



**Workers Comp & Sick Leave**

*By John Campbell-Orde, Esq., PGO General Counsel*

When an employee is injured on the job in most instances he or she is entitled workers' compensation benefits. Workers' compensation is very complex, but broadly speaking there are two components.

The first component is medical. An employee who is injured on the job and files a workers' compensation claim may be entitled to have medical expenses related to the injury paid for by workers' compensation. This is true even if the employee does not miss work due to the injury. This type of workers' compensation claim is called a "medical only" claim.

The second component to workers' compensation is intended to compensate an employee for work days missed due to the injury. There is an exception to the second component though. If an employee is unable to work for less than one week, then during that first week the employee will not receive money through workers' compensation for the days missed. An employee can, however, choose to use sick leave to cover the time missed.

However, if you miss more than one week due to your workers' compensation injury, workers' compensation may retroactively pay you for the original week period that was not paid for. So it is important to consider how long you may miss before deciding whether to use sick leave to cover the first week missed from work. If you use vacation leave to cover the initial week missed and you miss more time than one week, workers' compensation will still pay you for the initial week on top of the vacation pay that you received. But, if you use sick leave to cover the initial week missed and then continue to miss time due to the workers' compensation injury, workers' compensation will not pay for the initial week missed, since your sick leave will be considered to have covered the time.

**Author's note:** *The law discussed above is very complex and the preceding article is an incomplete explanation. The information contained in this article does not constitute legal advice.*

**The Wage Gap**

*By Amelia Woodward, Esq., PGO Field Representative*

Women feel the wage pinch every day. Women will work long hours, but still come home with less "bacon" than their male counterparts. A recent report by TD Economics called *Career Interrupted—The Economic Impact of Motherhood* claims that the reason women experience this wage gap is because of motherhood.

The report states that as women enter the workforce, then leave to have children, their earnings take a hit each year they take off to raise their children. The study also attempts to factor in other impacts of leaving the workforce, such as the loss of skills one may experience when not working for an extended period of time in accounting for the wage gap.

A factor that wasn't considered in this report is the value placed on the kinds of jobs our members have. Public employees are getting blamed for a failed economy despite the important work they perform: helping the developmentally disabled; keeping our children safe; keeping our communities safe; and, providing other invaluable services.

We value the work our members do, but the corporate propaganda machine has persuaded the general public to value big business over workers. Until we can effect change in the attitude of our neighbors, we must continue to organize in the struggle for better wages and working conditions.



**"Sure, I have time for hobbies, if you consider juggling a career and family as hobbies."**



**"Ms. Jones, have payroll calculate how many layoffs it will take to give me another bonus."**

**Fun Labor Fact: Vive La France**

*By John Campbell-Orde, Esq., PGO General Counsel*

We often determine whether we think an employee benefit is fair based on what we receive as employees. In France employment benefits are much more generous than those in the United States, so many people in the U.S. tend to think that the French are spoiled. While this reaction is understandable, consider for one moment that many employee benefits that you currently enjoy did not exist in the U.S., and that during earlier periods in our history the same benefits that we now take for granted were considered indulgences that only spoiled employees would expect.

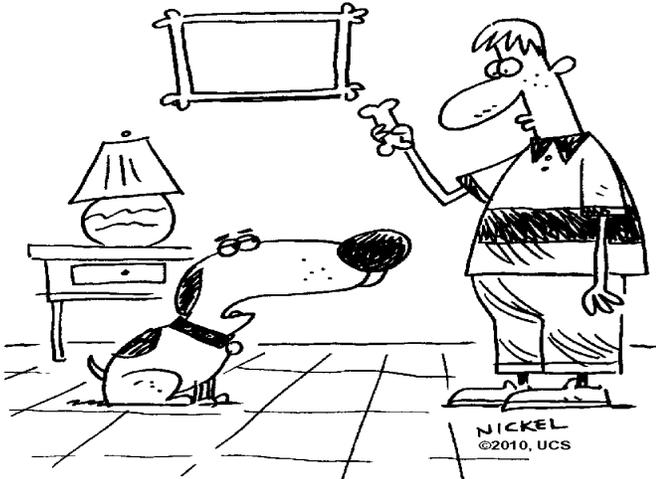
The standard eight hour work day did not exist for much of U.S. history. People were expected to work much longer days. Yet we now expect to generally work an eight hour work day. Before the Fair Labor Standards Act was passed in the early 20<sup>th</sup> Century, if you worked more than forty hours per week, as most people did, you were expected to receive your normal hourly rate for hours that exceeded forty. Now, due to the Fair Labor Standards Act, we as employees expect that we will receive time and one-half pay or compensatory time for working more than forty hours in the week.

Even having a two day weekend was once viewed an indulgent in the U.S. Many people worked six or seven days per week. Now most of us expect two days off per week so we can tend to our personal lives. The same was once true for paid holidays and, for public employees, paid sick leave, both of which most employees consider standards that they would be outraged to have taken away.

So, reconsider France for one moment. Sure, the French tend to have better employee benefits and, therefore, better work lives than most U.S. employees. But, just as employees and labor unions fought during the early 20<sup>th</sup> Century to establish employee benefits and protections that we now take for granted, French employees have fought for rights, such as a lower retirement age than U.S. workers, that like us they now consider integral to their lives. So, when we hear about the hundreds of thousands of French citizens who went on strike recently across the country to protest the government taking away a benefit they fought for (their standard retirement age), we should ask ourselves whether we would do the same if the government tried to do away with overtime and pension pay, paid holidays, or our treasured weekends.

The truth is that the rights and benefits employees enjoy may vary from country to country, but one thing remains constant: those benefits were gained by employees and unions banding together and fighting to improve their work lives, and thus their personal lives as well. They may be a little snobby, but they have shown themselves willing to stand together to protect their standard of living. Hundreds of thousands recently took to the streets and went on strike to protest proposed pension changes.

Sometimes you win and sometimes you lose, but showing that you are willing to fight to protect what is yours and also to gain employee benefits makes it much more likely that you will retain those rights you already have and gain additional benefits--benefits that someday you will take for granted as fair and important. So, during your next weekend or holiday take the time to silently applaud our French friends for their efforts because the best route to a good work life is not to insist that others have too much, but to insist that we have what they do, or more.



**"I don't beg, I negotiate. Now what's it going to take for you to hand over that Milkbone?"**

**The Negotiations Process**

*By Amelia Woodward, Esq., PGO Field Representative*

PGO has been in a “state of perpetual bargaining.” Your dedicated PGO staff and council officers have been hard at work negotiating for our members throughout the state. The negotiations process, as many of you know, can be time-consuming and frustrating for everyone. So, we thought it might be useful to highlight some of the general rules for negotiations which might affect you now, or in the future.

By law, negotiations must be conducted in private. Your representatives on the bargaining team, while they would like to be able to share detailed information about the issues being negotiated with members, are individually not permitted to because of the confidential nature of negotiations. PGO bargaining teams do an excellent job of representing everyone and I know from experience they really do bring their colleagues’ perspectives to the table.

When negotiations start, the parties must be mindful of how information is communicated. This means that, for example, if management wishes to communicate information that is directly related to something being bargained (wages, for instance), it must do that through the negotiations process. Informing employees of bargaining proposals can result in direct dealing meant to circumvent the negotiations process, which is an unfair labor practice .

Once negotiations begin, the parties will meet on a regular basis to reach agreement on the issues

both parties have proposed. If the parties agree on an issue, they will set it aside as a tentative agreement and work on the issues they don’t agree on until tentative agreement is reached on all the issues. If the parties cannot agree, they will try to reach agreement through a dispute resolution procedure.

The statutory dispute resolution procedure includes mediation and fact finding. Mediation is the process where an impartial mediator from the state or federal government meets with the parties and tries to broker an agreement. Fact finding is the process requiring a full evidentiary hearing between the bargaining teams and a neutral third party. After a hearing, the fact-finder issues recommendations that the parties either accept or reject. If neither party rejects the fact-finding recommendations by at least 60 percent of the vote, then the fact-finder’s recommendations become binding on the parties.

Your employer is required to maintain the terms and conditions of the collective bargaining agreement during the negotiations process, even after the collective bargaining agreement has expired. If the parties have exhausted the dispute resolution procedure and still not reached agreement, then the parties are at ultimate impasse, at which point the members can strike. It doesn’t happen too often that the parties get to ultimate impasse because of the procedures in place to get the parties to work things out, but you should be aware of the process.

