The Professionals Guild of Ohio

PGO UNION NEWS

March 2014

Published by
Professionals Guild
of Ohio
P.O. Box 7139
Columbus, Ohio 43205

Questions or comments can be directed to the Executive Director.

E-Mail:
cmason@professionalsguild.org

Website:
www.professionalsguild.org

Like us on Facebook

Phone:
614-258-4401 or
800-331-5428

Fax:
614-258-4465

Produced and printed in-house by members of the PGO Staff Employees Union

PGO Fights for Members' Rights

By Paul Henry, Esq.,
PGO Field Representative

Late last year, the Butler County Board of Developmental Disabilities unilaterally changed its drug policy to require random testing of PGO Council 7 members. Even though there was no history of problems that would warrant the need for this change, the employer assumed that it could unilaterally implement this policy over the Union's objections. The Union strongly disagreed with this assumption and took action.

In response to the change in the drug policy, the Union filed a federal lawsuit in the United States District Court for the Southern District of Ohio Western Division. The lawsuit, filed on February 20, 2014, has its foundation in the Fourth Amendment of the United States Constitution.

The Fourth Amendment states the following: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

It is the Union's position that the new drug policy implemented by the Butler County Board of Developmental Disabilities violates this fundamental right and can be categorized as an illegal search and seizure. The implementation of an arbitrary and invasive drug testing policy which requires members to disclose personal information through breath, blood, or urine samples is not only an abuse of power by the employer, it is circumventing the law and illegally allowing bodily searches and seizures.

Although an employer has many rights to regulate the workplace, it is important to remember that it does not have the authority to dictate rules that violate an employee's constitutional rights. Constitutional rights do not disappear when you walk through the doors at your workplace. The Union is fighting to make sure this happens in Butler County.

PGO Executive Board Meeting

The second quarterly meeting of PGO's Executive Board has been scheduled for April 26, 2014. The meeting will be hosted by Council 12 at the Montgomery County Children Services offices located at 3304 N. Main Street in Dayton, Ohio. The meeting will begin at 10:30 a.m.

Ohio Supreme Court Liberates Picketing

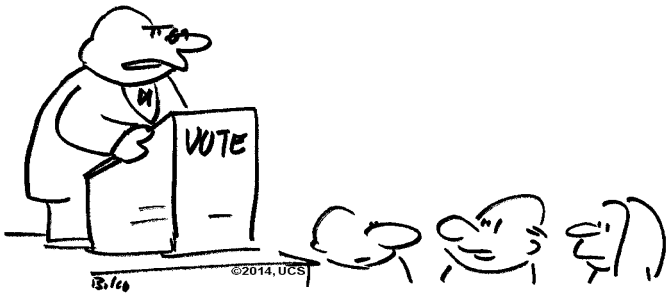
By Nicole Jackson, Esq., PGO Field Representative

The Ohio Supreme Court recently ruled in *Mahoning Education Association of Developmental Disabilities v. State Employment Relations Board*, that unions are not required to provide public sector employers with a ten-day advance notice of informational picketing under Ohio law. Ohio law makes it an unfair labor practice (ULP) to engage in any picketing, striking, or other concerted refusal to work without giving ten-days prior notice.

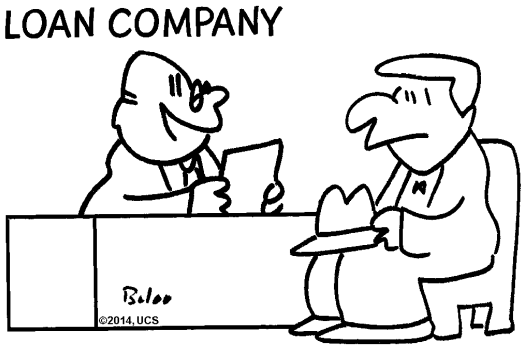
However, the Ohio Supreme court held that the law applies only to picketing related to a work stoppage, strike, or other concerted refusal to work. The case ended up in the Ohio Supreme Court after the State Employment Relations Board (SERB) found that the Union committed a ULP by failing to give ten-days notice before peacefully picketing outside a building immediately prior to the employer's board meeting. The Union was picketing related to successor contract negotiations and expressing its desire for a fair contract. The signs read "Settle Now" and "We Deserve a Fair Contract."

This was not a strike or work stoppage. Since the Union did not file a ten-day notice of an intent to picket with SERB, the employer filed a ULP charge with SERB alleging that the Union violated the notice requirement. SERB found that the Union committed a ULP, but when the case reached the Ohio Supreme Court, it was overturned.

This Ohio Supreme Court decision is a victory for labor because unions will not be delayed in getting information out to the public by way of informational picketing. However, anytime picketing is related to a work stoppage, a ten-day notice is required.



"That's a very good question. Are you trying to make trouble?"



"The full disclosure law requires me to say at this point... *Gotcha!*"

US Supreme Court Rules Against Workers (Again)

By Paul Henry, Esq., PGO Field Representative

On January 27, 2014, the Supreme Court issued a pro-management ruling in the case of *Sandifer v. US Steel*. At issue was whether members of the Steelworkers could be compensated for time spent getting into and removing their safety gear. In a unanimous decision written by Justice Scalia, the Supreme Court ruled the Steelworkers could not be compensated for the time.

It is unfortunate for the workers that they lost this battle, but the legal implications are actually quite narrow. The Fair Labor Standards Act excludes "changing clothes" from being compensable unless the union and employer have negotiated a provision in their collective bargaining agreement stating otherwise. There was no additional provision for the Steelworkers. The reason the Steelworkers' chose to take this case to court, was their belief that putting on flame retardant jackets, hoods, gloves, boots, and several other items over their clothes fell outside this exclusion. They argued that the safety gear they were putting on was not the same as merely getting dressed in clothes. The Court disagreed.

Even though this ruling has a limited impact on most workers, the focus on the bottom line for the company rather than the safety of the workers is disturbing. Court decisions and agency rulings continue to chip away at workers' rights which have historically protected employees at their places of work. When a decision is issued that diminishes the safety of workers, one can't help but become nervous about what other protections will be disregarded.

Union Membership Up

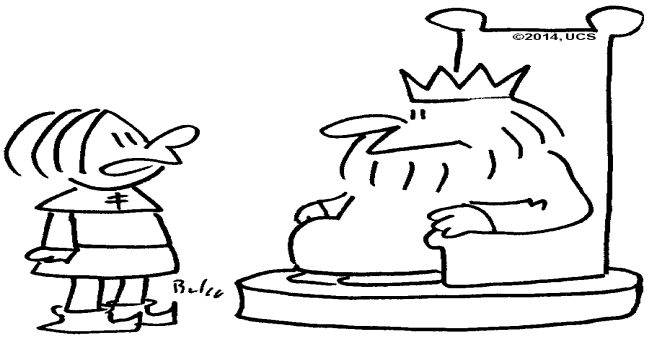
By Nicole Jackson, Esq., PGO Field Representative

According to a recent report from the U.S. Labor Department, Bureau of Labor Statistics, the number of wage and salary workers belonging to unions increased by about 162,000 workers. However, the increase in union membership between 2012 and 2013 was so small that it did not change the percentage of wage and salary workers belonging to unions, which remained at 11.3 percent, or about 14.5 million workers in the private and public sector combined. Not included in that figure is about 1.5 million workers who reported no union affiliation but whose jobs are covered by a union contract. Private sector employees accounts for more than half (810,000) of the 1.5 million workers who were covered by a union contract but were not members of the union.

In Ohio, the total union membership increased in 2013 by about 1,000 to 605,000, remaining at 12.6 percent union membership statewide. Among the states, New York continued to have the highest union membership rate in the nation at 24.4 percent, while North Carolina had the lowest rate at just 3 percent.

Also in 2013, among full-time wage and salary workers, union members had median weekly earnings of $950, while those who were not union members had median weekly earnings of $750, according to the report.

With legislation such as "Right to Work" being pushed hard in some states to bust unions, it is refreshing to see that union membership has held steady and begun to trend back up in Ohio and nationally.



"Your economic advisors are not available right now, Sire. They're all working second jobs."

Unfair Discrimination Against Unions

By Nicole Jackson, Esq., PGO Field Representative

Evidence of the political strategy to weaken labor includes the economic undermining of unions by excluding union employees from what is known as the Public Service Loan Forgiveness (PSLF) Program. The federal law implementing the PSLF program is intended to encourage individuals to enter and continue to work full-time in public service jobs. Under the PSLF program, after you have made 120 qualifying student loan payments while employed full-time by a public service employer, your full remaining balance of student loans will be forgiven.

Qualifying employment is any employment with a federal, state, or local government agency, or a 501 (c)(3) not-for-profit organization. Even though PGO, and other unions are 501(c)(3) not-for-profit organizations, their employees are expressly excluded from the PSLF program. There are no documented policy reasons that explain why union employees are excluded from this program.

Author Bill Fletcher wrote in his book, *They're Bankrupting Us! And 20 Other Myths about Unions,* critics of public sector unions claim that taxpayers are paying for the unions. "That is actually not the case," writes Fletcher, "what they are doing is paying for time for representation. In that sense, it is similar to government providing legal aid attorneys to individuals who cannot afford their own...taxpayers are ensuring that workers, irrespective of union membership, have the right to be represented." Unions provide representation to workers who otherwise cannot afford their own legal counsel.

Unions are service organizations, with the purpose of protecting the welfare and interest of its members. The real objective behind the exclusion of unions from the PSLF Program is to eliminate the voice of working people and weaken their representation.

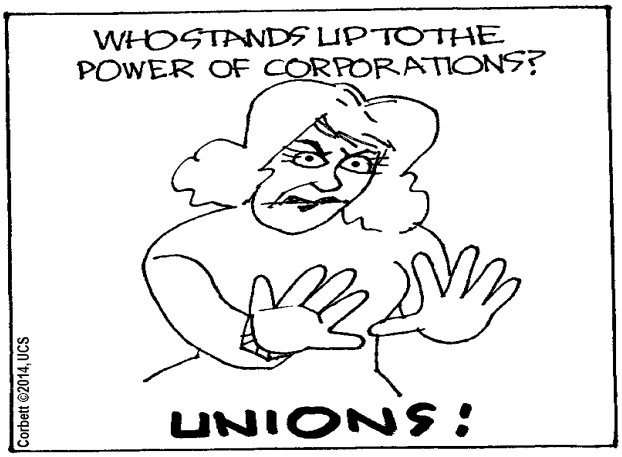
UAW Defeat at Volkswagen

By Paul Henry, Esq., PGO Field Representative

The United Auto Workers recently suffered a surprising defeat this past month while attempting to organize a Volkswagen Plant in Tennessee. Many were left shocked at this loss as the UAW ran unopposed in the election. Initially, the UAW leadership expected an easy win. Volkswagen had no problems with the UAW attempting to organize and even allowed the Union access to the factory floor to speak with employees. So, in what was expected to be a landslide win, how did the UAW suffer such a disastrous defeat? Though the answer may never be entirely clear, it can be stated with certainty that a number of anti-union politicians played major roles in the defeat.

In the lead-up to the vote, anti-union politicians could not help but enter the fray. One of the most vocal was Republican Senator Bob Corker who publicly stated "I've had conversations today and based on those am assured that should the workers vote against the UAW, Volkswagen will announce in the coming weeks that it will manufacture its new mid-size SUV here in Chattanooga." It turned out that there was a problem with the statement made by Senator Corker: it was a bold faced lie.

The Volkswagen Chattanooga Chairman, Frank Fisher, responded to this accusation and stated that the union election would have no effect on the company's decision on where it would manufacture the SUV in the future. After being refuted by the Volkswagen Chairman, Senator Corker refused to relent in his assault. He went on to say "Believe me, the decisions regarding the Volkswagen expansion are not being made by anyone in management at the Chattanooga plant. . . [a]fter all these years and my involvement with Volkswagen, I would not have made the statement I made yesterday without being confident it was true and factual."



These inaccurate and outrageous statements made by a United States senator deflated the UAW's support. Once the statements had been made, no explanation from the Union or Volkswagen could wipe the doubt from the minds of the workers. Since the defeat, the UAW has filed an appeal with the NLRB claiming that politicians and outside interest groups swayed the election. The NLRB has yet to issue a ruling on the matter.

Workers Take Direct Political Action and Win!

By Paul Henry, Esq., PGO Field Representative

In November 2013, the voters of heavily unionized Lorain County took a stand. After numerous disputes with the Democratic Party, the labor council in Lorain County decided to recruit and run its own nominees. President Harry Williamson of the Lorain AFL-CIO stated, "When the leaders of the [Democratic] Party just took us for granted and tried to roll over the rights of the working people here, we had to stand up." It was this stand that allowed two dozen union members and supporters to be elected by the voters.

The decision to run these newcomers was not taken lightly. The unions decided to run against the establishment politicians only after being thoroughly provoked. Prior to the election, the unions had negotiated an agreement with the city which required 75 percent of the city contracts to be staffed by local workers. Unfortunately, Mayor Ritenauer had other plans. With the Mayor's prodding, the city council voted to repeal the unions' agreement. After it became apparent that the politicians no longer had their backs, the unions decided they could do a better job.

Lorain gives us the opportunity to see what can happen when labor comes together. When peoples' voices aren't being heard, sometimes additional action must be taken. If folks decide to fight for their beliefs rather than rolling over and conceding defeat, then great things can be accomplished not only at the polls, but in the workplace as well.