

THE GUILD Reporter

June 15, 2001

A Publication of The Newspaper Guild and The Communications Workers of America • Volume 68, Number 6

High-tech
workers under
growing pressure

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Firing line

Newspaper penny-pinching results in such oddities as Non- Seattle Times, Akron CD Journal

The cost-cutting mania that has gripped the newspaper industry these past several months continues, albeit with several unusual twists.

The Akron Beacon Journal, for example, has taken the ultimate step in cutting newsprint consumption—by putting its newspaper on compact discs. The Journal reportedly is producing approximately 250 CDs a night, to be sold on newsstands alongside the print version for the same two-bit price; the company says it costs only 19 cents to produce each CD, compared with 35 cents for each newspaper.

Seattle Times publisher Frank Blethen, on the other hand, is talking about following in Boeing's footsteps—out of the city. In his case, however, the move would be prompted by the city's "ultraliberal, pro-labor stance," which for Blethen is a bad thing. Among the problems prompting this outburst, according to an article in the competing Post-Intelligencer, is the city's use of the Clean Air Act "to penalize employees who have cars."

A spokesman for Seattle mayor Paul Schell described Blethen's actions as "bizarre." Other sources, however, speculated that Blethen simply was angling to move to cheaper digs: the newspaper's five buildings on 12 acres could fetch a high price because of Microsoft founder Paul Allen's

large-scale redevelopment of a nearby property. And if he rattles his sabers loudly enough, perhaps Blethen can extract tax breaks or other money-saving concessions from a city already reeling from the dot.com implosion.

But whatever the particulars in Seattle, there's no question that the nation's publishers overall have been gripped by a siege mentality.

Knight Ridder's well-publicized 10% payroll cut is well under way; the St. Paul Pioneer Press, the Miami Herald and The Macon Telegraph all recently started offering buyouts. The CD-enamored Beacon Journal is looking to cut 55 jobs, including 17 in the newsroom. The Tallahassee Democrat is paring 25 jobs and eliminating a free entertainment tabloid and a stand-alone Saturday business section. The Contra Costa Times said it will cut 87 jobs.

But it's not just financially vulnerable companies—which is how Tony Ridder likes to portray the country's second largest newspaper chain—that suddenly are rearranging the corporate furniture. Reuters is canning 50 top managers as it restructures itself, and while it won't say whether more layoffs are coming, the Financial Times has reported that an additional 500 will be pounding the pavement by mid-summer.

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Vultures circling over the last radio frontier

Sometimes the only way to appreciate the thickness of the shadows is on the fringes. When it comes to the growing corporatization of the media, that fringe is the five-station Pacifica radio network.

Founded after World War II by pacifist Lewis Hill, Pacifica was conceived as true listener-supported community radio: No community sponsors, like those infiltrating National Public Radio and PBS. Truly creative programming, even when that meant the occasional truly amateurish production. And an embrace of free and often indelicate speech that could set the

teeth on edge of even the most "liberal" listeners. And, for decades, that's how it was in New York, Berkeley, Washington D.C., Houston and Los Angeles.

Over the past couple of years (see the August, 1999 *Guild Reporter*), however, the Pacifica National Board has had a decidedly more business-like demeanor. First under the leadership of Mary Frances Berry, and more recently that of David Acosta, the board has censored, fired or banned dozens of progressive broadcasters and provoked a handful of

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For women, 'new economy' issues same as old

By Gretchen Wilson
WashTech, TNG-CWA Local 37083

I come from a long line of working women. My maternal grandmother, Aileen Thompson, was a Danish-language telephone translator and unionized operator in Seattle during the 1930s, prompting me to joke sometimes that I'd been "grandmothered" into CWA.

So when I recently attended CWA's annual Women's Conference in Las Vegas, joining more than 500 women—and a few men—to discuss some of the

issues facing working women, I felt at home. Of course, that feeling was helped by the fact that I am an organizer with the Washington Alliance of Technology Workers, which organizes workers in the "new economy," the most disadvantaged among them being women.

We face numerous obstacles in our organizing, starting with this: For almost all of our members, this is the first time



Gretchen Wilson

they've belonged to a labor union. But that's the least of it. As we saw when a majority of Amazon employees were laid off in favor of less expensive, outsourced (and mostly female) customer service reps in India, "new economy" employers will move just as quickly

as the old economy types to discourage union organizing.

Yet despite much of the hype

surrounding the unprecedented wealth of the "new economy," workers in the high-tech industry stand to gain a great deal from becoming organized. Most work for middle-class wages or less. In fact, nearly 7,500 permanent workers in the Seattle area, or 15% of the IT workforce, did not earn a living wage in 1999. And that's not counting the thousands of technology employees who work as temporary and contingent workers, many of whom are women.

The issues for women in the "new economy" are similar to

those confronting women workers in the old economy: child care, elder care, flex time, family leave, health care. Nearly 20% of the respondents to a WashTech survey on work and family issues stated they had "delayed starting a family due in part to inadequate family benefits." Moreover, women high-tech workers still face unequal pay, sexual harassment and gender discrimination in hiring and promotions.

Yet these are difficult problems to confront because of the increasingly unstable nature of the workforce, with an increasing number of women workers in contingent employment relationships—nearly 21 million in the U.S., at last count. Agency contracting firms alone employed nearly 8,000 IT contract workers in the Seattle area in the last quarter of 2000—workers who typically lack health

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After 32 months, Guild leader gets his job back

More than two-and-a-half years after first being dismissed from The Fredericton Daily Gleaner, union leader Tim Martell has been ordered back on the job by the New Brunswick Labour and Employment Board.

In a decision dated May 23, the board concluded management had been guilty of "anti-union motivation" in laying off Martell and ordered him reinstated "to the position of employment he occupied on September 30, 1998, together with appropriate compensation for all lost wages and benefits." Martell, currently treasurer of the Fredericton Typographical Union, TNG-CWA Local 30664, was then president of the local and one of several employees whose jobs were eliminated just as their contract expired.

An unfair labor practice charge over the layoffs was filed three weeks later, and hearings began Jan. 6, 1999—but then continued over an unprecedented 26 days, spread out over 15 months. Final arguments were presented last July.

The long ordeal over, a clearly jubilant Martell declared in a CBC news interview that the decision "is a victory for labour in New Brunswick, and a strong victory for TNG Canada. This shows that TNG Canada can stand up to large economic interests in New Brunswick—or any province, for that matter—when we are challenged."

In practical terms, however, the decision may have mostly symbolic value. Although the Guild technically retains jurisdiction over the Gleaner's composing room, where Martell was employed, the composing room has been eliminated and its functions—and some employees—transferred to the non-unionized advertising department. Moreover, Martell adds, "I would also have to be reinstated to a bargaining unit position, which may be a stretch since the Guild represents only the editorial department now."

In reaching its decision, the labour board noted that a "layoff" is typically "a temporary mea-

sure," while in this case "there was no suggestion that the employer intended other than that Martell's employment at the Gleaner was ending permanently." It observed that "anti-union animus formed at



Tim Martell

least a part of the motivation for Martell's layoff/termination" and noted several management actions that convinced the board "that the employer had decided to rid itself of the troublesome union President and wanted to thwart any attempt to challenge that decision."

(The Gleaner's anti-union sentiments are simply reflective of its parent company, JD Irving, which earlier this month was charged with union-busting after it shut down its Doaktown sawmill, about a 45-minute drive northeast of Fredericton. Although the company blamed the closing—which has thrown 134

people out of work—on market conditions, the action came just 10 days after the Communications, Energy and Paperworkers Union started an organizing campaign at the mill.)

Surprisingly, however, the board dismissed a second union charge that Gleaner management failed to bargain in good faith. The FTU had accused Gleaner management of making unlawful bargaining proposals, avoiding the setting of bargaining dates, making unlawful announcements of future "layoffs" during bargaining, and using a bargaining unit member as a conduit to other bargaining unit employees.

The union had alleged that Gleaner management was making financial information available to FTU member and Gleaner reporter Heather McLaughlin, who in turn was campaigning for acceptance of the company's bargaining offer at the time. The union also had accused McLaughlin of intimidating a witness at the board proceedings.

Although the board called McLaughlin's actions "reprehensible," it also found insufficient evidence to support claims that Gleaner management had failed to bargain in good faith.

Martell, meanwhile, reports that he continues "to plug along as a graphic artist for a non-union shop in another part of our fair city" and bargained a contract earlier this year for a unit of the Moncton, New Brunswick local. "But there are only so many contracts to negotiate in this part of the country," he adds.

TNG-CWA Sector Conference Schedule

Thursday, July 5

9 a.m.-noon	Executive Council meeting	Avenue 4
Noon	Council of Councils meeting	Avenue 5
2-5:30 p.m.	Registration	Dome
3:30-4:30 p.m.	New Delegate Forum	Satellites 6&7
7-9 p.m.	Welcome reception	Market B-B-Q Restaurant

Friday, July 6

7-8 a.m.	Late registration	Avenue 3
7:30 a.m.	Credentials Committee	Avenue 4
9 a.m.-noon	General Session	Forum
11:30 a.m.-noon	Resolutions Committee	Satellites 6&7
	Finance and Admin. Committee	Loring
	Structure & Policy Committee	Forum
1-3 p.m.	Panel seminar on strikes	Forum
3-5 p.m.	Committee meetings continue	
5:30 p.m.	McClatchy Council meeting	Satellite 8
	Knight Ridder Council meeting	Satellite 9
8-11 p.m.	Hospitality	

Saturday, July 7

7:30 a.m.	Credentials Committee (if needed)	Avenue 4
9-10 a.m.	Workshops, Session I	
	A. Discretionary Pay	North Forum
	B. MRF/Defense Funds	Center Forum
	C. Complete Contract Campaign	South Forum
	D. Organizing	Avenues 4&5
10:45-12:15 p.m.	Workshops, Session II (repeat 9 a.m. selection, locations)	
1:30-5 p.m.	General Session	Forum
5 p.m.	Adjournment	
1/2 hour after close	Local web workshop	Forum

In brief...

Near-unanimous S&P ratification

The Standard & Poor's unit of the New York Newspaper Guild has ratified, 300 to 14, a contract that calls for 16.4% in wage hikes over 51 months, better job security and other improvements. The latter include a broadening of rehire and "bumping" language; a decrease to three from four job-security groups, increasing opportunities for employees to move into other jobs; a \$5,000 reimbursement toward adoption expenses; five days of paternity leave; and a \$600 health club subsidy.

Homeless paper's staff joins Guild

CWA Local 34071, the Chicago Newspaper Guild, has obtained recognition for the staff of "Streetwise," Chicago's newspaper of the homeless. Executive Director Jerry Minkkenen signed up the overwhelming majority of the 12 employees and requested recognition based on card check. Management initially refused, but after pressure on the board of directors by Chicago Jobs with Justice, management reconsidered its position and recognized the union.

JwJ prepares for annual meeting

As suggested by the above item, and more recently in demonstrations at the Eugene Register-Guard, one of the Guild's strongest supporters has been Jobs With Justice, a grassroots coalition of labor, community, religious and student activists. Now TNG-CWA members have an opportunity to return the favor by attending JwJ's annual meeting in Cleveland. The Sept. 6-9 session includes such workshop and plenary topics as the right to organize, fighting privatization, living wage campaigns and—as at all JwJ meetings—a local solidarity action; last year's was in support of CWA workers at AT&T. For registration information, call 202/434-1106 or visit www.jwj.org.

CMG girds itself for fall bargaining

With the Canadian Media Guild's two CBC contracts expiring in November and December, bargaining is expected to start this fall, probably in September. Recently named to the bargaining team by the national Presidents' Council were Arnold Amber, executive producer, Toronto TV; Len Carter, associate director, Toronto TV; Barbara Saxberg, producer, National Radio; Fiona Christensen, reporter/editor, Fredericton Radio; Léo Dufault, producer, Radio-Canada Winnipeg; Don Genova, freelance producer, Vancouver; Lee Siemon, TV sales rep, Toronto; Jeff Mitrow, finance clerk,

Ottawa; and Carrie Anne May, senior clerk, Toronto TV Scheduling.

A Guild by any other name...

As The Newspaper Guild-CWA prepares to debate a name change, TNG Canada has already pondered the issue—then postponed a decision until next fall. The shelved proposal would retain the abbreviation "TNG Canada," but replace the word "Newspaper" with "National" when spelled out. One possible source of confusion: the change would make TNG Canada's largest local the Canadian Media Guild-The National Guild Canada.

Energizer bunny can move over

Some Guilders just don't know when to quit. Take Marcus Gleisser (left) and William F. Miller, both of whom recently became the first Local One members to receive 50-year membership pins. And in Gleisser's case it couldn't come soon enough: next year he'll qualify for his 60-year milestone. Still a business reporter



at the Cleveland Plain dealer, Gleisser joined the Guild in 1942 at the now defunct Cleveland Press. Miller, pointing to his laminated dues checkoff card from 1953, joined the Guild in 1950 and recently retired from the PD; he served as a TNG international representative from 1963 to 1965.

Sound bites:

An NLRB hearing over 15 firings at the Monterey Herald, originally scheduled for May 8, has been postponed until Sept. 11.... A full-page ad in the May 21 issue of Editor & Publisher commends the winners of three of the recently announced Pulitzer Prizes—all TNG-CWA members.... Although the Providence Journal, as reported last month, is paying back wages, the Providence Guild calculates that at least 50 employees have received less than they're owed.... More than 110 Monterey County Herald employees and supporters marched May 17, then delivered a petition with more than 1,000 signatures asking the Herald to bargain fair contracts with the San Jose Newspaper Guild and press unions.

The Guild Reporter (ISSN: 00175404) (CPC # 1469371) is issued monthly, generally at four-week intervals, at 501 Third St. NW, 2nd Floor, Washington, D.C. 20001.

Periodicals postage paid in Washington, D.C., and additional mailing offices. Printed in the U.S.

Postmaster: Send address changes to: Grace Corner, Communications Workers of America, 501 Third St. NW, Washington, D.C. 20001

Address changes also can be sent by e-mail to: gcorner@cwa-union.org.

Subscription: \$20 a year in U.S. and Canada, \$30 a year overseas. Send subscription orders to: Andy Zipser, TNG-CWA, 501 Third Street, NW, Washington, DC 20001

Single copies: \$1.50

Blade employees battle for union recognition

More weeks after Lavender employees voted to make it the country's first unionized gay publication, employees of the Washington Blade also have turned to TNG-CWA for representation. And, as at Minneapolis-based Lavender, management's response indicates that support for alternative lifestyles doesn't necessarily include support for employee empowerment.

After two-thirds of the unit's 18 union-eligible employees signed cards authorizing the Washington-Baltimore Newspaper Guild as their bargaining agent, the union presented the newspaper's new owners with a letter requesting voluntary recognition of the union. An accompanying statement from the employees described their decision as "a groundbreaking development in the evolution of the gay press" and added, "Our aim is to help the Blade grow and prosper and continue in its role as the gay community's newspaper of record."

"Our decision to unionize should not be viewed as a vote of 'no confidence' in the new owners," the statement concluded. "We look forward to a long and mutually beneficial relationship."

But that didn't mollify William Waybourn, president of Window Media LLC, which had bought the newspaper less than a week earlier. "Certainly, it comes as a disappointment," he announced in a prepared statement, adding that he was committed to listening to "the concerns of the many employees at the paper who do not support union affiliation."

Instead of listening, however, Waybourn has been more intent on hectoring: the Guild has filed a charge of unfair labor practices over his alleged threat to fire two employees if they didn't stop their union organizing activities. Waybourn also has held captive audience

meetings of the staff to excoriate unions. With voluntary recognition clearly not on the agenda, a June 15 hearing on a petition for an election was scheduled with the National Labor Relations Board.

Meanwhile, support for Blade staffers has come from a variety of sources. Nearly 1,000 participants in a Capital Pride Festival on June 10, including several prominent members of the District's gay community, signed petitions endorsing their efforts to get union representation. And a June 9 letter from four founding investors in Window Media, which acquired the Washington Blade and its sister New York paper May 25, expressed "disappointment" at Waybourn's actions.

"Issues or charges of fairness in the workplace, particularly in this company, are the antithesis of what our efforts have been about for so many years and precisely why we embarked on this venture in the very beginning," the investors wrote. "We cannot hope to be successful in promoting and effecting change in the larger community if our own house is not in order."

The Minnesota Newspaper Guild, meanwhile, filed its own ULP charges May 8 against Lavender Media, whose employees voted for union representation April 2 despite a strong anti-union campaign by management. The union is accusing Lavender owner Stephen Rocheford of discriminating against union members, "by withholding wage increases, threatening and intimidating employees, targeting the positions of union supporters for restructuring, unilaterally changing wages, hours and conditions of work, eliminating positions in the bargaining unit" and "threatening to terminate union supporters."



Why the smiles?

Maybe because these folks don't have to go to work each day: they're retired. But that doesn't mean they're inactive. Thanks to the Albany Guild's newly formed Retiree Advisory Committee and other outreach efforts, several dozen Guild retirees have resumed their involvement with the local and 31 of them showed up for its first Retirees Appreciation Luncheon. Held May 16 at The Desmond in Colonie, the attendees included (l to r) Chris Gloeckner and John Morrone, sitting; and Art Clemenzi and Nancy Krueger, standing. Guild president Tim O'Brien credited the retirees with making the crucial difference in stopping the Albany Times-Union's efforts to take over the pension plan.

Penny-pinching produces layoffs, oddities

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Time Inc., now but a middling province in the AOL-Time Warner media empire, is seen as particularly vulnerable to the controlling AOL culture's attention to Wall Street. Chairman Steve Case has promised 31% earnings growth this year, or about twice Time Inc.'s performance over the past decade—and that was before the current slump. Approximately 365 employees have been asked to take voluntary retirement, the Time Inc. Research Center—which employs 42—will be closed Aug. 31, and at least 30 people have been fired outright, with more to come.

Although such cuts typically come with promises that editorial quality won't be

affected, that assurance in some cases simply doesn't wash. U.S. News & World Report, for example, will soon have to shorten its title: after closing bureaus in Tokyo and London within the past five years, it is looking to thin its editorial staff another 10%—and, more than likely, close its bureaus in Beijing and Moscow. And Editor & Publisher reports that Frank Lalli, who resigned as Sunday editor of New York's Daily News after only three months, quit because he was tired of begging for contributions.

With fewer than two reporters working solely on the Sunday paper, Lalli told E&P, he had to "walk the halls looking for someone to do a story."

(E&P reflects the new reality in other ways: the once robust magazine has grown so anorexic it has room for only one long feature per issue, while its help-wanted classifieds—long a staple of job-hunting journalists—are down to a couple of pages.)

None of this augurs well for an industry that increasingly can't retain minority employees in the newsroom, that has seen daily circulation slide from 62.8 million in 1987 to 56.2 million in 1998 and that each year makes a smaller investment in capital improvements—all while seeking to impress the investment community with ever higher profit margins. But while former San Jose Mercury News publisher Jay Harris has gathered warm applause for

protesting such bottom-line fixation, his call mid-May for creating a national commission to focus on "unfettered market forces" has been greeted with a yawn.

Addressing a Harvard Faculty Club dinner of journalists and academics, Harris suggested that a contemporary version of the 1947 Hutchins Commission on Freedom of the Press could move the profits-vs.-quality debate onto a more public stage. Just such a recommendation was made by TNG's Committee on the Future of Journalism a couple of years ago, for many of the same reasons and with similarly lackluster results.

Instead, publishers keep experimenting with the odd and "bizarre." And the body count keeps rising.

Though workplace changes, problems the same

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benefits, paid time off and job security. And guess what? Women with family responsibilities and those with lower skill sets are especially prone to finding themselves in these "temporary" work arrangements. In fact, many of our members and supporters change jobs at least once a year, rotating through a variety of different employment relationships.

This impermanence means that traditional collective bargaining can be only one of our strategies for building power for ourselves as workers and as women in the high-tech industry. So at Wash-Tech we are looking at new ways of organizing, building an industry-wide organization that is centered at the worksite and is focused on workplace and industry-specific issues. We mobilize members to advocate on behalf of ourselves in public policy and legislative issues. We keep each other informed on our website (www.washtech.org) about the issues that

affect our lives as high-tech workers. And, in keeping with TNG and CWA's goal to provide lifelong learning to members, we offer high-tech training in programs and programming languages like Flash, C++, JavaScript, ASP and XML.

By focusing on how we can organize to build power for ourselves on the job and by systematically talking to each other about our workplace issues, we are changing the climate of high-tech work in the region. And as we work to build a majority at our workplaces and to attain collective bargaining agreements, we pressure our employers to change employment relationships, to improve benefits and to acknowledge our voice at the table.

As a young feminist and union activist attending the women's conference, I was grateful to learn from and become inspired by other CWA members who are committed to women's issues. Organized by the CWA

See page 6 for related stories on the "new economy"

Women's Committee, the conference brought together all sorts of CWA members, including TNG members of other locals, IUE/CWA members from the industrial sector, public sector employees, health care workers and telecommunications workers.

We were able to attend workshops on topics such as education, public speaking, CWA history and women's health. And while none of the workshops dealt specifically with organizing, this was an overall theme of the conference, as emphasized by CWA Executive Vice President Larry Cohen and TNG President Linda Foley.

The issues facing women workers, obviously are not limited to WashTech women or CWA women, or even to women in the United States. The "new" economy increasingly means a race to the bottom, as corporations use free-trade agreements like NAFTA and the FTAA to evade workers'

rights. Unorganized women workers around the world are being negatively affected by corporate globalization, like those who work as outsourced e-mail customer service reps in Gurgaon, India. Women in Ireland, South Africa, Costa Rica, Malaysia and Indonesia do data entry for U.S.-based multinationals. Women assemble computer hardware in Mexico and China. These women workers are also a part of the new economy, and we need to stand together with our sisters as they struggle for the same issues that we do: justice, dignity and a voice on the job.

The solidarity I felt at the CWA Women's Conference demonstrated that we are on the right track. While there is still much to accomplish, we are working together to expand our community and our union. After witnessing the incredible work that so many of us do, I am once again very proud to be part of CWA and TNG. I think my grandmother would be proud, too.

Merit pay amounts to a blank check—

By Barbara Camens
TNG-CWA Legal Counsel

Not all merit pay systems are created equal. When Guild contracts provide minimum wage scales that conform to industry wage standards, merit pay—in the form of “individual bargaining” between employer and employee—can be used to fairly reward top performance.

In far too many Guild contracts, however, the employer has succeeded in keeping wage scales below market and uses merit pay to selectively reward a chosen few, while the rest of the bargaining unit simply endures substandard wages. The Guild, meanwhile, often has little leverage to argue on behalf of an employee who feels unfairly evaluated or compensated.

TNG-CWA locals therefore must remain vigilant regarding merit pay—both in contract negotiations, when the merit pay system is set, and in contract administration, when merit increases are doled. Here are some points to consider:

- **Merit pay is a mandatory subject of bargaining.** An employer has a legal duty to bargain with the Guild over the procedures and criteria for granting merit increases. The employer has a statutory obligation to provide, upon the Guild's request, payroll information regarding the award of merit pay within the unit.

Unfortunately, too many locals fail to diligently exercise their right of information and some have no idea how much bargaining unit employees actually earn. Without that payroll information, there is no way for a Guild local to evaluate the adequacy of unit compensation, to bargain for fair compensation, or to discern discriminatory wage patterns which may exist within the unit. Merit pay information also is crucial to TNG's ability to conduct meaningful wage surveys among Guild locals or within the industry at large.

Moreover, while some Guild contracts require employers to provide payroll data (including merit pay information) on a regular basis, employers frequently turn those provisions on their heads to argue that the Guild has waived its right to any additional, or more frequent, access to payroll data. Any waiver of the Guild's legal right to request and obtain payroll information must be, by NLRB law, “clear and unmistakable” and any waiver arguments should be measured against that favorable standard.

- **An employer may not unilaterally change or discontinue a merit pay system**

which is fixed as to timing, but discretionary as to amount.

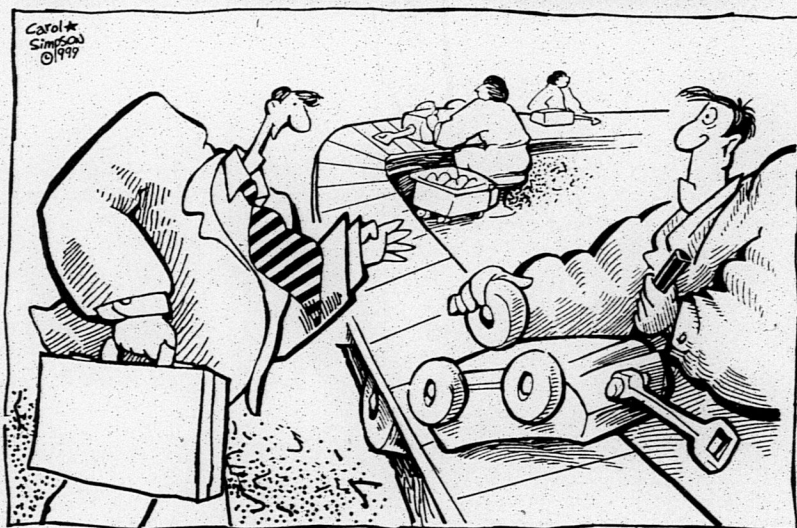
Employers sometimes argue that because merit pay is discretionary, they may discontinue merit increases at will, and especially after a contract expires. The NLRB repeatedly has held, however, that as long as certain aspects of a merit pay system are well-established and predictable, then discretionary increases must be given even during a contractual hiatus to maintain the status quo.

So, if the timing of merit increases has become well established—linked, for example, to an employee's anniversary date, or to receipt of an “outstanding” performance evaluation—then any discontinuation of that system likely would be an improper unilateral change in the terms and conditions of employment. This was the holding in a Guild case against the Los Angeles Daily News, where the employer retained a certain range of discretion in evaluating employee performance but the system as a whole was well-established and predictable: employees were evaluated near their employment anniversary dates, and merit raises normally fell within a 3% to 5% range for those who received a positive appraisal. The NLRB therefore squarely held that the employer's unilateral decision to discontinue merit increases pending negotiation of an initial contract was improper.

The employer's legal duty to continue giving merit increases as a matter of statutory obligation, even after the contract has expired, is extremely important to union negotiators because employers often threaten to discontinue merit pay to force a settlement. Note well, however, that when the contract makes clear on its face that merit increases shall be granted *only* during the contract's effective term, the employer might be privileged to discontinue the increases when the contract expires.

Guild leaders therefore should resist any contract language that limits merit increases to the effective term of the agreement, to avoid a financial squeeze on members during any hiatus between contracts.

- **An employer may not unilaterally implement a totally discretionary merit pay system, even upon impasse.** Increasingly, publishers are seeking through collective bargaining to broaden their discretion in compensating employees. Many Guild locals have been hit at the bargaining table with proposals to discontinue all increases in scales and to grant the employ-



“You’ve got to learn not to sweat the small stuff... like your salary.”

er unfettered discretion to pick and choose who will be rewarded, and to what degree. As one might expect, such attempts can quickly take the parties to impasse. Fortunately, the legal rules which would then apply are quite favorable.

Typically, an employer may unilaterally implement any mandatory subject of bargaining upon impasse in contract negotiations, consistent with the “last, best and final offer.” But in *McClatchy Newspapers, Inc. v. NLRB*, the board carved out an exception to this rule with regard to discretionary pay systems that lack specific, objective criteria for awarding merit pay. *McClatchy's* contract proposal had set no criteria for determining the amount or timing of merit increases and also failed to allow for Guild input, either in the employer's initial decision to grant individual merit increases, or through the grievance procedure after the increases were received.

In upholding the NLRB's finding of an unfair labor practice, the reviewing court found that permitting the employer to unilaterally implement such a discretionary pay system upon impasse, without the Guild's agreement, would be “so inherently destructive of the fundamental principles of collective bargaining that it could not be sanctioned as part of the doctrine created to break impasse and restore active collective bargaining.” The court further noted that the pay system would confer such broad discretion upon the employer on matters of compensation as to undermine the Guild's representative role on perhaps the most central

issue in collective bargaining—namely, wages. The board therefore held that the employer could not implement its discretionary wage proposal without the union's consent, even in the face of a legitimate impasse in bargaining.

Questions have been legitimately raised as to whether the *McClatchy* doctrine has survived the disastrous decision in *Detroit Newspapers v. NLRB*. There, in the context of the Detroit strike, the District of Columbia Circuit Court—the same appellate court which had decided *McClatchy*—found that the employer's merit pay proposal was sufficiently fixed to permit its unilateral implementation upon impasse. The court noted in particular that the proposed contract offered annual 1% across the board increases (applied to actual employee wages, not just to contractual scales); assured average merit increases across the unit of 4%, 3%, and 3% annually, and provided for annual performance evaluations linked to receipt of merit pay which could be grieved but not arbitrated. In the court's eyes, these criteria sufficiently distinguished the merit pay proposal in Detroit from the *McClatchy* rule.

Viewed in the most objective light, the Detroit decision did not undo the *McClatchy* doctrine but helped define its parameters. *McClatchy's* continuing relevance was demonstrated in the same appellate court's recent decision in *Anderson Enterprises, d/b/a Royal Mirror Sales v. NLRB*, in which it enforced a board ruling

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On getting whip-sawed by ‘merit’ pay

By R. Ray Rudersdorfer
President, TNG-CWA Local 30403

Merit pay is discretionary pay, dependent on the whim of your employer or boss. And boss is a four-letter word.

These statements are as true today as they were at the beginning of the Industrial Revolution. To an employer, merit pay still means “control” and control means power.

TNG Local 30403 in Vancouver had a first-hand experience with abuse of merit pay. Last July, the contract with Western MailTech Ltd., a medium-sized direct-mailing house with 35 to 40 employees in Delta, B.C., expired. I and employee representatives of the unionized employees in all departments except sales staff met with representatives of the company to bargain a new contract.

The company's approach, for the second time in four years, was to renegotiate every clause in the agreement and to combine many of them into less “restrictive” language. It also proposed that merit-pay language be incorporated into other clauses. This proposal was rejected by the union. We insisted that merit pay be identified as a separate provision. The company finally agreed.

Because of a 10% wage roll-back three years earlier, the union's negotiating team was determined to regain monetary position with this agreement. The settlement recommended by our committee was for a term of three years, with across-the-board increases of 3% in the first year, 2.5% in the second and 2.5% in the third year. The contract was ratified by a large majority of the employees and signed the same day.

Three days later, on pay day, the chapel chairman informed me that many people had not received the negotiated increase. I called the company representative, who said that any person who had been given merit pay and was making more than the negotiated rate would not receive the increase. The company's position was that this had been agreed to by the Guild representative who had negotiated the previous contract—although the company had not made the committee aware of this practice while bargaining the 2000-2003 contract. Moreover, when the Guild representative was contacted he denied any such agreement had been made.

The union went to the B.C. Labour Relations Board and filed charges of bad-faith bargaining against the company. After several days of hearings before an arbitra-

tor, the company notified the union it was prepared to pay the negotiated increases to all employees working for the company at the time of the ratification vote.

Attached to the final settlement agreement was a threatening letter from the company lawyer that alleged that the appeal for a third-party resolution had done serious harm to union-company relations.

As TNG-CWA Secretary-Treasurer Bernie Lunzer wrote in the April edition of *The Guild Reporter*, discretionary (merit) pay is an easy route to abuse. We must use renewed pressure to push back against unfair pay schemes. Wage minimums must be raised to reflect the real value of work being done.

Reprinted from the May-June issue of TNG Today.

for employers

Continued from page 4

that barred the employer's post-impose implementation of a compensation plan; the court noted that the plan's discretionary nature would undermine the process of collective bargaining and the union's role within it. Although the plan included a detailed flat-rate system of hourly wages, it also permitted the employer to assign or reassign employees to any job classification—a degree of discretion so great it “nullifies the effect of any otherwise enforceable standards the plan may have.”

When, then, is a merit pay program so discretionary as to require union consent for its implementation? And when may an employer simply implement a discretionary pay system upon impasse?

Employers appear legally free to implement a merit-pay system on reaching impasse when such increases are directly linked to grievable performance evaluations; when the contract sets a minimum average for annual merit increases; and when such discretionary raises are coupled with fixed, across-the-board raises. To the extent that a merit pay system provides greater employer discretion, fewer minimum guarantees, or a lesser role for the union, one could argue convincingly for application of the McClatchy rule.

• **Guild locals should use available legal tools to negotiate reasonable, objective criteria for the award of merit pay.** Even when a local membership favors merit pay, Guild leadership should carefully scrutinize all merit pay proposals and existing compensation systems because of the many potential pitfalls.

Some argue, in both labor and academic circles, that merit pay weakens a union's collective dynamic by pitting employees against each other and by permitting direct dealing with an employer, to the detriment of the union's representational status. Some Guild locals also have expressed well-founded concerns that merit pay systems perpetuate race, sex and other invidious forms of discrimination: any challenge to discriminatory pay patterns may be met with the frustrating response that “all merit pay decisions are left to the discretion of management.”

And, of course, unless merit

pay systems are coupled with minimum wage scales that guarantee fair, adequate compensation, such systems ultimately may undermine industry wage standards. Why pay more money across the unit when the threat of exit by any particular, valued employee can be met by an immediate merit-pay offer that matches or tops the competition? For all of these reasons, Guild locals should proceed with care and caution when negotiating for employer discretion in setting levels of compensation.

To recap:

1. Merit pay is a mandatory subject of bargaining. Bargain hard for objective criteria in the employee evaluation process, for a direct link between standards of performance and the receipt of merit pay, and for a meaningful Guild role in challenging individual evaluations.

Negotiate a minimum merit pool or for average minimum merit increases.

Negotiate for minimum wage scales that are meaningful, adequate and in line with industry wage standards. The narrower the employer's range of discretion and the greater the union's role, the less likely merit pay can be abused to undermine prevailing wage standards or the union's representative status, or to permit discriminatory patterns in compensation.

2. Guild locals should routinely demand payroll information regarding merit pay and should provide that payroll data to TNG. Unless the union knows exactly what employees are earning, it cannot intelligently and effectively negotiate fair wage standards or ensure that merit pay is fairly awarded.

3. Seek to challenge any unilateral move by an employer with regard to a merit pay system. If the employer attempts to impose a merit pay proposal, even upon the legitimate declaration of impasse, seek advice from TNG on whether McClatchy might prohibit such a move and whether an unfair labor practice charge should be filed. If the employer stops granting merit increases upon contract expiration, carefully examine the language in the expired agreement: unless merit pay is linked exclusively to the contract term, the employer must continue granting status quo increases as a matter of statutory obligation. If in doubt, consult with TNG.

Reporter/photographer top minimum salaries*

Contract	Minimum	After	Contract	Minimum	After
New York, NY, Times	\$1416.83	2 yrs	Jersey City, NJ, Jersey Journal	795.03	4 yrs
Boston, MA, Globe	1260.16	5 yrs	Peoria, IL, Journal Star	788.00	5 yrs
Victoria, BC, Times-Colonist	1233.12	5 yrs	Mt. Clemens, MI, Macomb Daily, Daily Tribune (2)	785.66	5 yrs
Philadelphia, PA, Inquirer, Daily News (2)	1200.00	5 yrs	Sacramento, CA, Bee	780.00	6 yrs
Chicago, IL, Sun-Times ^a	1182.01	5 yrs	Bremerton, WA, Sun	768.18	6 yrs
Wall Street Journal, NY ^b	1180.00	6 yrs	Cape Breton, ON, Post	763.66	6 yrs
Montréal, PQ, Gazette	1166.00	5 yrs	Sheboygan, WI, Press	760.62	5 yrs
Ottawa, ON, Citizen	1114.56	5 yrs	Yakima, WA, Herald-Republic	757.20	4 yrs
Minneapolis, MN, Star Tribune	1114.25	5 yrs	Lowell, MA, Sun	751.14	5 yrs
Cleveland, OH, Plain Dealer	1103.21	5 yrs	Duluth, MN, News-Tribune	745.46	5 yrs
Honolulu, HI, Advertiser	1099.78	5 yrs	El Diario - La Prensa, NY	736.65	4 yrs
Pittsburgh, PA, Post-Gazette	1090.00	6 yrs	Fall River, MA, Herald-News	736.28	4 yrs
Honolulu, HI, Star-Bulletin	1088.00	5 yrs	Canton, OH, Repository	735.97	5 yrs
St. Paul, MN, Pioneer Press	1075.01	5 yrs	Peterborough, ON, Examiner	726.85	6 yrs
San Jose, CA, Mercury-News	1066.14	6 yrs	Los Angeles, CA, Daily News	721.14	6 yrs
St. Louis, MO, Post-Dispatch	1054.00	5 yrs	Stratford, ON, Beacon Herald	719.25	5 yrs
Baltimore, MD, Sun	1046.00	5 yrs	Youngstown, OH, Vindicator	713.35	5 yrs
Denver, CO, Post	1030.00	5 yrs	York, PA, Daily Record	708.00	4 yrs
Toledo, OH, Blade	1023.87	4 yrs	Long Beach, CA, Press-Telegram	707.00	6 yrs
Buffalo, NY, News	1020.64	5 yrs	Modesto, CA, Bee	700.00	6 yrs
San Francisco, CA, Chronicle	1018.68	6 yrs	York, PA, Dispatch	695.67	4 yrs
Washington, DC, Post	1002.20	5 yrs	Pueblo, CO, Chieftain ^g	695.22	5 yrs
Halifax, ON, Herald	1000.00	4 yrs	Knoxville, TN, News-Sentinel	692.16	4 yrs
Maui, HI, News	984.71	5 yrs	Pawtucket, RI, Times	692.02	4 yrs
Providence, RI, Journal-Bulletin	968.91	4 yrs	Sioux City, IA, Journal	678.53	4 yrs
Boston, MA, Herald	967.65	4 yrs	Fresno, CA, Bee	675.00	6 yrs
Akron, OH, Beacon Journal	965.00	4 yrs	Kingston, NY, Daily Freeman	665.07	4 yrs
Manchester, NH, Union Leader ^c	956.83	3 yrs	Dayton, OH, Daily News	660.50	5 yrs
Denver, CO, Rocky Mt. News	949.00	5 yrs	Harrisburg, PA, Patriot-News	649.10	4 yrs
Memphis, TN, Commercial Appeal	939.54	6 yrs	Woonsocket, RI, Call	607.72	4 yrs
Cincinnati, OH, Kentucky Post (2)	937.50	5 yrs	Medicine Hat, AB, News	599.62	5 yrs
Delaware County, PA, Times	912.75	5 yrs	Monessen, PA, Valley Independent	592.24	5 yrs
Erie, PA, Times-News	901.52	5 yrs	Hazlet, PA, Standard-Speaker	585.71	4 yrs
Seattle, WA, Post-Intelligencer	887.73	6 yrs	Terre Haute, IN, Tribune-Star	585.19	5 yrs
Kenosha, WI, News	883.26	5 yrs	San Juan, PR, El Vocero	585.00	5 yrs
Eugene, OR, Register Guard	882.73	6 yrs	Alameda, CA, Newspapers, Inc.	580.00	6 yrs
Seattle, WA, Times	880.17	5 yrs	Lexington, KY, Herald-Leader	575.00	4 yrs
Moncton, NB, Times Transcript	877.28	5 yrs	Waterville, ME, Sentinel	571.16	5 yrs
Waukegan, IL, News-Sun	869.94	5 yrs	Bakersfield, CA, Californian	570.65	5 yrs
Indianapolis, IN, Star, News (2)	861.00	6 yrs	Lindsay, ON, Daily Post	550.29	5 yrs
Milwaukee, WI, Journal Sentinel ^d	860.00	5 yrs	Bellevue, WA, Eastside Journal	546.00	5 yrs
Santa Rosa, CA, Press Democrat	857.51	6 yrs	Wilkes-Barre, PA, Citizens' Voice	538.00	4 yrs
Allentown, PA, Call ^e	857.27	4 yrs	San Juan, PR, Star	528.00	6 yrs
Sudbury, ON, Star	854.44	6 yrs	Massillon, OH, Independent	490.13	4 yrs
North Bay, ON, Nugget	848.03	5 yrs	Norristown, PA, Times Herald	482.42	5 yrs
Detroit, MI, Free Press	841.01	4 yrs	Noticias del Mundo, NY	457.25	4 yrs
Detroit, MI, News	841.01	4 yrs	Rochester, NY, Dem. & Chronicle	419.00	4 yrs
Pottstown, PA, Mercury	837.44	5 yrs	Norwalk, CT, Hour	415.00	2 yrs
Kingston, ON, Whig-Standard ^f	834.93	5 yrs	Utica, NY, Observer-Dispatch	387.50	5 yrs
Joliet, IL, Herald News	834.67	4 yrs			
Hilo, HI, Tribune-Herald	834.56	5 yrs			
Portland, ME, Press Herald	818.49	4 yrs			
Albany, NY, Times-Union	811.84	4 yrs			
Monterey, CA, Herald	808.00	6 yrs			
Sault Ste. Marie, ON, Star	807.35	4 yrs			
Scranton, PA, Times, Tribune (2)	806.49	3 yrs			
Brockton, MA, Enterprise	803.25	4 yrs			
Fredericton, NB, Daily Gleaner	802.96	5 yrs			
St. John, NB, Telegraph Journal, Times Globe (2)	795.95	5 yrs			

Average Reporter Top Minimum: \$822.88

a—\$1175.14 for reporter/assistant editor.

b—Special writer \$1307.00.

c—\$969.28 for senior reporter.

d—After 3 years for fully qualified practitioner.

e—\$994.00 for senior journalist.

f—Photographer/reporter \$849.93 plus \$110 per month camera allowance.

g—An additional \$20.00 per week after 15 years.

(Number of papers per contract in parentheses)

*As of April 1, 2001, as compiled by the TNG-CWA Collective Bargaining Dept.; Canadian wages in Canadian \$.

Deferred Increases

Akron: \$27.98 on 8/25/01, \$27.80 on 8/25/02.
 Albany: \$24.35 on 8/1/01, \$25.08 on 8/1/02 and 25.83 on 8/1/03.
 Baltimore: \$23.00 on 6/24/01 and 6/23/02.
 Bellevue: \$10.80 on 12/22/02.
 Boston: \$24.67 on 8/1/02.
 Brockton: \$19.12 on 5/1/00, \$11.76 on 5/1/01.
 Buffalo: \$21.83 on 8/1/01.
 Canton: \$22.08 on 9/6/01.
 Chicago: \$45.46 on 10/1/01.
 Cincinnati: \$25.00 on 1/1/02.
 Denver Post: \$31.00 on 1/1/02; Rep./Photo combo, \$34.00 on 1/1/02.
 Detroit News: \$15.32 on 11/16/01, \$15.62 on 11/16/02.
 Dow Jones: \$21.00 on 5/1/01.
 Duluth: \$22.36 on 1/1/02.
 El Diario: \$22.09 on 7/1/01.
 Erie: \$31.55 on 3/2/02, \$27.99 on 3/2/03.
 Fall River: \$18.40 on 10/2/01, \$18.87 on 10/2/02.
 Fredericton: \$16.05 on 11/1/01, \$16.38 on 11/1/02, \$16.70 on 11/1/03.
 Harrisburg: \$10.00 on 7/1/01 and 7/1/02.
 Hawaii: \$16.49 on 9/10/01, \$22.32 on 5/1/02.
 Hilo: \$8.34 on 1/1/02.
 Joliet: \$24.31 on 7/1/00, \$25.04 on 7/1/01.
 Knoxville: \$20.16 on 10/25/01, \$20.76 on 10/25/02, \$21.38 on 10/25/03.

Long Beach: \$14.14 on 7/29/01, \$14.43 on 7/28/02.
 Los Angeles: \$14.43 on 5/9/01.
 Manchester: \$31.10 on 1/1/02; sr. rep., \$31.50 on 1/1/02.
 Massillon: \$14.72 on 2/1/02.
 Memphis: \$25.14 on 1/11/01, \$28.18 on 1/11/02, \$29.03 on 1/11/03.
 Milwaukee: \$26.00 on 1/2/02, \$31.00 on 1/2/03; senior journalist \$30 on 1/2/02, \$36 on 1/2/03.
 Mt. Clemens: \$20.16 on 1/1/02, \$19.42 on 1/1/03.
 New York: \$28.34 on 3/31/02.
 Norristown: \$14.47 on 6/7/01.
 North Bay: \$16.96 on 1/1/02, \$17.29 on 1/1/03.
 Ottawa: \$27.86 on 7/1/01, \$22.84 on 7/1/02.
 Peterborough: \$14.73 on 8/16/01.
 Philadelphia: \$27.47 on 9/1/01, \$27.48 on 9/1/02, \$27.47 on 9/1/03 and \$27.48 on 9/1/04.
 Pittsburgh: \$15.00 on 7/1/01.
 San Jose: \$14.24 on 7/1/01, \$10.11 on 1/1/02, \$12.86 on 7/1/02, \$11.49 on 1/1/03 and \$15.61 on 7/1/03.
 Sheboygan: \$22.85 on 1/31/02.
 St. Paul: \$37.62 on 9/27/01.
 Terre Haute: \$14.38 on 8/16/01.
 Toledo: \$10.00 on 3/22/01, \$17.20 on 9/22/01, \$11.45 on 3/22/02 and \$17.24 on 9/22/02.
 Woonsocket: \$13.68 on 9/16/01, \$13.98 on 9/16/02.
 York Daily Record: \$22.00 on 10/1/01.
 York Dispatch: \$13.91 on 10/1/01, \$14.20 on 10/9/02.

Newsprint use plunges

While newspaper publishers justify sacking employees by pointing to higher costs and lower revenues, at least half of that equation is questionable. Although newsprint producers tried to bump prices by \$50 a ton earlier this year, half of that increase has already been rescinded and there's some possibility of further price cuts later this year.

Newsprint inventories have

ballooned as most newspapers have slashed consumption, chiefly by converting to narrower web widths, cutting special sections and zoned editions and decreasing page count. March newsprint consumption was down 9.7% from the same month a year earlier; April consumption was off an even steeper 13.3%.

Newsprint is a publisher's second largest expense item—trailing only payroll costs.

Brave new world

The "new economy" (tired of that cliché yet?) was supposed to be the ultimate expression of hard-working individualism. Rewards would flow to those with skill, brains and effort; everyone else—well, there were always burgers to be slung and groceries to be bagged. But scarcely more than a decade after the new economy gained traction, it's already clear that some things never change—including the one great immutable: those with money aren't eager to share it.

They'll change the law if that works to their advantage.

They'll browbeat the dissenters if that works better.

Most insidiously, they'll convince their employees that when it comes to negotiating wages, working conditions and job security, the individual worker is on a level playing field with mega-corporations that can ship their jobs overseas in a heartbeat.

And people buy it.

For a quick exploration of such issues, visit the WashTech website (www.washtech.org) for a point-counterpoint on the need for unionizing the high-tech sector; it also links to another site that includes a sharp exchange of opinions on the subject, including the following excerpts:

JimO—10:30am Jun 5, 2001 EST

If my dad reads this he will disown me. You see he was a high muckety muck in a union. Contrary to popular belief not all unions are run by mobsters or crooked scoundrels. That said, I don't think there is any reason for IT workers to unionize. . . .

In the first place most IT workers are salaried staff, NOT hourly employees. The main reason for this is the high price of IT staff, meaning that paying OT to hourly IT people gets real expensive real quick.

Secondly, unlike most union employees we work in a clean, undangerous environment. The poor guy at the end of the assembly line does not.

Thirdly, IT staff often change jobs at the drop of a hat. This ability of skilled IT people to change a job because we don't like the working conditions is not something that most union people can do. . . .

For the record, I'm 42 years old and have been in IT since 1979.

OldWilly—10:25pm Jun 6, 2001 EST

Lucky you have a job at 42.

If you lose it, you won't find another easily. For a long time, I felt the same as you about unions. Now the shoe's on the other foot. A lot of people have been thrown out of work lately. I turned 50 yesterday and let me tell you, there is age discrimination and there is discrimination in IT against mainframe programmers. Younger hiring managers don't want anything to do with the old timers. . . .

Someone said there are plenty of consultants to cross picket lines. Let me tell you what I believe. With unions there would be fewer consultants. They would have real jobs. The consultants are the ones who have been let go and can't find steady work in a lot of cases, but are too young to retire and don't want to move and jerk their kids out of school or their spouse out of his/her job. . . .

Wall Street is driving everything and the executives and boards are getting away with robbery at the expense of the little guys. The corporations get bigger and more impersonal. Need I say more?

'We have some concerns about whether contract work with our agency is a good match for you'

By Philip Gaines

WashTech, TNG-CWA Local 37083

Many employers have learned how to intimidate workers by couching threats or unfair actions in courteous rhetoric. For instance, last summer I got into trouble with my employer because of public statements that I made in support of WashTech. After I was quoted in the local media, at a press conference, and on the WashTech website, I received a simple email with a simple purpose, as follows:

"I wanted to confirm that these articles have quoted you correctly and that this is a fair representation of your perspective of your work with [company name]? . . . We have some concerns about whether contract work with our agency is a good match for you. Any thoughts you have on this would be appreciated."

I read some euphemisms into this message, and I suppose that I was correct, but I responded by saying that these statements and activities did not affect my work performance, that I still wanted to be a contractor, etc. This fell on deaf ears. The company policy was clear: no "unhappy" contractors.

For a while, I left the issue alone. I was being chastised for my principles, but I also needed to pay the bills. Like many people, I felt I could not afford to tell my employer what he could do with such seemingly courteous email. What if he secretly blacklisted me? What if he passed a memo to everyone in the industry?

In retrospect, I was wrong to delay the filing of my complaint with the National Labor Relations Board. My employer had already cut the cord, and there really is no reason to be paranoid about the whole industry turning against you because you enforced your rights. Those rights, by the way, are in Section 7 of the National Labor Relations Act, which specifies that "employees shall have the right to . . . self-organization, to form, join, or assist labor organizations."

WashTech, for those of you who don't know, is a labor organization. Actions made on its behalf are protected under the NLRA. My employer acted illegally when it essentially fired me for supporting a union organization. My employer expressed

"concern" for my happiness, but it is more likely he was spitting mad. In one newspaper account, my statements were featured in opposition to those made by the president of my own company. You do the math.

Because my employer acted illegally with his statements, WashTech told me I could file an unfair labor practice charge against my employer. The NLRB helped me through the process, which is similar to filing a lawsuit. If you file within six months of the unfair action, an NLRB agent essentially becomes your lawyer, and if you have enough evidence the NLRB will insist on corrective action.

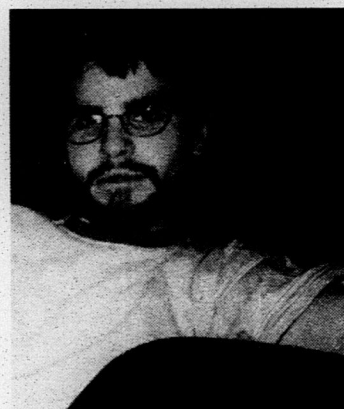
In my case, the corrective action was very simple: My employer settled the case (and yours will, too) because he didn't want the publicity and because he might well have lost the case if he'd chosen to fight. No one got tarred and feathered. Instead, my employer got a stern warning and I received a self-confidence boost. More specifically, the settlement

included three things: (1) I received a tidy sum of money from my employer. (2) My employer was required to apologize and say "Oops. Our mistake. Do you want to work for us again?" (3) My employer was required to post a notice at his office.

I would have preferred that the notice go on a website, but overall I think this situation worked out well. On a bad day, I could belittle my litigation efforts. I am a writer and web designer, and the federal government should be the last thing I need to get ahead. On a good day (today), however, I can be comforted by the fact that justice won a round and that I'm back where I was before (with a few souvenirs).

I could finish by urging you to get some backbone and sue your pesky employer, but I won't. Most employers are not out to get you, and the solutions to most work-related disputes don't just plop into your lap. Nonetheless, if your employer throws you a curve, there are ways to hit it. You would be amazed at the kind of support that your actions will elicit. Remember, you have a voice—so don't be afraid to use it.

Adapted from an article on the WashTech website, at www.washtech.org.



Philip Gaines, looking—in his words—"unemployed, unshaven and kickin' it."

New bill threatens overtime for techies

A bill that would amend the Fair Labor Standards Act's provisions governing overtime pay has been reintroduced in Congress, potentially exempting thousands of high-tech workers from receiving extra pay when they work more than 40 hours in a week.

The proposed legislation is of special concern to WashTech, which three years ago saw the Washington State Department of Labor and Industries adopt the federal rules as a result of lobbying by the Washington Software Alliance. The department's action effectively repealed more favorable state rules and was taken despite a

flood of more than 700 emails, letters and faxes protesting the change. Fewer than 50 people wrote to support the change.

WashTech was founded in large part because of worker disenchantment at the state's submission to the Software Alliance, convincing many high-tech employees that they need their own statewide organization to lobby on their behalf.

The proposed federal legislation would add four new job categories—network administrator, database analyst, designer and developer—that could be exempted from overtime pay. The law already excludes computer systems engineers, pro-

grammers, software engineers or other similarly skilled workers who earn more than \$27.63 an hour.

"The proposed new language is so broad it could easily be interpreted to exempt any high-tech worker under the sun," said Mike Blain, co-founder and president of WashTech. "This has less to do with exempting professionals and more to do with another Congressional giveaway to a powerful special interest group—the high-tech industry."

The original federal exemption for computer professionals was passed in 1990 and was indexed to increases in the federal minimum wage. That indexing requirement was

later removed, after heavy lobbying by high-tech employers. The exemption marked the first time in the history of the FLSA that an exemption to federal overtime law was based solely on how much an individual earns per hour.

Congressman Rob Andrews of New Jersey, co-sponsor of the new bill, insists he is motivated more by the legal ambiguity in the current exemption than by cost considerations. "Employers are not concerned about pay," he explained. "They are paying top dollar to get people. These changes are about the legal risk and ambiguity that an employer faces under the current law."

LOOKING AHEAD



Things ain't what they used to be . . .

By Eric Geist, Director of Field Operations

That old Mercer Ellington song first recorded more than 60 years ago, "Things Ain't What They Used to Be," could be an anthem for The Newspaper Guild's organizing history.

The Guild began as a union for journalists at daily newspapers, but soon expanded to represent workers in every newspaper department. Today, we also represent people who work for weekly newspapers, wire services, the religious press, minority-owned newspapers, news magazines, education-related magazines, consumer publications, a book publisher, radio and TV stations, public broadcasting, Spanish-language print and broadcast outlets, labor union trade papers and staff, print shops, financial newsletters, employee-owned companies, public relations firms, a construction newsletter, social workers, credit union employees, United Way employees, foreign language translators and interpreters, sign language interpreters, film extras and IT workers. And, just recently, the Guild organized a Chinese-language newspaper and two gay publications. (My apologies if I left any group off this list.)

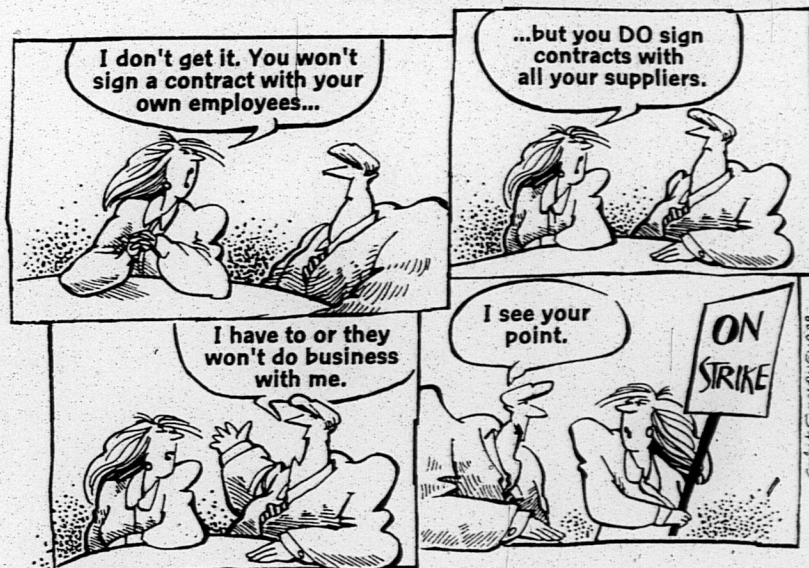
All the above workplaces were organized by the Guild in the years since Heywood Broun in 1933 called for a union of journalists. By 1941, the first of many times that Mercer Ellington's father Edward Kennedy "Duke" Ellington recorded and played that song, the American Newspaper

Guild had already recognized the need to organize advertising department workers. That's right. The Newspaper Guild was originally the American Newspaper Guild—and it stayed that way while it organized magazines, wire services, broadcasting, non-dailies, minority-owned publications, consumer publications, foreign-language dailies, etc. The name remained until 1971, even though the Guild began representing Canadian workers in the 1950s.

Like an evolving jazz theme in which the melody remains constant but the solos change, the Guild over the years branched out more and more. Many locals became committed to organizing workers who demand a voice in the workplace regardless of where they work.

When the New York local won an election the second time around for mostly non-English-speaking Pakistani emigrants at Hudson News, its success represented two organizing milestones for the Guild. One, it was the first election victory in which the organized workers predominantly speak a foreign language that isn't related to the employer's business; and second, it was the first time we organized newsstand workers.

When the Northern California Media Workers local organized the Chinese Daily News, it was the first election we won in which the union and the National Labor Relations Board needed to use an interpreter.



When the Streetwise board of directors voluntarily recognized the Chicago local, it marked the first time the Guild organized workers at a paper that gives homeless people a chance to earn money instead of begging.

Yes, the Guild is not the same "newspaper writers' union" that Heywood Broun called for, 68 years ago. When we think about organizing, we should think like the song, "Things Ain't What They Used to Be"—and never were. For further evidence of that, I urge you to read WashTech President Mike Blain's opinion piece, "Why IT Workers Need a Union," found at www.washtech.org/news/010607_unionyes.php3. And be sure to follow the links to the opposing opinion and the readers' forum. (See related items on page 6.) If some of the negative postings sound familiar, you've probably read Heywood Broun's August 7, 1933 column in the New York World-Telegram calling for the creation of a union for journalists.

As Broun wrote then, "The average

newspaper man probably works on an eight-hour-a-day and six-day-a-week basis. Obviously the publishers, by patting their fathead employees on the head and calling them 'professionals' hope to maintain this working week scale."

Maybe men and women don't work six days per week in the IT industry, but there seems to be a lot of rationalizing about long work days.

Broun went on to observe about the publishers, "And they'll succeed, for the men who make up the editorial staffs of the country are peculiarly susceptible to such soothing classifications as 'professionals'... and other terms which have completely entranced them by falsely dignifying and glorifying them and their work." While that susceptibility didn't change overnight, journalists of such profitable, respected publications as The New York Times, The Boston Globe, The Washington Post and The Wall Street Journal eventually saw the wisdom of Broun's clarion call.

So, too, will IT workers.

. . . but the more things change, etc. etc.

By Ben Bagdikian

American daily newspapers are one of the most profitable of all major industries in the United States. And they were during the 1970-71-72 "Great Recession."

The illusion of poverty is part of the Hetty Green Syndrome that seems to be in the genes of American publishers. . . . Hetty Green was one of the country's shrewdest financiers and certainly the greatest female money-maker in our history. When she died in 1916 she had accumulated about \$100 million. On one occasion when a bank offended her she pulled out all her accounts and drove away in a cab with baskets containing \$25 million. But she slept in assorted rooms in the Bowery, usually traveled in streetcars, and when she needed medical attention she put on rags and attended charity clinics. She was always afraid that if she looked wealthy her lawyers and bankers and doctors would overcharge her, as they undoubtedly would have. She also hated to spend money.

The Hetty Green Syndrome is endemic among American newspaper publishers. With periodic remissions. . . .

The average pretax profit of publicly traded papers for the last five years for which figures are complete—including the "Great Recession"—shows a profit on sales

of 15.6%. The average for all American manufacturing corporations during that period was 8.2%.

These publicly traded corporations control 23% of all daily circulation in the country. Contrary to popular impression, with the exception of the Washington Post Co., their revenues and profits are overwhelmingly from their newspaper operations and not broadcasting or other subsidiaries. . . .

Why the rush to buy newspapers? First, they make lots of money. Second, they are going to make even more in the future because they are finally adopting 20th Century production techniques—which, in an industry that spends 50%-70% of its budget on manpower, means enormous savings. Third, for all practical purposes they are a limited commodity, like beach-front property, and as independent monopoly papers get more scarce their value goes up. Fourth, tax laws and the way newspapers operate almost dictate purchase of other media properties. . . .

Whatever the brave speeches about local autonomy that are standard ritual at every chain acquisition, the purchased paper editorially is usually no better or worse than it was before. What the chain generally wants from the paper is high annual profit to be used not in improving local quality but to be exported to the home office to help purchase another paper someplace else.

The usual effect of buying a paper is to

Howard Johnsonize it. Howard Johnson restaurants have some virtues: Their production and accounting are modern and standard, but the food is never distinguished and the chief function is to turn a standard profit.

The danger is that loss of independent papers will fix a permanent standard of local mediocrity, except for a few flagship papers. The primary requirement of the local operator is to keep out the competition and to ship the required annual profits to headquarters. . . .

One need not romanticize the independent paper in order to regret its disappearance. Most independent papers are mediocre or worse, just as most chain papers are. Few are operated on standards of quality that good journalists accept.

But if one has to choose between a mediocre independent paper and a mediocre chain paper, the local independent has advantages. For one thing, it has more

potential for diversity. And it is more likely to have a local owner with a stake in the community. He can have all the arrogance of a local duke, but at least he's a local one who has to face his subjects and isn't an anonymous "them" in a remote corporate headquarters. And when it comes to news and ideas, a mixed bag of local dukes is better than one national king.

Almost every local editor and publisher thinks he is putting out the best possible product, but it is clear this is not so. The live newshole in most newspapers, for example, is a national disgrace; the industry has the third highest profit of all industries yet skimps on its central product. . . .

Excerpted from *The Guild Reporter*, April 13, 1973. Bagdikian was then president of the Mellett Fund for a Free and Responsible Press.

LETTER

To the Editor,

Jay Harris resigned as publisher of the San Jose Mercury News for a good reason—short-sighted executives guided only by numbers. But he could have resigned a few years sooner for a better reason—the paper's shabby treatment of reporter Gary Webb.

Webb's series, "Dark Alliance," revealed the CIA's complicity in drug-deal-

ing by Nicaraguan Contras. Despite some minor errors, Webb's conclusions were later supported by the Hitz report.

Press freedom is certainly endangered by market maniacs and executive bean-counters, but don't leave out the spy agencies.

—Per Fagereng
Portland, Oregon
SF Examiner (retired)

By TNG Convention action, letters to the editor shall be limited to 200 words and shall avoid libel and subjects detrimental to the Guild. Members subjected to

personal attack shall be given opportunity to reply in the same issue, but publication of either attack or reply shall not be delayed longer than one issue.

Deadline: Friday before publication. (Next deadline: July 13.) Letters may be e-mailed to the editor at azipser@cwa-union.org.

Even Pacifica infected by corporatization

Continued from page 1

high-profile resignations. Democracy Now!, the network's most honored feature, on several occasions has been thrown off the air entirely, producer Amy Goodman, rebuked by management for her aggressive questioning of Spike Lee about his Nike endorsements and for asking Sen. Bob Kerrey if he thought it appropriate to set up a Vietnam War crimes tribunal.

Indeed, Pacifica has become so un-pacific that Rep. Major Owens held a Capitol Hill forum on the network after a WBAI show on which he was being interviewed

was abruptly switched to music. In a floor speech in March, shortly after the incident, he described the "weird and frightening experience of being gagged."

Owens' gagging, by all accounts, was incidental to a broader gag rule at all Pacifica stations that bans any on-air discussion of the network's troubles. Ironically, the rule makes Pacifica virtually the only medium to ignore those woes, now plastered across the mainstream and progressive press. Even the executive board of the International Labor Communications Association (of

which *The Guild Reporter* is a member), a group not known for its activism, unanimously adopted a resolution May 23 that condemns the network's union-busting tactics and violations of workers' rights.

At issue is a struggle between a national board of directors that increasingly is dominated by corporate interests, and local Pacifica advisory boards and listeners. The national board insists that the five local stations are captives of in-grown vested interests, that their programming is amateurish, tired and doctrinaire and that the network's assets aren't being fully

leveraged. The local boards and most listeners reply that the national board is simply trying to clone NPR—or worse.

Whatever the merits of the national board's criticisms, there's no question that the changes at Pacifica are being driven from the top down—and those at the top are hardly cut from traditional Pacifica cloth. Board chair Acosta is a certified public accountant in Houston who reportedly has supported selling the Pacifica station in Berkeley or in New York. Board member John Murdock is an attorney with Epstein, Becker & Green, a nationwide law firm that advertises its expertise in helping employers maintain "a union-free workplace."

Former board treasurer Micheal Palmer, who resigned in mid-May after being targeted by Pacifica's grassroots resistance, is a vice president of CB Richard Ellis, the nation's largest commercial real estate services company; its web site encourages clients to "look south of the U.S. border" to exploit cheap labor. Board member Bertram Lee, Sr. is a financier specializing in media buyouts and supports corporate underwriting of Pacifica because "corporate donations don't bring with them any control of any kind."

Other corporate links also pervade the board, so it's unremark-

able that the board's initiatives have been consistent with corporate values of efficiency and maximizing resources. But such values are not consistent with local control, provocative debate and the challenges to authority that have characterized Pacifica over the years, including programs on such hot-button issues as sweatshops, police brutality, prison growth and corporate globalization.

The next battle appears to be shaping up in New York for July 1, when a special meeting of the national board will nominate members for election to the board. Meanwhile, a campaign similar to the one that led to Palmer's resignation has been launched against vice-chair Ken Ford, who works for the National Association of Homebuilders, a lobbying group that favors deregulation at the expense of environmental protection.

A listener's lawsuit seeking to remove the board also is lurching forward, having traversed the arc from a petition to the California attorney general to federal court and back to state court. And many affiliate stations that used to carry Pacifica programming have switched to Free Speech Radio News, produced by a band of former Pacifica reporters who struck last year over censorship issues.

Sometimes there's a glimmer of light even in the darkest shadows.

Some readers shouldn't be crossed

When columnist Jim Dempsey wrote of a convention "of men who dress exclusively in black, not unlike pale-faced kids who call themselves Goths, and whose hero is a convicted criminal who received the death penalty," he could have been referring to the motorcyclists who were coming to town.

He wasn't. He was writing about a simultaneous convention of priests.

So perhaps it's not surprising that some of the more conservative Roman Catholics in Worcester, Mass. let Telegram & Gazette editor Harry Whitin know what they thought about such irreverent satire. What was surprising was Whitin's response: without even talking to Dempsey, he fired off a public apology that said the column "came across as mean-spirited, anti-Catholic and crude." A few days later, Dempsey quit the column and said he

was going back to straight reporting.

Whitin "basically called the paper's writing coach a lousy writer," fumed Kathy Shaw, chair of the Worcester unit of the Providence Newspaper Guild, which took up the issue on behalf of Dempsey.

Unlike similar tales, however, this one has a reasonably happy ending. Four weeks after the offending column first appeared, a second Whitin note defended his apology on behalf of the newspaper—but apologized for coming across as critical of Dempsey and his writing style. "That was not my intent," he noted. "Had it been, I should have handled that privately."

The note topped Dempsey's resurrected column, which began: "So a priest and a motorcyclist walk into this bar..."

"Just kidding, folks."

64-year-old TNG local votes to retire charter

By a virtually unanimous vote (51 to 1), members of the 64-year-old Southern California Media Guild have approved a merger with CWA Local 9400, which has more than 10,000 members. Mail-in ballots were counted June 11 in Long Beach, Cal.

Ratification of the merger by CWA's executive board is expected at the July convention in Minneapolis, at which time the Guild charter will be retired. Completion of the merger may be delayed until September, however, to allow time for clearing up paperwork and other logistical details. In

approving the merger, SCMG members voted to accept the larger local's bylaws, although the unit will remain part of the Guild sector within CWA.

Leaders of the Guild local, historically known as the Los Angeles Newspaper Guild, said they approved the agreement because "it gives media workers incredibly more strength at the bargaining table and holds the promise of organizing the rest of the Southland—and even other parts of the state, as 9400 is a statewide local."

At the same time, they added, the merger safeguards continuity of representation for

current Guild members and bargaining units, upholds their journalistic independence and maintains the integrity of the frozen Press-Telegram pension plan, which is being converted into an annuity or rolled into another plan.

Perhaps most critically, from many Guild members' perspective, the agreement acknowledges concerns about Local 9400's high political and social profile and recognizes that Guild members may have to remain disengaged from such activities for journalistic reasons.

One of the biggest drawbacks to the

merger, however, is neither pragmatic nor philosophical but emotional: retiring the local's charter after more than 60 years has saddened some members, who have responded by assembling a "farewell" book of essays and remembrances. Contributions to the book are being solicited from current and former members, and may be sent to: Southern California Media Guild, attention Gary North, P.O. Box 769, Long Beach CA 90801; or send an email to gibbin@aol.com.

For more information, call the local office at 562-432-3888 or Gary North at 800-585-9368.

THE GUILD Reporter

Volume 68, Number 6

JUNE 15, 2001

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Printed by Mount Vernon Printing Co.

DAYBOOK

Nat'l Assoc. Hispanic J'lists,
June 20-23, Phoenix

Pride at Work Convention,
June 21-24, Everett, WA

TNG Sector Conference,
July 5-7, Millennium Hotel,
Minneapolis

Annual CWA Convention,
July 9-10, Minneapolis
Convention Center

Asian-American Journalists,
Aug. 1-4, San Francisco

Nat'l Assoc. Black Journalists,
Aug. 22-26, Orlando

Nat'l Lesbian and Gay J'lists,
Sept. 6-9, Dallas

CLUW Biennial Convention,
Oct. 4-7, Las Vegas

TNG Canada Rep. Council,
Oct. 26-28, Halifax

FROM THE MORGUE

Fifty years ago this month:

Executive Vice President Sam Eubanks, completing his tenth year as the Guild's full-time administrator, announces he won't seek reelection so he can devote himself full-time to promoting a national daily labor newspaper. . . . The Guild petitions the Wage Stabilization Board to eliminate wage controls in the newspaper and publishing industries, which are exempt from price controls. . . . After six-and-a-half years as editor of *The Guild Reporter*—at that point a record—Wilbur Bade says he'll resign to become executive secretary of Twin Cities Local 2. . . . The St. Louis Star Times is closed, despite being profitable, throwing 500 out of work.

Twenty-five years ago this month:

The Guild launches its first strike against Time Inc., following collapse of bargaining, reaching a settlement 20 days later. . . . The newspaper industry reports higher profits for fiscal 1975, with profit margins averaging 8.7%—nearly twice the 4.6% average for U.S. manufacturing as a whole; Knight Ridder's profit margin is 5.5%. . . . Don Bolles, investigative reporter for the Arizona Republic, is murdered by a car bomb.

Ten years ago this month:

The Dayton Guild, frustrated by 19 months of fruitless bargaining, launches a full-scale boycott of the Dayton Daily News. . . . Ruling in a case at Gannett's Democrat & Chronicle in Rochester, NY, an arbitrator declares that "it is certainly not misconduct for an employee to disagree with an employer." . . . Wire Service Guild members at financially ailing UPI accept reduced wages for the third time in six months.