



Labor Day 2007
HAWAII
Newsletter

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The History of Labor Day

Reprinted from the Department of Labor website

Labor Day: How it Came About; What it Means

"Labor Day differs in every essential way from the other holidays of the year in any country," said Samuel Gompers, founder and longtime president of the American Federation of Labor. "All other holidays are in a more or less degree connected with conflicts and battles of man's prowess over man, of strife and discord for greed and power, of glories achieved by one nation over another. Labor Day...is devoted to no man, living or dead, to no sect, race, or nation."

Labor Day, the first Monday in September, is a creation of the labor movement and is dedicated to the social and economic achievements of American workers. It constitutes a yearly national tribute to the contributions workers have made to the strength, prosperity, and well-being of our country.

Founder of Labor Day

More than 100 years after the first Labor Day observance, there is still some doubt as to who first proposed the holiday for workers.

Some records show that Peter J. McGuire, general secretary of the Brotherhood of Carpenters and Joiners and a cofounder of the American Federation of Labor, was first in suggesting a day to honor those "who from rude nature have delved and carved all the grandeur we behold."

But Peter McGuire's place in Labor Day history has not gone unchallenged. Many believe that Matthew Maguire, a machinist, not Peter McGuire, founded the holiday. Recent research seems to support the contention that Matthew Maguire, later the secretary of Local 344 of the International Association of Machinists in Paterson, N.J., proposed the holiday in 1882 while serving as secretary of the Central Labor Union in New York. What is clear is that the Central Labor Union adopted a Labor Day proposal and appointed a committee to plan a demonstration and picnic.

The First Labor Day

The first Labor Day holiday was celebrated on Tuesday, September 5, 1882, in New York City, in accordance with the plans of the Central Labor Union. The Central Labor Union held its second Labor Day holiday just a year later, on September 5, 1883.

In 1884 the first Monday in September was selected as the holiday, as originally proposed, and the Central Labor Union urged similar organizations in other cities to follow the example of New York and celebrate a "workingmen's holiday" on that date. The idea spread with the growth of labor organizations, and in 1885 Labor Day was celebrated in many industrial centers of the country.

Labor Day Legislation

Through the years the nation gave increasing emphasis to Labor Day. The first governmental recognition came through municipal ordinances passed during 1885 and 1886. From them developed the movement to secure state legislation. The first state bill was introduced into the New York legislature, but the first to become law was passed by Oregon on February 21, 1887. During the year four more states — Colorado, Massachusetts, New Jersey, and New York — created the Labor Day holiday by legislative enactment. By the end of the decade Connecticut, Nebraska, and Pennsylvania had followed suit. By 1894, 23 other states had adopted the holiday in honor of workers, and on June 28 of that year, Congress passed an act making the first Monday in September of each year a legal holiday in the District of Columbia and the territories.

A Nationwide Holiday

The form that the observance and celebration of Labor Day should take were outlined in the first proposal of the holiday — a street parade to exhibit to the public "the strength and esprit de corps of the trade and labor organizations" of the community, followed by a festival for the recreation and amusement of the workers and their families. This became the pattern for the celebrations of Labor Day. Speeches by prominent men and women were introduced later, as more emphasis was placed upon the economic and civic significance of the holiday. Still later, by a resolution of the American Federation of Labor convention of 1909, the Sunday preceding Labor Day was adopted as Labor Sunday and dedicated to the spiritual and educational aspects of the labor movement.

The character of the Labor Day celebration has undergone a change in recent years, especially in large industrial centers where mass displays and huge parades have proved a problem. This change, however, is more a shift in emphasis and medium of expression. Labor Day addresses by leading union officials, industrialists, educators, clerics and government officials are given wide coverage in newspapers, radio, and television.

The vital force of labor added materially to the highest standard of living and the greatest production the world has ever known and has brought us closer to the realization of our traditional ideals of economic and political democracy. It is appropriate, therefore, that the nation pay tribute on Labor Day to the creator of so much of the nation's strength, freedom, and leadership — the American worker.

Karen Silkwood Award

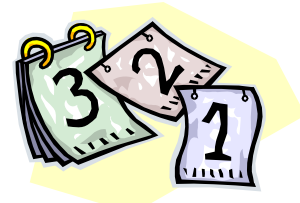
USW Local 12-591 Hawaii was presented with the Karen Silkwood Award for Union Building and Solidarity at the USW Safety Conference in Detroit. We received the award for helping a Union brother injured in a serious accident far from home.

A few months ago, James Maddox, a Honeywell employee and USW Local 9393 member, fell from a gangway of a ship anchored in Guam. He was airlifted to Queens Hospital on Oahu where he underwent surgery. He was left paralyzed from the waist down. Before his Mother could arrive from the Ohio, Keith Souza and Jon Kalima were notified of the situation. They visited with flowers and asked how they could help. They along with Judy Au's help took up a collection at the refinery and provided clothes and money, and gave him Union representation during the accident investigation. Most importantly, they provided James with much needed companionship when he dearly needed it.



Keith and Jon demonstrate that the concern and caring Unionists have had for one another since the beginning of the Labor Movement is still strong in our Local. Let them know you appreciate their actions and are proud to be a Local 12-591 member!

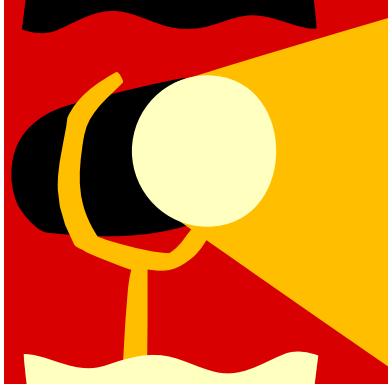
Contract Countdown To 02/01/09



As of Labor Day, 9/3/07 there are 517 days (37 paydays) left in our Contract

Our contract ends just 517 days from Labor Day. The best way to avoid a strike is to prepare for one. The Union encourages each member to diligently save 3 months wages between now and February 1, 2009. That's 37 paydays away.

Keith is also forming committees to work on contract changes we need. If you have an idea for a change in contract language please send it to Keith or, better yet, volunteer to head a committee to solicit ideas on your area of interest.



Spotlight on ...

Leo Gerard

International President

**United Steel, Paper and Forestry, Rubber, Manufacturing, Energy,
Allied Industrial and Service Workers International Union,
AFL-CIO, CLC**



In his first full term as United Steelworkers International President, Leo W. Gerard has launched a wide range of new initiatives that have brought more than 350,000 workers into the union's ranks — a sixty-percent increase.

In addition, the union has utilized strategic bargaining to secure tens of thousands of jobs throughout North America, strengthened workers' bargaining leverage by forging strategic alliances with unions across the globe, and advanced the USW's historic leadership in coalitions committed to protecting the health, safety, and environment of workers, their families and their communities.

Under Gerard's leadership, the USW has also won tariff relief that helped save the American steel industry, a Workers First law in Canada that gives workers top priority for consideration in corporate bankruptcies, and the landmark Westray Bill that makes corporations criminally liable when they kill or seriously injure their employees or members of the public.

The union's growth over the past four years includes mergers with the American Flint Glass Workers, the Industrial, Wood and Allied Workers of Canada (IWA), the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE), the Brotherhood of Maintenance of Way Employees (Canada), and other smaller independent unions.

These mergers and the union's continuing commitment to organizing new members have made the new United Steelworkers (USW) — officially the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union — the largest industrial union in North America and the dominant union in paper, forestry products, steel, aluminum, tire and rubber, mining, glass, chemicals, petroleum and other basic resource industries, in addition to a growing membership of more than 130,000 members in the service sector.

Gerard has also led the effort to restore the financial strength of the USW's Strike and Defense Fund, and launched a union-wide Building Power program designed to educate and mobilize the membership for continuing success in collective bargaining, expanded communications and organizing capabilities, and for

renewed political activism to protect and improve the economic security and quality of life for workers, their families and their communities.

On Nov. 22, 2005, Gerard led a ticket of International Officers and District Directors that was elected without opposition to lead the new union for the next four years. It was the first time in the union's 63-year history that a slate of candidates won election unopposed.

The son of a union miner, Gerard started working at Inco's nickel smelter in Sudbury, Ontario at age 18. Inspired by a lifelong commitment to economic and social justice, Gerard rose through the ranks to become the first president of the new USW. Before being elected to his first full term by acclamation in 2001, Gerard had served as the Steelworkers' seventh international president, having been appointed to the presidency by the union's International Executive Board upon George Becker's retirement.

The second Canadian to occupy the USW's highest office, Gerard immediately embarked the union on a course of renewed activism, demanding — and winning — government action to halt an unprecedented flood of illegal steel imports and negotiating precedent-setting labor agreements that positioned the USW as the decisive force for a humane consolidation of the industry. Gerard also secured a prescription drug benefit for the retirees of liquidated steel companies, financed by hundreds of millions of dollars of VEBA contributions negotiated with the new companies.

Gerard has also exerted global leadership in demanding worldwide standards for workers in the tire, rubber, aluminum, mining and forestry products industries. In October 2002, he chaired the Second World Rubber Industries Conference in Sao Paulo, Brazil and serves as the Chair of the Rubber Sector of the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM). The following year, Gerard co-chaired the International Metalworkers' Federation (IMF) World Aluminum Conference in Montreal, where delegates formed a global network of unions to strengthen workers' rights in the aluminum industry.

In recognition of the regional and global strategies of the USW's multinational employers, Gerard has championed strategic alliance agreements with unions throughout the world, including IG Metall, the German metalworkers' union; AWU, the Australian Workers Union; CFMEU, Australia's Construction, Forestry, Mining and Energy Union; CNM-CUT, the largest metalworkers' union in Brazil; SNTMMSRM, the National Union of Mining, Steel and Allied Workers of the Republic of Mexico; and Amicus, the largest manufacturing union in the United Kingdom. Many more such agreements are being discussed with unions in other countries who have members in our union's core industries.

As president of the USW, Gerard was instrumental in the formation of the Industrial Union Council of the AFL-CIO, and in February 2003, was appointed to serve on the AFL-CIO's Executive Committee, as well as serving on its Executive Council. He was named Chair of the AFL-CIO's Public Policy Committee in March 2005.

Gerard also serves on the U.S. National Commission on Energy Policy and is a founding board member of the Apollo Alliance, a non-profit public policy initiative for creating good jobs in pursuit of energy independence.

Under Gerard, the USW heightened its focus on reversing the alarming decline of U.S. manufacturing and the negative impact of it on America's growing health care crisis. He has worked with equal fervor in developing strategies to inject the rights of workers into trade agreements, investment priorities and corporate governance. He has also dramatically increased participation by USW members in the political process.

Prior to his election as USW President, Gerard served as the union's International Secretary-Treasurer (1994-2001), as National Director for Canada (1991-1994), and as Director of District 6 in Ontario (1986-1991). He was appointed a USW Staff Representative in 1977. Gerard is also the driving force behind a network of activists who are creating conceptual, financial and educational tools for capital strategies that will inject the welfare of workers into investment priorities. Leo married his high school sweetheart, Susan, and they have two children, Kari-Ann and Meaghan, and two grandchildren, Elyssa and Liam.

Tesoro's Medical Surveillance Policy is not OSHA's

by Clay Deaver

Welcome to the intrusive world of Medical Surveillance and company policy TSHS-003. Your employer feels that in order to protect themselves from liability they have the right to ask you questions that you might not want to talk to a therapist about. The section on disciplinary action in the back states that you can be terminated for failing to answer questions about your wife's miscarriage or anything else they're interested in. Remember...it's about money it's always about money with rare exception.



The items of great concern to many of us that are getting older are the physical qualifications for respirator use. Suddenly this document (TSHS-003 published 6/07) has shown up on the Tesoro Petroleum website which implies that the job you were hired for is now dependent on a qualification similar to military fitness exams, without the benefits. It is supposedly their attempt to comply with an ANZI standard that was written in 1984 and **is not Law**. So is Tesoro Petroleum liable for 23 years of fines or what? If it was law as they claim wouldn't they be? I have been very concerned about this so I have asked a lot of people I consider knowledgeable for their opinions. Opinions are fairly easy to get especially over a couple of drinks. Oh yeah you have to tell the Tesoro survey about those couple of drinks too, and the cigar you smoke on New Years Eve. This might be especially useful information if you want to profile a person who is on a negotiating committee. Professional jury selectors need this kind of information to predict which way people will vote. If I have to guess on Tesoro's intentions as to having alternative or hidden agendas, I'm going to have to go with trying to create an insurance group with lower rates as the possible hidden agenda. There could be other benefits such as a method for removing older workers with experience from positions within the Union. We gain a real strength from the knowledge of the old timers. At any rate this can be a useful tool to weed out anyone you don't like and with article 4.9 of this policy they can either suspend or intensify physical requirements at management's pleasure for any singled out individual. If they don't like you or want you out of the company they can simply insist on a higher set of standards for you and only you, again that is article 4.9 of the policy. It is management's contention that they do not need to bargain this issue because it based on this twenty three year old standard that they have not complied with in nearly the quarter of a century that it has been in existence. OSHA law does not say anything about this standard

What can be done? We are at a crossroads where solidarity has never been more important. It is the goal of management to remove the union from this company and they are constantly testing the waters to see how strong we are. This is going to be an indicator of our resolve in next year's negotiations. This is not a time for dissension in the rank and file and I have had a hard time with my own negativity toward the company and my union's response time in regards to this latest assault on my job security. The union has taken the appropriate steps at this time and we will have to wait as things unfold. I wish that I could spend more time thinking of

solutions to more productive problems, but the company seems to dictate otherwise. They can't seem to leave anything alone, be it benefits or working conditions. It's a counterproductive environment which I predict they will not serve them well.

The implementation of TSHS-003 is unique; they are blending fact and fiction to create a data base on your life and asking question they have no right to ask. They have no right to ask me about my wife's miscarriage, none whatsoever. What they have is a right to ask under the Law is the questions outlined in **Appendix C to Sec. 1910.134: OSHA Respirator Medical Evaluation Questionnaire (Mandatory)**. The 46 questions here in must be answered in order to use a SCBA; fewer questions can be answered if you are not using SCBA equipment. The questionnaire is between you and your doctor. The following is an excerpt from a letter From OSHA 's Compliance director Richard E. Fairfax to our Local 4-227 in Houston.

The standard does not require all employees who may wear an SCBA respirator to have a physical exam. The standard allows these employees to take the mandatory questionnaire and to answer the additional questions 10 through 15 in Section A. However, due to the additional stress on employees required to use an SCBA, many physicians doing the evaluation will probably want to physically examine most employees who say they will occasionally need to wear an SCBA.

After evaluating the questionnaire and/or any physical examinations, the PLCHP supplies the employer with a written recommendation stating the employee's ability to wear a respirator. The employer must retain a copy of this written recommendation. OSHA will look for this documentation to determine if a PLCHP has evaluated each employee required by the standard to be evaluated. The standard states specifically what should be included in the written recommendation. The recommendation shall provide only the following information:

- 1. Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;*
- 2. The need, if any, for follow-up medical evaluations; and*
- 3. A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.*

All information from the questionnaire and/or the medical exam is confidential, and arrangements must be made by the employer to ensure it is kept confidential. Usually these records are maintained by the PLCHP. Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be

I noticed there isn't anything mentioned about body mass index or running on treadmills and no fertility tests, what a shock, in fact if your doctor is happy with the way you answered the questions he can simply send a note to the company saying yes this man can use a respirator. He or she has the option of examining you in person or even chatting with you over the phone to resolve any questions he might have, but there isn't anything close to what the company is proposing. And it's not required annually.

I believe Tesoro has been impressed by one Dr. Mary Townsend of Pittsburgh; she holds a position as a dermatologist at the University there. Mary and a few of her

friends who sit on an ANSI standards board wrote some rather intrusive medical guidelines that companies **can** use, and she tours the country making thousands of dollars per engagement, speaking to HR people and other upper management executives impressing them with the corporate advantages of, and money to be made from yes being intrusive, weeding out the older workers and in general being a real pain to the working family. The ANSI group writes standards and **does not write Law**. Sometimes they are referenced in written law but they are not a governing body. You may be fat by ANSI standards, but we need not fear a fine from ANSI or OSHA for this. Tesoro is simply trying to slip in new job qualifications without negotiation. What does this say about core values? It completely astounds me that we hear an announcement like, "good job people we have had record profits again" and then shortly thereafter are told we are going to get some sub standard medical in place of what we have had. Money matters, we don't.

We have not received a reply to our request to bargain due to the proposed changes the company wants to make in the guise of OSHA Law, and we have not received an answer to what will happen to employees who fail their tests. We are making it clear that this is unacceptable and we will stand together. **We will comply with OSHA but corporate agenda requires bargaining**. They must separate the corporate smoke from the OSHA law. OSHA would be willing to help them with this I think.

I noticed that in the companies focus on other things that they have neglected to perform the respirator tests in the prescribed OSHA order which makes them all null and void for many years past and present. The medical OSHA questionnaire must be done first with no exceptions. **They** would do better to focus on real safety rather than using safety as a tool by which Human Resources and management may threaten and intimidate the worker. One worker was recently very close to termination because safety personnel interpreted a boundary line incorrectly. I left the Joint Health and Safety Committee because of the threatening attitudes some managers are allowed to have on that committee. Ironically some workers, led by an engineer kept trying to get a modest gym together in an old trailer. This went on for months but management kept crushing it. Now they want to fire you for being out of shape. I predict the present good safety record is going to be short lived.

In closing I want to remind you that we must stick together Brothers and Sisters, do not stray from the pack, Smitty our former Chairman gave a speech about staying inside the box, and how he couldn't do much for you if you strayed outside the lines, this is painfully obvious to some recently terminated employees today. We all wish we could help and will miss them, but you must stay inside the box. Try to spend some time this Labor Day weekend to reflect on the Union activists that were killed by Pinkertons and other mercenary agents, many years ago who brought us the privilege to organize. Think about what you would be willing to do to keep your health insurance for you and your family and your fellows. Say thanks to your shop steward or the other union officials past and present who have put up with harassment and intimidation for their union activities and spent endless hours in classes on their own time. Say thanks to a veteran for defending the freedom to organize and collectively bargain. Have a great labor day!

University of Hawai'i
West O'ahu



Center for Labor Education and Research

University of Hawai'i - West O'ahu

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CLASS SCHEDULE • FALL 2007

All of the classes listed here will be conducted at CLEAR in Room 403. For more information and/or enrollment forms call CLEAR or visit our website at: <http://clear.uhwo.hawaii.edu> and click on the "Classes" button.

STEWARD EFFECTIVENESS TRAINING: 6 sessions, certificate program. Learn the essential skills for being an effective steward. Topics will include steward roles and responsibilities, responding to anti-union comments, the basics of grievance investigation, talking to management, dealing with conflict and difficult people, and strengthening your membership.

Instructor: A. Valdez. 6:30 to 9:00 p.m. Mon/Wed: Sept. 10, 12, 17, 19, 24, and 26.
Course Fee: \$45.00.

ECONOMIC ISSUES AND UNION CONTRACTS: 4 sessions, certificate program. Wages and benefits are the central components of a union contract; negotiating them can be exceptionally difficult. Topics for this class include: inflation and its effect on wages; wage and benefit comparisons across time and between firms; understanding the standard of living of the membership; negotiating goals; and employer's ability to pay.

Instructor: L. Boyd, Ph.D. Tue/Thu: Sept. 18, 20, 25 and 27.
Course Fee \$35.00.

PARLIAMENTARY PROCEDURE: 4 sessions, certificate program. This is a leadership program designed for union members, officers and staff, particularly chairpersons, secretaries and treasurers. Learn how to properly and lawfully conduct and record business in union meetings.

Topics to include quorum, agenda and order of business; progress of main motions, precedence of motions, elections & voting, minutes; conventions and resolution writing.

Instructor: W. Puette, Ph.D. 6:30 to 9:00 p.m., Mon./Wed: Oct. 1, 3, 8 and 10.
Course Fee: \$35.00.

UNDERSTANDING EMPLOYMENT DISCRIMINATION LAW: 3 sessions. Workplace discrimination and harassment are difficult to deal with properly without sufficient training. This course will define all forms of discrimination and provide information on recent developments in discrimination law with special attention to issues affecting unions.

Instructor: A. Valdez. 6:30 to 9:00 p.m. Tue/Thu: Oct. 2, 4, and 9.
Course Fee: \$30.00.

WAGE & HOUR LAWS: 5 sessions, certificate program. The basics of U.S. and Hawai'i wage and hour laws. The topics covered include: history and key concepts of Wage & Hour regulation; The FLSA, minimum, living and prevailing wage laws; the latest federal overtime regulations; restrictions on child labor; and enforcement of Family & Medical Leave laws.
Instructor: W. Puette. Mon/Wed: Oct. 22, 24, 29, and Nov. 5 and 7,
Course Fee: \$40.00.

PREPARING FOR BARGAINING: 3 sessions. Learn how to conduct member surveys and how to gear up your membership for bargaining. You will also do a detailed analysis of your own contract, compare your contract language to that of other contracts and learn how to prepare your initial opener for bargaining. Bring your current contract to class.
Instructor: A. Valdez. 6:30 to 9:00 p.m. Tue/Thu: Oct. 23, 25, and 30.
Course Fee: \$30.00.

STRATEGIC RESEARCH: 6 sessions, certificate program. The theme of this class is "knowledge is power." This class covers all aspects of research for negotiating contracts, organizing and/or political action. Heavy emphasis is on 'hands on' learning. Bring problems, topics, laptops. Topics include: Introduction to internet research; fully utilizing Google; economic conditions and the condition of labor; researching the employer; understanding financial statements; government resources; campaign contributions and voting.
Instructor L. Boyd, Ph.D. Tue/Thu: Nov. 1, 6, 8, 13, 15 and 20.
Course Fee \$45.00.

LABOR LAW PRIMER I: 8 sessions, certificate program. Topics include: introduction to the legal system; overview of the different Hawai'i and U.S. collective bargaining laws; organizing & representation elections; the duty to bargain in good faith; representation rights; strikes and picket lines; union election law and union reporting & disclosure requirements.
Instructor: W. Puette, Ph.D. 6:30 to 9:00 p.m., Mon/ Wed: Nov. 14, 19, 21, 26, 28 and Dec. 3, 5 and 10.
Course Fee: \$55.00.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION INSTITUTION

Member tip for the week

Health & Safety

While you need to be very careful in taking this step, under certain conditions, you and your co-workers may also have the right, under the Occupational Safety and Health Act and the National Labor Relations Act, to refuse to do unsafe work. To have legal protection for this, the law says that you must have a reasonable belief that there is an imminent danger of death or serious injury, with the risk being great enough so as to make it impractical to first request an inspection by Occupational Safety and Health Association or take some other, less drastic step. You will strengthen the legal protection available to you if you are in a position to notify your supervisor before stopping work, and also alert the union and your co-workers beforehand, to enlist their support for collective action. You're best off if you don't refuse the assignment outright; instead, say that you will do the job, once it is made safe.

Adapted from [The Union Members Complete Guide](#), by Michael Mauer

2007 USW Safety & Health Conference



Left to Right (Jason Sakamoto, Leo Gerard, Josh Capello, Lance Dolera, and John Geenen)

On August 5th to August 10th, Josh Capello, Lance Dolera and I attended a United Steel Workers Health, Safety and Environment conference in Dearborn, Michigan. It was a great experience listening to Leo Gerard's keynote address with over 1,300 fellow Union activists in attendance. This conference was a joint labor/management conference in which the first three days were held for union members only and the last two days people from management were invited to join. We had Frank Clouse, Barry Whitfield, Mike Sakurada and Joe Drogowski in attendance.

From the plenary sessions, panel discussions and the myriad of workshops like Incident Investigations, NFPA 70E Regulations and Hazard Mapping, it was plain to see that health and safety aspects from other industries could help us here in Hawaii. The schedule was exhausting but rewarding all the same. During one plenary session, we had Admiral Skip Bowman (ret.), who is currently the President and CEO of the Nuclear Energy Institute. One of the things that he stressed was how important it is to keep the lines of communication open, he used his experience as a submarine captain and that he never wanted any of his crew to be afraid to question his authority. He even tested this by purposefully giving an incorrect order, expecting to be questioned.

Our local 12-591 was presented with a Karen Silkwood Award by our fellow USW brothers and sisters at an awards luncheon (more on this in Leo W's article).

On the last day, we met with the other Tesoro refineries to discuss the TOP program and how they are doing in their respective workplaces, it occurred to me that one of the main topics at this meeting was about disseminating information on "lessons learned". By no means is "lessons learned" the only thing I took away from this 2007 USW conference, but it remains for me one of the most important issues I learned while there. If we cannot share things we learn with our fellow men, then we are destined to repeat the same injury causing/life costing mistakes.

Please feel free to ask me how the conference was when you see me, there simply is not enough room to write all that I would like.

In Solidarity,
Jason Sakamoto



TOPS News

Earlier in the month, I had the wonderful opportunity along with Jason Sakamoto, Lance Dolera, Barry Whitfield, Mike Sakurada, Frank Clouse and Joe Drogowski of representing our company and union at the annual USW Health and Safety conference in Dearborn, MI.

Although the trip started off rough for Jason, Lance and me with some airline issues it turned out to be a jam packed week of information for us. My main goal for this trip was to network with our other Tesoro TOP sites, and this I did. I had countless opportunities to chit-chat with John Nowakowski(Anacortes), Richard Floyd(Wilmington/LA), and Robert Vogel(Mandan) about ways to get all of our sites networking together to make our programs stronger. Grant it our program is the still the baby of the group, and we rely heavily on the others to assist us in making our program better.

We also took advantage of having 6 Tesoro sites present and held a Tesoro only meeting where we could discuss ways to better our communication lines. It was a very productive session that lasted for about an hour and a half. We discussed the idea of having an annual Tesoro safety and health conference, and that idea has been given the o.k. by corporate. We're looking to hold this conference sometime next January/February.

As far as TOP goes, I've come to those few twist and turns in the road that I expected. We've been getting reports like crazy, and that's a good thing! Keep turning concerns and unsafe conditions in! But once these reports come in, getting our hourly investigators freed up has sometimes been a challenge due to the SSE work rules. I had the opportunity last week to meet with the production Superintendents along with Chuck Snyder to discuss these concerns. The meeting was very productive, and each Superintendent supported our efforts in straightening out these twist and turns.

We have an Investigator make-up session scheduled for October 3-4, if your interested shoot me an e-mail!

BE SAFE!

"Keep It Simple,
Keep It Right!"

-Josh Capello

The Ask a Lawyer Question of the Day

Topic: Hours of work and breaks

Recently I took a few days off due to an illness. Despite being very ill, I worked on a project for 8 hours from home. My employer told me that they don't pay for work done at home, so I was not allowed to count that time as work time. Can my employer refuse to pay me for work done from home if it's required to meet a deadline?

Answer:

A definitive answer will depend on whether you are an hourly employee, an exempt employee (for example, the Fair Labor Standards Act does not apply to certain employees), or an employee paid by the project. If you are paid by the project and not by the hour, then the answer to your question will depend on the provisions of your employer's policy on payment by the project.

For hourly employees who are not exempt from coverage, federal wage and hour law, (the Fair Labor Standards Act (FLSA)), requires payment by the employer for all hours worked. Time spent by an employee performing work which is permitted, even if it is not requested, is generally seen as work time. Thus, an employer must compensate employees even for unauthorized work if that work is performed with the knowledge and acquiescence of management. This rule concerning unauthorized, but permitted, work applies whether the work is performed on or away from the employer's work site. For example, an employer must compensate an employee who takes files home and works on them if the employer permitted such work or knew that such work was being performed at home and did not prohibit it.

The question is: did the employer have actual or constructive knowledge that the employee was performing work? In other words, did the employer know or have reason to know that the employee was performing work at home and do nothing to stop it? In addition, even if the employer has a policy prohibiting employees from working at home, whether that policy is a real policy and whether it is consistently applied will also have to be examined.

One way to try to unravel this question is to visit or call your state's wage and hour agency and explain the facts to them. Most states have some procedure for filing a wage claim. If your pay plan is governed by a collective bargaining agreement, then the requirements set forth in that agreement would govern the answer to your question. Collective bargaining agreements often contain clauses regarding the payment of overtime and off time work in terms that are more favorable to employees than those available and enforceable under the FLSA.

Remember to visit <http://www.workingamerica.org/askalawyer/> for the latest question.

Today's response was provided by D. Marcus Braswell of Sugarman & Susskind, P.A..

Unit Chairs

COLUMN

By Keith S.



Greetings:

Issue 4 makes its way to the streets, thanks to all contributors for their efforts in keeping the membership informed and educated.

Declining Union representation in an investigatory interview can be detrimental and often times fatal. On the flipside, understanding and using your **Weingarten Rights** is one of the most important decisions we as Union members can make if we find ourselves in an interview that can lead to discipline. Err on the right side and demand your Union representative be present for any and all discussion with management in regards to incidents or situations that could lead to discipline / termination.

So you're called in to the office or your supervisor comes to you in the field and casually starts asking questions about a recent incident that you were involved in or witnessed... stop and state the following:

WEINGARTEN RIGHTS

If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative, officer, or steward be present at the meeting. Without representation, I choose not to answer any questions.

Having a Union Representative present provides you with counsel, support, and a witness to the discussion and its content.

Medical Surveillance - I'm disappointed to report that the company has declined to decisional and effects bargaining on the subject of "Mandatory Medical Exams". Our request to bargain has been ignored... the company feels that as long as they discuss the changes, they are fulfilling their obligation. What does the ability/inability of an

employee to conceive children have anything to do with wearing a respirator? More disturbing is **the company wants to know if you have a child that was born with a birth defect**, which is absurd. We may need to call upon the membership for a more concerted approach to this matter.

ALOHA UNITED WAY The AUW campaign is set to kickoff in the next week. Darin Akiona is representing the Union in its support of the AUW. The Union is dedicated to supporting the AUW and asks all of its members to participate. The Union will be offering a prize valued at \$150 at the AUW kickoff September 7, 2007 @ the maintenance shop. Look for the **“USW Local 12-591”** banner that will be hanging in the maintenance shop.

Upcoming Events

September 9-11, 2007 Region X1 District Council

September 23-26, 2007 Women of Steel Conference

November 5-7, 2007 National Oil Bargaining Conference

See you at the **September 13, 2007 general meeting!**

In Solidarity,

Keith