Wage claim enforcement: “Pay me now or pay me later”

Earlier this year, member Mike Fone notified Coca-Cola that he would be retiring in a few months. A few weeks after retiring, he contacted his Business Agent, Lou Marchetti, to inform him that he had never received his final check for accrued vacation from the company.

After numerous phone calls to the company and no resolution to the matter, Marchetti advised Mike to file a claim with the State Division of Labor Standards Enforcement. Two months later, after filing the claim, the company finally paid Mike his accrued vacation, however, at this point the Company had already violated the law and the claim was scheduled to be heard.

At the hearing, the company made numerous offers to settle the claim. Finally, Mike accepted a $4,000.00 settlement.

“I would like to thank Lou Marchetti for his support and advice during this process,” says Mike Fone. “Local 70 has represented me well for over 30 years and even now after I have retired.”

Redeeming earned and unpaid “wages”

It’s the law!

If an employee is discharged, all earned and unpaid “wages” (including all unused, accrued vacation time) are due and payable immediately. If an employee quits without providing the employer 72 hours notice, all earned and unpaid wages are due within three days of the last day of employment. If an employer fails to pay all wages when due, the employee is owed “waiting time penalties.” This penalty requires the Employer to pay the employee one day pay, up to 30 days for each calendar day that the wages were owed, yet not paid.

If you are owed wages or an employer untimely paid you wages, you can file a claim with the State Division of Labor Standards Enforcement. See www.dir.ca.gov/dlse/howtofile-wageclaim.htm for full information and a downloadable claim form. You cannot file your claim on-line, but must mail it or take it to the office located at 455 Golden Gate Ave., 9th floor, San Francisco. You can call the DLSE at 415-703-4810.

NOTICE OF ELECTION 2011 IBT Election

Soon, you will be receiving a ballot in the mail for the 2011 International IBT Officers Election. It is important that you participate in this process and VOTE! As a member of the Teamsters union, you are afforded the opportunity be a part of the democratic process of voting for who represents you. So speak up and vote!

The election of International officers is being conducted by mail ballot. To be eligible to vote, a member must have his or her dues paid through October 2011. Members may become eligible by paying any unpaid dues and initiation fees at their local union by the close of business on November 10, 2011. Ballots will be counted after 10:00 a.m. EST on November 14, 2011.

Protesting our members

In June 2011, Coca-Cola Steward Ruben Bustillos was terminated for allegedly viewing confidential documents on a company computer. Two months later, at a grievance panel, Business Agent Lou Marchetti was successful in reducing his termination to a one-day suspension and he was awarded back pay totaling more than $10,000 and benefits.
**President’s Report**

**Dominic Chiovare**

**Arbitrator rules against “proven gross insubordination”**

Waste Management of Alameda County (WMI) worldwide is the largest solid waste and recycling company in Local 70’s jurisdiction. Large corporations with deep pockets always seem to want to test the system. In question: Proven gross insubordination.

WMI on March 29, 2010 terminated Michael Johnson for driving a vehicle the wrong way down a one-way street which resulted in an accident—in fact, it was a minor accident. WMI’s position was that this was a negligent, reckless act.

However, under the accident policy of the collective bargaining agreement, and the fact that Michael has a good driving record, this would not warrant termination. Therefore, WMI terminated Michael for “Proven Gross Insubordination.”

This case was deadlocked at the grievance panel and submitted to arbitration for resolution. The Arbitrator would have to decide, “Did the employer have just cause to terminate the grievant? If not, what was the appropriate remedy?”

WMI could not prove to the arbitrator that it was just cause to terminate Michael under “Proven Gross Insubordination.” He did not refuse a direct order; he simply made a bad decision trying to service customers driving down the street the wrong way.

Eighteen months later, the arbitrator’s determination was that Michael Johnson must be made whole, with full seniority, full back-pay of wages, pension and welfare and benefits and serve a thirty (30) day suspension. He should NOT have been terminated.

The award value is approximately $185,000.

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Reminder for those members who cannot make the Thursday night membership meeting: the next Saturday Local 70 membership meeting is October 15, 2011.

In mid-October, members will receive mail ballots for the International Brotherhood of Teamsters election of international officers and officials. Your terminal will be posted with information for those who do not receive a ballot. It is important to vote. Let your voice be heard.

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**Political Action Report**

**by LOU MARCHETTI**

**Fighting for what is right**

In 1861, the first Republican President of the United States addressed Congress and said “Labor is prior to and independent of capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration.”

Who was that Republican? Abraham Lincoln.

If Lincoln were to say that in today's twisted political climate, he would be called a Marxist fanatic and never be elected. What used to be the policy of America that workers are more important and superior to the profits of corporations has become a bizarre and almost treasonous philosophy. We have to get back to this basic idea that the citizens of the country, the ones who actually do the work, are more valuable to our survival and prosperity than the profits of Chevron, PepsiCo, UPS and all the financial institutions combined.

IBT General President James Hoffa recently received a lot of flack, some of it from our own members, for speaking out against the Tea Party by saying “everybody here’s got a vote. Let’s take these sons of bitches out.” It amazes me that a labor leader under “Proven Gross Insubordination.” would get criticized for speaking out against politicians and organizations that are attacking the members he represents. I believe Hoffa said what all of labor should be saying—we have to be active in politics and only elect people who will fight for us.

Finally, President Obama is proposing to raise taxes on the wealthy. These ridiculous Bush era tax breaks should have been gone as soon as he left office. Having 2% of the country get obscenely rich while the rest of us struggle to just get by is another example of how perverted this country has become. Obama has been a disappointment to many of us. There are many reasons why his promises and agenda have failed but this is not a time to make excuses. It is a time to push forward and fight for what is right.

Do you remember the Employee Free Choice Act? Obama made a commitment to his labor supporters to endorse and try to push this legislation through but so far his efforts have failed miserably. This proposed law, along with others, such as deregulation of trucking, permanent replacement workers, and free trade agreements, have had a decided on page D
Politically active

This has been a very active summer as I attended numerous political events on behalf of the Local.

July 22, 2011—Meeting with Sen. Barbara Boxer. Sen. Boxer provided an update on Washington and reaffirmed to me what is very clear to the members of Local 70: the Tea-Party and Republicans refuse to compromise to move legislation forward.

One of the big issues for our members at UPS was the FAA reauthorization bill, which would have eliminated the special deal that Fed-Ex has with Congress. Currently, unlike UPS, Fed-Ex is covered under the National Rail Labor Act instead of the National Labor Relations Board. We are asking for a level playing field by having both companies covered under the National Labor Relations Act. The reason is simple. Trying to organize Fed-Ex under the Rail Labor Act has to be done nationally with severe restrictions. Under the National Labor Relations Act, we can organize area by area. This would give us a fair chance to organize Fed-Ex.

Also on July 22nd, I and Political Coordinator Lou Marchetti met with Oakland City Council Member Libby Schaaf. We had a good conversation on what was important to Oakland and the Teamsters. The big issue for Local 70 is the Franchise Agreement for the Solid Waste Industry in Oakland and protecting our members at Waste Management and Cal Waste Solutions. Part of the problem is that the Franchise Agreement is not exclusive, which means outside carriers can take out food waste, recycling, construction materials, etc., and pay nothing to the City of Oakland. Currently, Waste Management and Cal Waste Solutions pick up about 65 percent of the garbage and recycling. Waste Management pays the City of Oakland $32 million a year in franchise fees. If this agreement was exclusive, more jobs could be created and the city could substantially increase revenue from the agreement. The meeting was a positive experience for all.

July 29, 2011—Supervisor Scott Hagarty fundraiser. Local 70 and several of our members attended Scott’s fundraiser, an outstanding BBQ at the Pleasanton Fairgrounds. A partial list of those in attendance were Emil Radioff, Bruce Kelley, Billy Rogers, John Bradley, Dan Rivera and family, Ruben Bustillos, Jim Perkins, Rich Fierro, Kelsey Frazier and Lou Marchetti.

August 4, 2011: Supervisors Nate Miley and Scott Hagarty’s hearing on Port Drivers complying with the law requiring trucks to meet certain pollution requirements. This meeting was requested by the brokers who operate on the waterfront. Owner-Operators are not able to afford the modifications to their tractors to meet the requirements of the law on pollution. Therefore, they are requesting a delay in the implementation of the law.

The meeting started off with the Brokers talking about the plight of the poor Owner-Operators. The first two speakers were from non-union trucking companies with both employees and Owner-Operators who spoke against delaying the implementation of the law because they and their Owner-Operators had already complied with the law and had upgraded or purchased new equipment and that any delay would be unfair to them.

I spoke on behalf of Teamsters Local 70 against the delay because it would be unfair to the companies we represent at the Port, including Horizon Lines, Waste Management, as well as the companies we don’t represent. We need to address the real issue, which is the system. The legitimate companies have complied with the law as is it is part of the cost to do business. The Owner-Operators cannot afford to comply with the law because the way it works some of the master shippers hire brokers to control the movement of containers who in turn hire Owner-Operators. It becomes a race to the bottom to see who will work for less. The very people who called for the meeting want to pass the cost to the Owner-Operators instead of paying the cost to do business like the legitimate carriers. Then they have the nerve to suggest that the taxpayers pay to upgrade the tractors. Local 70 strongly disagrees! If some shippers can pay as part of doing business, they all can. We are keeping an eye on this issue.

August 30, 2011: Nancy Pelosi and Barbara Lee Town Hall Meeting on Jobs. House Minority Leader Nancy Pelosi and Representative Barbara Lee held a town hall meeting in Oakland to push for jobs. I spoke at this meeting about how major manufacturing companies that used to be in Oakland, such as General Motors, Clorox, Mothers Cookies, Sunshine Biscuits, Gerber Foods and Granny Goose are now gone to third world countries with no replacements locally.

Some politicians will say that we have to compete globally, but how can we compete with any third world country? We can’t! The truth of what is going on is plain and simple; it’s class warfare. Not too long ago, the taxpayers bailed out the financial institutions for ripping off the America public. Now, we’re being told that firefighters, police officers, and teachers are the problem.

In my opinion, the major financial institutions and corporations are holding the President of the U.S., the Congress and the American people hostage for their financial gains. What this is all about is political power so they can do what they want. The other issues being leveraged by the Tea Party Republicans and major corporations who want to shift the cost of health and welfare and pension to the backs of the workers and repeal the environmental and safety protections we have.

The bottom line is that we all have to be politically involved. We, our families and friends—the ones we can count on—have to register to vote and then vote! Those of us who are working need to belong to DRIVE, the political arm of the Teamsters. This is a voluntary program via dues money for donations to the politicians. We have to be in a position to vote and support those who support us! I look forward to working with everyone.
Membership Meeting

Summer has ended and we will resume our normal schedule with membership meetings on the fourth Thursdays of the month starting September 22. Our members from the Solid Waste Industry, specifically Waste Management, will be tending the grill as October brings back the Saturday meetings and BBQ. Bring your suggestions, opinions, and appetites. We hope to see you there! Remember there is still time to volunteer with your coworkers to show off your BBQ’ing skills for future Saturday meetings.

Organizing

Trustees Mark Hawkins, Rich Fierro and Kelsey Frazier have been very busy during their off hours helping Business Agent Lou Marchette organize and increase Local 70’s membership. The vote count at Odwalla continues to drag out but we are confident Local 70 will prevail. Bradley employees have signed pledge cards and we are working towards an election. We continue to meet with employees interested in joining Local 70.

We are planning on having an organizing seminar for the members of Local 70. As you meet with other workers at non union companies during your routes or anytime, please tell them the benefits of being in the union, please have them contact us.

International Election

In October, we will receive our ballots for the 2011 International Election. It is our right and responsibility to vote in the upcoming election. We will be asked to vote for a General President, a General Secretary-Treasurer, At-Large Vice Presidents, Regional Vice Presidents and Trustees.

As we continue to visit terminals, the message will become louder. To me, there is no better way to learn about the issues and VOTE! Then in October, we will receive our ballots for the 2011 International Election. It is our right and responsibility to vote in the upcoming election. We will be asked to vote for a General President, a General Secretary-Treasurer, At-Large Vice Presidents, Regional Vice Presidents and Trustees.

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