

"He just stopped holding those committee meetings," notes Scott Schifeling, a Peoria social studies teacher and president of the Peoria Federation of Teachers, AFT Local 780.

The seven union locals had started to meet for the purpose of sharing information, but with the start of negotiations for the NCFO contract looming—and the labor relations situation looking grim for everyone—they started meeting more regularly and formally.

The negotiations—if you can really call them that—took almost nine months.

"We were never asking for the moon," recalls McKee, a 12-year maintenance worker for the school district and Local 8's chief steward in the Peoria schools. "Right from the start, there was an implied threat of getting rid of us," he says.

"The comptroller and some members of



Local 8 member and school custodian Donny Motteler (left) and Larry Burdette of the Peoria Federation of Teachers plant a yard sign for one of the two candidates endorsed by the coalition of unions representing school employees. They defeated two supporters of privatization.

the School Board kept on saying they had given their final offer and we were at an impasse, though we continued to try to bargain in good faith," adds McKee.

"At one point, we voted down one of their 'final' offers almost 10:1, but instead of taking the strike authorization vote we're sure the comptroller wanted us to take, our membership voted overwhelmingly to send us back to the bargaining table," McKee continues. "The comptroller was ready to lock us out."

Finally, Local 8 persistence and tactical savvy—along with intervention from the much more reasonable school superintendent—led to a softening of management's proposal and to an agreement which was ratified last December.

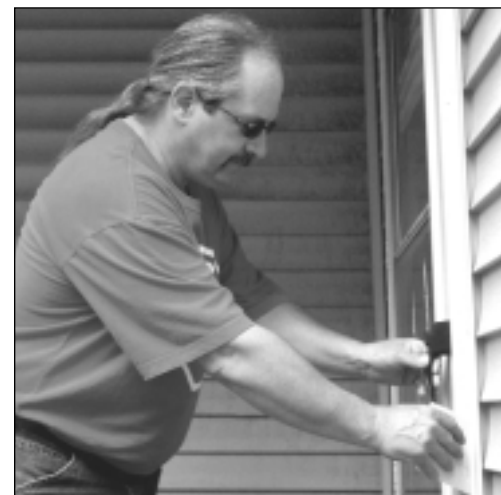
"I was not happy with this contract,"

Michael McKee places a campaign flier in a neighbor's door. "In the neighborhoods where we walked, we won overwhelmingly," says McKee. "It was really an empowering experience to be able to see a problem and then do something about it."

says McKee, "but our top priority was to keep our 165 members on the job."

McKee and other school district labor leaders also were unhappy about the role some school board members had played during negotiations, and about the board's decision to privatize management of the school cafeteria and to award a \$1.2 million contract to the infamous Edison company to run some schools, despite the deficit.

This is the context for the above-mentioned conversation between McKee and Motteler about getting involved in the



2006 school board elections. In the system of staggered elections, two of the seven incumbents—both supporters of privatization—would have to face the voters.

Meanwhile, Debbie Wolfmeyer, a retired school secretary and former president of the AFT clerical local, decided to challenge one of those incumbents.

The labor coalition decided to get involved in school board elections for the very first time. They endorsed Wolfmeyer and school activist Jim Stowell.

"The union coalition came and asked us what kind of help we needed and they came through with everything," says Wolfmeyer.

There were telephone banks, neighborhood walks and door knocking on several weekends, forums, contributions, literature drops at schools and a great deal of energy and enthusiasm.

Wolfmeyer won with 61 percent of the vote in her district and Stowell, in a three-way race, won with 49 percent to the 34 percent garnered by the incumbent.

"The union activism and support made all the difference in the world," says Wolfmeyer.

"In my neighborhood where we walked and gave out 300 fliers, Debbie won overwhelmingly," says McKee, who notes that "it was really an empowering experience to be able to see a problem and then do something about it."

Motteler, a custodian and six-year NCFO member, admits that it felt strange at first when he went knocking on doors during his first stint as a political activist. "But now I'm hooked and I'll be out there next year" when two more school board seats will be filled.

And he won't be alone. McKee estimates that upwards of 25 NCFO members helped out to one degree or another in the election and that participation should increase next year. "A lot of our guys are waking up to the fact that we can make a difference," he says.

School board members are noticing too, McKee adds. "One member has really started to change his tune about privatization and about school employees.

"He's up for reelection next year."

The Origin of "Will It Play in Peoria?"

You've probably heard that expression "will it play in Peoria?"

It has an interesting history, and reportedly was first uttered by legendary comic actor Groucho Marx.

Because Peoria—located midway between Chicago and St. Louis—was considered a good example of the average American city, it was a good place to try out new vaudeville routines before taking them on tour. Hence, Marx's question was based on the notion that if an audience in Peoria liked his show, it would appeal to mainstream Americans everywhere.

Decades later, entertainers like Bob Dylan, Led Zeppelin and Phil Collins continued to launch tours in Peoria and the city was used as a test market for various products, services and campaigns.

It was during the presidency of Richard Nixon that the phrase took on new life. Nixon's later disgraced aide John Ehrlichman claimed that the positions taken by Democrats were not in the mainstream and would not "play in Peoria."

Well, this year "NCFO Local 8 showed that tried-and-true tactics like coalition building, grassroots unity and political action will play in Peoria," says NCFO President George Francisco.

"We can only hope that organized labor throughout the country will learn from this and realize that what played in Peoria can work for them too."



School Board candidate Debbie Wolfmeyer goes over door-knocking plans with Michael McKee, Local 8's chief steward in the Peoria public schools. Local 8 got involved after its jobs were put at risk during negotiations last year.

board elections next year. Let's see if we can make our votes count."

The two Firemen and Oilers are elected members of the Coordinating Council for Maintenance and Operations Employees, the body within Local 8 that represents some 165 Peoria school custodians, maintenance workers and skilled trades employees. Motteler's comments came during a

Do You Know Your Rights on the Job? You Can Win a Prize If You Do

This marks the 25th *Rights on the Job* column that has appeared since *The Journal* began publishing out of Washington in 1999.

To celebrate, take the first "Rights on the Job Quiz" and mail in your answers.

1 How many weeks of paid vacation are U.S. workers entitled to by law?

- A. Two.
- B. Two if you're a citizen, zero if you're not.
- C. Two if you are a union member, zero if you work nonunion.
- D. Three if you've worked more than 10 years, two if you've worked less.
- E. Zero.

2 Which of the following best defines what the doctrine of "past practice" means in union grievances?

- A. If an employer has allowed certain activities (like playing the radio) for a long time, they can't just tell you it's no longer allowed.
- B. If you've become very efficient at your job (be it typing or driving a forklift) because you practiced on your own time, you have a right to be paid for the time you put in.
- C. Unless your boss ordered you to practice doing a specific task, you can't be fired for doing it poorly.

3 Only one of the following three statements about "right to work" laws is correct. Which is it?

- A. Under a "right to work" law, every worker has the legal right to a job.
- B. Workers in "right to work" states earn more because it is

easier for employers to create jobs.

C. Workers in "right to work" states earn considerably less than in other states because unions are made weaker under these laws.

4 One of the following statements about unemployment benefits is false. Which one?

- A. Every unemployed worker in the United States has the legal right to unemployment compensation payments.
- B. Less than 35 percent of the unemployed in the U.S. get unemployment benefits.
- C. 80 percent of the unemployed in Sweden get benefits.
- D. The U.S. unemployment insurance law was passed as part of the Social Security Act of 1935.
- E. By law, unemployment insurance can replace a maximum of 62 percent of salary.

5 Which of the following statements about the Family and Medical Leave Act (FMLA) are true?

- A. FMLA gives the right to unpaid leave from work to care for a sick relative, bond with a newborn or recuperate from an operation or illness.
- B. As of last year, an estimated 50 million Americans have utilized FMLA.
- C. More than 40 percent of private-sector workers are

not covered by FMLA because there are fewer than 50 employees where they work.

D. The U.S. is the only major industrialized country that does not require paid family and medical leave.

E. All of the above.

6 You likely have the right to use your employer's email system for union matters if:

- A. You're allowed to use the system to sell Girl Scout Cookies for your daughter.
- B. You're allowed to eat Girl Scout Cookies while at your computer.
- C. You work for the Girl Scouts of America.
- D. None of the above

7 Which of the following statements about Material Safety Data Sheets (MSDS) and the use of hazardous chemicals in the workplace are true?

- A. Because of the war on terrorism, you no longer have the right to know the dangers of chemicals in use at your place of work.
- B. There must be an MSDS available to you for every potentially hazardous chemical in your workplace.
- C. If the hazardous product has a trade name—like Super Goop—it's not required that the actual chemical name be listed on the MSDS.
- D. Each MSDS must include information on the possible

short-term and long-term health damage the chemical can cause and how the chemical can enter the body (through the skin, by being inhaled, etc.).

E. All of the above.

8 True or false: If you have to shout to be heard by someone just a few feet away, your job probably is over the legal limit for noise under the OSHA noise standard.

9 Is it legal under the Americans with Disabilities Law to ask a job applicant about past illnesses, hospitalization, days absent from work due to an illness or current use of prescription medication?

Fill in your answers—either on this page or a separate piece of paper—and print your name, address, local union and telephone number. Mail to:
Rights on the Job Quiz
% NCF0/SEIU
1023 15th Street, NW
10th Floor
Washington, DC 20005.

The first 10 NCF0 members (or members of NCF0 families) who answer all nine questions correctly will win a package of NCF0 prizes including a handy keychain light, a coffee cup and a cap.

10 things NCF0 members can do online at www.UnionPlus.org

Congratulations! As a NCF0/SEIU member, you are automatically entitled to free benefits and special savings. The Union Plus benefits deliver high value and quality service to you and your family.

1 Visit www.UnionPlus.org and complete the short pop-up union form to learn about your special union benefits.

2 Find money to pay for continuing education for yourself and your family. Search for **scholarships** at www.UnionPlus.org/Scholarships and apply for **education loans** at www.UnionPlus.org/Edloans

3 Get all the **information you need on the "go to college" process** at www.UnionPlus.org/Education

4 **Order books online** from a unionized bookstore at www.UnionPlus.org/Books

5 Sign up for **E-News** to receive **consumer tips** and **Union Plus benefits updates** at www.UnionPlus.org/enews

Travel Discounts



Flower Arrangements



Scholarships



Loans and Credit Information



Money-Saving Benefits for Union Members



6 Browse Union Plus **discounted flower arrangements**, order flowers online (for less than what you pay over the phone) and save 15% at www.UnionPlus.org/Flowers

7 See more of the world – for less! Book a **discounted car rental, cruise, flight** or your dream vacation online at www.UnionPlus.org/Travel

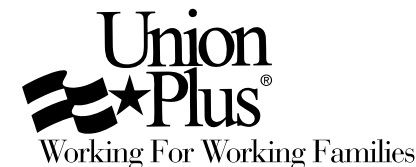
8 **Verify information** included in your **credit score** (saving 15%) and understand how your lenders see you at www.UnionPlus.org/CreditScore

9 Complete our site survey and **receive a free screensaver**. Let us know what you think about our site and benefits at www.UnionPlus.org/Survey

10 Apply for the **Union Plus Credit Card**. You can go directly to www.UnionPlusCard.com to apply for the card or manage your account.

Questions?

Visit www.UnionPlus.org/Customer or email: info@unionprivilege.org



Union Plus Scholarships: They're Not Just for Your Kids

Union members and their spouses—and not just their college-age children—are eligible to apply for Union Plus scholarships, as long as they will be attending an accredited college or university, community college or recognized technical or trade school.

This year, a total of \$150,000 was awarded to 122 students from 40 different international unions.

Beginning September of this year, information and applications for 2007 scholarships will be available at www.UnionPlus.org/Scholarships or send a postcard with your name, return address, telephone number and international union name to:

Union Plus Education Foundation
c/o Union Privilege,
P.O. Box 34800
Washington, DC 20043-4800.

The application deadline is *January 31, 2007*.

Later this year visit www.SEIU.org to find information on a number of available SEIU scholarships.



National Conference of
Firemen & Oilers, SEIU
1023 15TH ST NW 10TH FL
WASHINGTON DC 20005



Periodicals
Postage Paid at
Washington, DC
USPS 017-471