

# The Professionals Guild of Ohio



## PGO UNION NEWS

**April 2010**

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Published by  
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*Produced and printed in-  
house by members of UFCW  
1059*

### **Guernsey County Children Services Contract Settlement**

PGO recently concluded contract negotiations with Guernsey County Children Services. The employer was facing difficult financial circumstances, and sought multiple concessions from bargaining unit employees. The employer sought the right to furlough bargaining unit employees. Even more importantly to bargaining unit employees, the employer also sought to reduce their one hour paid lunch period, which they have enjoyed for years, to half an hour.

The union bargaining team fought to retain the lunch hour, and was successful in preserving this cherished and well-established benefit. No employees (bargaining unit or non-bargaining unit) received a wage increase for the first year of the contract. Because the employer was offering only a minimal wage increase, the proposed furlough could have effectively nullified the wage increase had the furlough been implemented. Consequently, the union bargaining team fought off the furlough.

To assist the employer through difficult economic times, the union bargaining team agreed to no general wage increases, although bargaining unit employees will continue to receive longevity increases. The union bargaining team and the employer reached

an informal agreement, however, that if non-bargaining unit employees received a wage increase, bargaining unit employees would receive the same wage increase. In turn, the union bargaining team indicated that, although it would not be required to accept a furlough, it would keep an open mind about the issue should the need for further staff reductions arise. The contract will last for three years.

Council 8 president, *Roy Higgins* and vice president *Hilaree Homoko* did an excellent job as bargaining team members. PGO general counsel *John Campbell-Orde* acted as chief negotiator, with fellow PGO field representative *Amelia Woodward* sitting second chair in the negotiations.

### **President Signs Health Care Reform Bill**

President Barack Obama has signed an historic health care reform bill recently approved by Congress. When fully enacted, this bill will, among other things, extend health insurance coverage to 32 million uninsured and block insurers from denying coverage to people with pre-existing health conditions or capping their lifetime claims.

PGO staff is currently analyzing the health care bill and, in coming months, will be reporting on how it might affect you.

**Mean Streets: How Your Driving During Personal Time Can Affect Your Job**

*By John Campbell-Orde, Esq., PGO General Counsel*

We drive every day—to get to work, go grocery shopping, on social visits, among many other things. It does not occur to most people that such a personal and mundane activity could impact their jobs. However, in certain instances what you do while driving on personal time can impact your job, sometimes seriously. This article discusses two real life examples, but there are also other circumstances where off-duty driving can impact your job.

In one case, an employee for whom driving was an essential job duty was ticketed for exceeding the speed limit while driving his personal vehicle on personal time. The employee worked as a driver and was provided a vehicle and insurance through the employer. Although the employee had completed his probationary period, the contract specified that employees who worked as drivers and became uninsurable would lose their jobs. The employee had multiple traffic violations when hired by the employer. However, the additional speeding ticket resulted in enough traffic violations during the relevant period that the employee became uninsurable. Thus one simple mistake while driving on personal time cost the employee his job.

Under the employer’s policy with the insurance company other infractions could result in a driver becoming uninsurable. These included driving on an expired license, driving while impaired, or driving while under the influence of drugs or alcohol, and having multiple at fault accidents, to name a few.

Even employees who are not employed as drivers can have their jobs affected by off duty traffic violations. For instance, children services employees who are arrested generally are required to report the arrest within 24 hours. Thus an employee who is arrested for DUI on personal time, but fails to timely report the arrest may be subject to being disciplined.

The bottom line is that many public employees need to be careful when driving off duty. If you do run into a problem, you should consider contacting a criminal attorney as well as your PGO representatives.



**Personnel Files**

*by Amelia Woodward, Esq., PGO Field Representative*

Public employers are required to maintain personnel files on all public employees, documents of which are subject to public disclosure upon request unless the document is a medical record or other personal information that is confidential. It is a good idea to check your personnel file periodically to ensure two things: that all expired disciplinary actions are removed from the file; and, that there aren’t any documents in the file of which you did not receive notice.

Be sure to check your collective bargaining agreement (CBA) for guidance on the provisions related to your personnel file. These provisions could include when you may have access to the file, who may be present when you review your file, and what steps you can take to ensure the information in your file is accurate.

When reviewing your file, be sure to note the dates of any disciplinary actions in your file. Double check your CBA regarding the length of time a discipline will remain in your file barring any intervening discipline. If you discover there is a discipline in your file that has expired according to your CBA, but has not been removed, notify the Human Resources Department in writing that the discipline has expired and that it must be removed. If this doesn’t resolve the problem, contact your PGO representative.

**Don't Cheat Yourself: Get Paid for the Time You Work**

*by Amelia Woodward, Esq., PGO Field Representative*

Many times, we, as employees, can feel pressured to work off-the-clock to attempt to manage an unmanageable work load. We also may not realize that checking work email from home is in fact "working." Thus, we end up working for our employer over forty hours in a week. Sometimes we don't claim the time to get paid for it. But, employees not claiming time worked may be violating the law or the collective bargaining agreement. Moreover, this practice can create an expectation that an unmanageable work load is manageable.

It is imperative that if you work more than your scheduled eight hours in a day, which adds up to more than forty hours in the work week, that you get paid for overtime at time and a half. This applies to employees who are "non-exempt" under the Fair Labor Standards Act (FLSA) and may apply to otherwise exempt employees covered by a collective bargaining agreement. When non-exempt employees work over forty hours, they are entitled to overtime compensation, absent any other agreed upon compensation.

Time spent doing the following activities is considered "time worked" for purposes of overtime calculations under the Fair Labor Standards Act:

- If the employer knows or has reason to believe that work is being performed, the time must be counted as hours worked. Examples of this type of work include an employee who may take work home to complete in the evening or on weekends to meet a deadline, or, an employee who checks, reads and/or reviews work-related emails (whether on a handheld PDA or wireless telephone device or on a home computer, etc.), or listens to work-related voicemail messages while away from the office or workplace.
- An employee who must correct mistakes in his or her work. This time must be treated as hours worked. Time spent correcting errors, or "rework," is work, even when the employee voluntarily does the rework.
- An employee who waits to do work. Unpredict-

able periods of wait time, of short duration, during which an employee is not working but whose time is controlled by an employer, even if the employee is allowed to leave the premises, is work time.

- An employee who needs to finish an assigned task, prepare reports, finish waiting on a customer or take care of a patient in an emergency.

Consider the money you could lose by working off-the-clock. If you work, but do not claim, an hour and half over forty hours per week to keep up with deadlines and other work, and you do this for a year, you will have worked seventy eight hours per year for "free." This is almost two weeks worth of pay at straight time. At time and half, that's 117 hours. Multiply 117 times your rate of pay per hour, and that adds up to a lot of cash you will miss out on when you don't claim your time.

Some collective bargaining agreements provide for flexible scheduling or compensatory time in lieu of overtime, so please be sure that you review your contract before claiming overtime. Also, many contracts will require that an employee get approval for any overtime worked before an employee may be allowed to claim overtime, so check your contract for language that requires approval for overtime. However, if you do not get approval to work overtime, stick to your schedule and don't work when you aren't going to get paid because you cheat yourself out of pay that you have rightly earned when you work "off-the-clock."



**"Marry me, Miss Krauss, and I won't have to pay you overtime."**

**Great Americans**

**John L. Lewis: An American Labor Movement Icon**

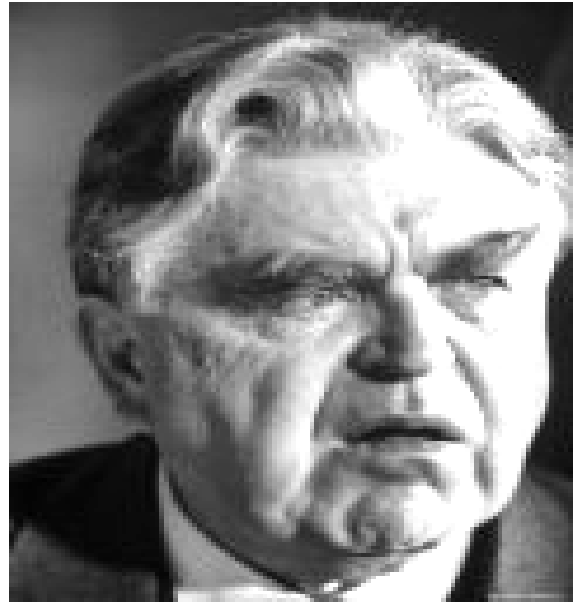
*by Amelia Woodward, Esq., PGO Field Representative*

We all lead busy lives, with work, family, and various obligations, but its important to remember the people who changed the course of history for every worker, both in America and around the world, from the cigar roller, to the auto factory worker, to the teacher and the caseworker. John L. Lewis, a mine worker originally from Iowa, led a decades long struggle for decent wages for both mine workers as well as other laborers in the auto, steel and rubber industries. The two tactics Lewis used to improve the lives of working people was to be an active participant in politics and to champion the need for continuous organizing of all laborers by industry.

Lewis took an active role in unions, first as recording secretary of his local United Mine Workers of America (UMWA) and then president of his local in Illinois. He used his influence to lobby the Illinois state legislature for mine safety legislation and workers compensation. Lewis eventually assumed full time duties within the UMWA, and would celebrate a major victory by gaining significant wage increases for his fellow miners during World War I.

Lewis was instrumental in the passage of the National Industrial Recovery Act in 1933, which would create a right under the law to organize and collectively bargain over the terms and conditions of one's employment. This law created the framework for the current National Labor Relations Act, governing the private sector's labor relations laws.

After the passage of the Act, union membership in the mines around the country increased to ninety two percent. However, Lewis' efforts to get the American Federation of Labor (AFL), an organization of craftsmen, to commit to organizing on a large scale were hampered by the AFL's unwillingness to organize unskilled workers. The AFL's philosophy was to organize by craft, not on a mass scale of the various large industries that Lewis had envisioned. The final straw, and the split between the AFL and John L. Lewis came at their convention in 1935, when Lewis provoked the Carpenter's union presi-



dent into calling him a name, giving Lewis the opening to punch him in the nose. Lewis seized this opportunity to break from the AFL and catalyze the organizing effort in the rubber, steel and auto industries, eventually leading the negotiations that garnered agreements with GM and U.S. Steel.

Lewis was elected the first President of the Congress of Industrial Organizations (CIO) at its first convention in 1938. But, when President Roosevelt failed to support labor during a steel strike, and American workers didn't withdraw their support from him, Lewis resigned from the CIO.

Lewis resumed his duties with the UMWA, continuing to fight for mine workers' job security. Lewis successfully negotiated medical and pension benefits for miners in 1948 and continued to fight for better wages for miners. He would eventually lead the campaign for the first Federal Mine Safety Act in 1952. Lewis retired from the UMWA in 1960 and passed away in Alexandria, Virginia in 1969.

Sources: <http://www.aflcio.org/aboutus/history/history/lewis.cfm>; Labor Law: Cases and Materials, Thirteenth Edition, Eds. Cox, Bok, Gorman, Finkin (2001 Foundation Press).

**Help Us to Stay in Touch**

Has your name changed? Have you moved? Do you have a new telephone number? If so, please let your Union know. Help us maintain accurate membership files by contacting the PGO office to update your personal contact information.