

# The Professionals Guild of Ohio



## PGO UNION NEWS

**June/July 2018**

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

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### **U.S. Supreme Court Voids Employee Protections**

In the words of SEIU President Mary Kay Henry, “Today, the Supreme Court has made it more difficult, if not impossible, for working people to use our legal system to fight against unlawful employer policies like wage theft, unequal pay, and other forms of discrimination \* \* \* No person working in the United States should have to sign away their rights just to have a job.”

Henry’s comments are in reference to U.S. Supreme Decision entitled *Epic Systems Corp. v. Lewis*, decided on May 21, 2018, that voided a National Labor Relations Board (NLRB) ruling that stated that class-action lawsuits by workers were “concerted activities” protected by the National Labor Relations Act.

The decision will also harm women fighting sexual harassment, Christine Owens, executive director of the National Employment Law Project, said in a statement. “Forced arbitration means women have to pursue their claims alone, before a private arbitrator hired by the company, with a low likelihood of success and little chance to appeal.”

Here are the facts of the case. On April 2, 2014, the employer, Epic Systems (Epic), sent an email to its employee Jacob Lewis, requesting that he

sign an arbitration agreement. The agreement stipulated that “wage-and-hour claims could be brought only through individual arbitration.”

Additionally, the agreement included a collective action waiver, which waived employees’ “right[s] to participate in . . . any class, collective, or representative proceeding.” Lewis reviewed and accepted the agreement, as requested by Epic.

Despite his acceptance of the arbitration agreement, Lewis later brought a collective action lawsuit against Epic in federal court instead of proceeding under individual arbitration. Lewis alleged that Epic violated federal law (the Fair Labor Standards Act), depriving him and fellow workers of overtime pay, when the employer

### **Follow and Like PGO on Social Media!**

To stay up-to-date on current happenings with PGO, and relevant current events, make sure to follow and like us on Twitter and Facebook. This also gives you a chance to ask us questions in real time about any workplace issues you are facing and connect with your union and members in other councils.

**Twitter:** @GuildOhio

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“misclassif[ied] him and his fellow technical writers” as exempt rather than non-exempt employees.

While Lewis’ lawsuit was deemed “lawful” by precedent set by the NLRB, the U.S. Supreme Court changed all that. In making its decision, the Court stated that the NLRA “focuses on the right to organize unions and bargain collectively. But it does not express approval or disapproval of arbitration. It does not mention class or collective action procedures. It does not even hint at a wish to displace the Arbitration Act.”

In dissent, Justice Ruth Bader Ginsburg argued that class-action suits are an essential tool for workers. “Individually, their claims are small, scarcely of a size warranting the expense of seeking redress alone,” she wrote. “But by joining together with others similarly circumstanced, employees can gain effective redress for wage underpayment commonly experienced.”

In other words, an individual worker who got cheated out of \$300 in overtime pay could spend more than that on just a first consultation with a lawyer, but a class-action suit against an employer who stiffed 1,000 workers could recover \$300,000 plus damages. Compulsory-arbitration agreements, Justice Ginsburg said, were specifically designed “to block such concerted action.”

The majority opinion that compulsory arbitration was a part of employment contracts freely agreed to, Ginsburg continued, ignored the gross imbalance between workers’ and employers’ power. With federal and state resources to enforce wage and hour laws limited, she added, employers “will no doubt perceive that the cost-benefit balance of underpaying workers tips heavily in favor of skirting legal obligations.”

“The Supreme Court has dramatically tilted the legal system against working people, paving the way for corporations to break workplace laws with impunity,” said Christine Owens. “America’s workers have long understood that when their bosses break the law—whether it’s wage theft, discrimination, or sexual harassment—workers have the right to band together to pursue legal action. Today, this is no longer the case.”

While *Epic Systems* case does not directly affect public employees, per se, the ruling does send a signal about how the Supreme Court is likely to rule if and when the same issue arises in a case involving public employees working for the state, which is certain to happen before too long.

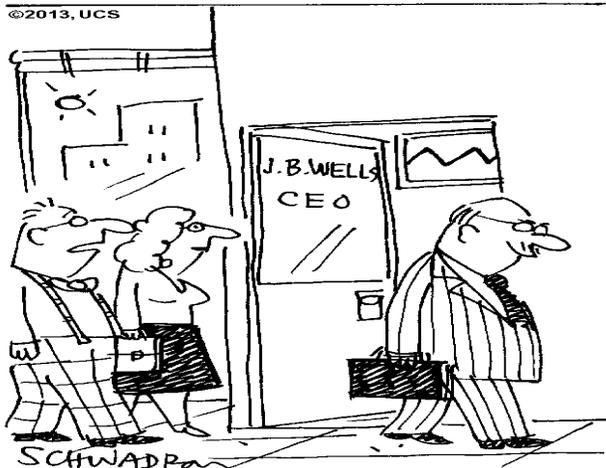
### **Trump Establishes Task Force to Recommend Reforms to USPS**

Under the guise of fiscal responsibility, President Donald Trump issued an Executive Order in April to establish a task force to recommend reforms for the US Postal Service. The call for review of the popular federal agency came after a series of tweets from Trump maligning the USPS relationship with the online retailer, Amazon. President Trump suggested that Amazon was “ripping off the post office” by securing a sweetheart deal with the USPS. Trump’s claims, however, are open to debate. Many in the political arena believe that the intent of this Executive Order is not to save the USPS, but instead to destroy it and sell off the nationwide infrastructure to the highest bidders.

The American Postal Workers Union (APWU), in a statement issued April 12, wrote “[T]he primary reason for the financial challenges facing the Postal Service is the 2006 Congressional mandate forcing the USPS to “pre-fund” retiree health benefits 75 years into the future. This crushing burden is faced by no other company or agency and is being used by those who wish to destroy the Postal Service.”

The mandate referred to in the APWU statement is the 2006 Postal Accountability and Enhancement Act and it is widely believed to have been passed at the behest of UPS and FedEx, the Postal Services’ two major competitors for package delivery. In the policy section of Trump’s Order are claims that the decline in first-class mail volume - \$64 billion in losses since 2009 – is an “unsustainable fiscal path.” However, were it not for the prefunding mandate, the USPS would likely draw a profit.





©2013, UCS  
 “We weren’t always a non-profit— just since we started paying his CEO bonus.”

“The APWU looks forward to working with anyone truly interested in maintaining a vibrant public Postal Service for generations to come. If given the opportunity to meet with the task force, we will forthrightly tell the truth, share our views, and promote the protection of the rights and benefits of postal employees,” said APWU President Mark Dimondstein. “One step toward USPS financial stability is to fix the pre-funding debacle by passing the bi-partisan postal reform legislation currently stalled in both the House and Senate.”

The Executive Order does state that recommendations from the USPS workforce and industry will be considered. Speaking about the Order, National Association of Letter Carriers (NALC) President Fredric Rolando said he is “hopeful that the inclusion of the Postal Service workforce in this evaluation and report will provide NALC the opportunity to provide input throughout the process.

**DID YOU KNOW?**

**Your Post Office  
 Receives **Zero** Tax Dollars**

**FACT:** The United States Postal Service (USPS) receives no tax dollars for operating expenses and relies on the sale of postage, products and services to fund its operations.

**FACT:** The Post Office is established in the U.S. Constitution. The public Postal Service is part of the fundamental infrastructure of this nation – binding it together.

**FACT:** The United States Postal Service delivers to every address in the country – 157.3 million addresses – no matter where we live or who we are. In contrast, private delivery companies go where they can make a profit.

**FACT:** The Postal Service is consistently the most trusted US government entity. It rates highest among young adults.

**FACT:** While letter mail volumes have been declining, a lot of mail remains. The Postal Service processes and delivers 493.4 million letters and packages each day.

**FACT:** Package volume is increasing. In these days of rising e-commerce and on-line shopping, the public Postal Service is as needed and relevant as ever.

**FACT:** The U.S. Mail is the most secure and private form of communication.

**FACT:** Financial hardships for the USPS were manufactured by the 2006 “Postal Accountability and Enhancement Act.” This Congressional action forced the Postal Service to “pre-fund” future retiree health care costs 75 years into the future. No other agency or company faces this financial drain. The unfair burden is directly responsible for the reduction in the hours of operation, staffing, mail speed, and the quality of postal services.

**FACT:** Congress should fix the problem they created by passing postal reform legislation that ensures the public Postal Service remains vibrant for generations to come.

Source: *AFL-CIO Label Letter, May-June, 2018.*



“Jill’s right. ‘We offer a challenging work environment’ sounds better than ‘Welcome to the salt mines.’”

## Do Buy Union Made for Your Next Vacation

### Book Union, Stay Union, Buy Union, Play Union

As you are gearing up to make your summer plans filled with vacations, kid-friendly activities and barbecues galore, keep your fellow union members in mind. There are retailers and products that are notoriously anti-union and do not treat their workers well or allow them to organize. Instead, support companies that support their workers, using the following list as a guide.

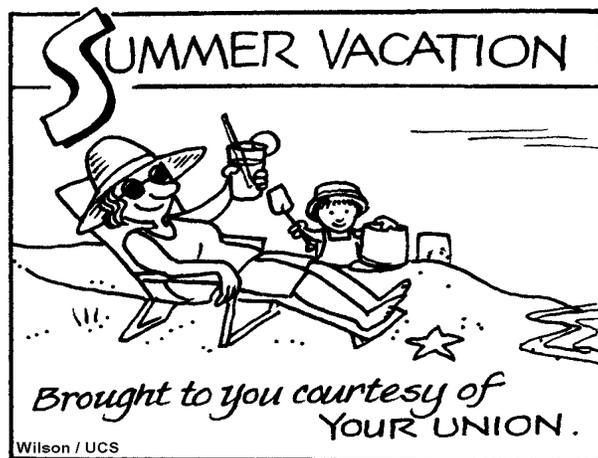
**TICKETS** - Book your flight on a union airline. Most US airlines are union staffed from pilots and crew to mechanics and reservation call centers.

**PASSPORTS** - US Passports are issued through your union staffed post offices.

**ROUTES** - *Amtrak* travels to 500 destinations around the US and their trains are operated, staffed, and maintained by union members. Rather drive? *Greyhound* buses are operated and maintained by members of the Amalgamated Transit Union (ATU) which also represents the Metro (Washington DC) transit system. As well, *Avis* and *Budget* Rental are union.

**PACKING** - Whether heading to the beach or having a stay-cation by the pool, be sure to pack your union-made *Coppertone* or *Bain De Soleil* sunscreen, some Chapstick for your lips, and some Solarcaine, just in case.

**HOTEL** - Find your union hotel by visiting the UNITE HERE Fair Hotels website: [www.fairhotel.org](http://www.fairhotel.org).



**COCKTAILS** - Celebrate the warm breezes by sharing a tropical union-made cocktail. In a large pitcher, stir together *Dole* pineapple juice, *Captain Morgan* spiced rum, and *Del Monte* fresh lime juice. Refrigerate until chilled. Serve over ice.

**DESTINATIONS** - Many family-friendly destinations from national and state parks and landmarks, American's favorite baseball stadiums, *Disney World*, and most other theme parks are union staffed. Other destinations include Broadway shows, sporting events, Smithsonian galleries, museums, zoos, and the Grand Ole Opry, just to name a few.

#### Union-friendly:

**RETAILERS** - Shop at *Kroger*, *Giant Eagle*, *Meijer*, *Costco*.

**BEVERAGES** - *Minute-maid*, *Tropicana*, *Coca-Cola*, *Dr. Pepper*, *Dole*, *Mountain Dew*, *Gatorade*, *Hawaiian Punch*, *Mott's*, *Schweppes*, *Sprite*.

**ADULT BEVERAGES** - *Bass Pale Ale*, *Budweiser*, *Coors Light*, *Land Shark Lager*, *Michelob*, *Miller*, *Bacardi*, *Black Box wines*, *Captain Morgan*, *Carlo Rossi*, *Gallo Estate wines*, *Jack Daniel's*.

**FOOD** - *Ball Park Franks*, *Hebrew National*, *Farm Fresh*, *Hormel*, *Country Hearth*, *Sara Lee*, *Heinz Baked Beans*, *Van Camp Baked Beans*, *Suddenly Salad*, *Frito Lay*, *Kraft Foods*, *Lays Potato Chips* and *Dips*.

#### Not Union-friendly:

**RETAILERS** - *Wal-Mart*, *Sam's Club*

**SNACKS** - *Oreos*, *Chips Ahoy*, *Honey Grahams*, *Ritz crackers*, *Premium Crackers*, *Honeymaid*, and *Wheat Thins*.

