

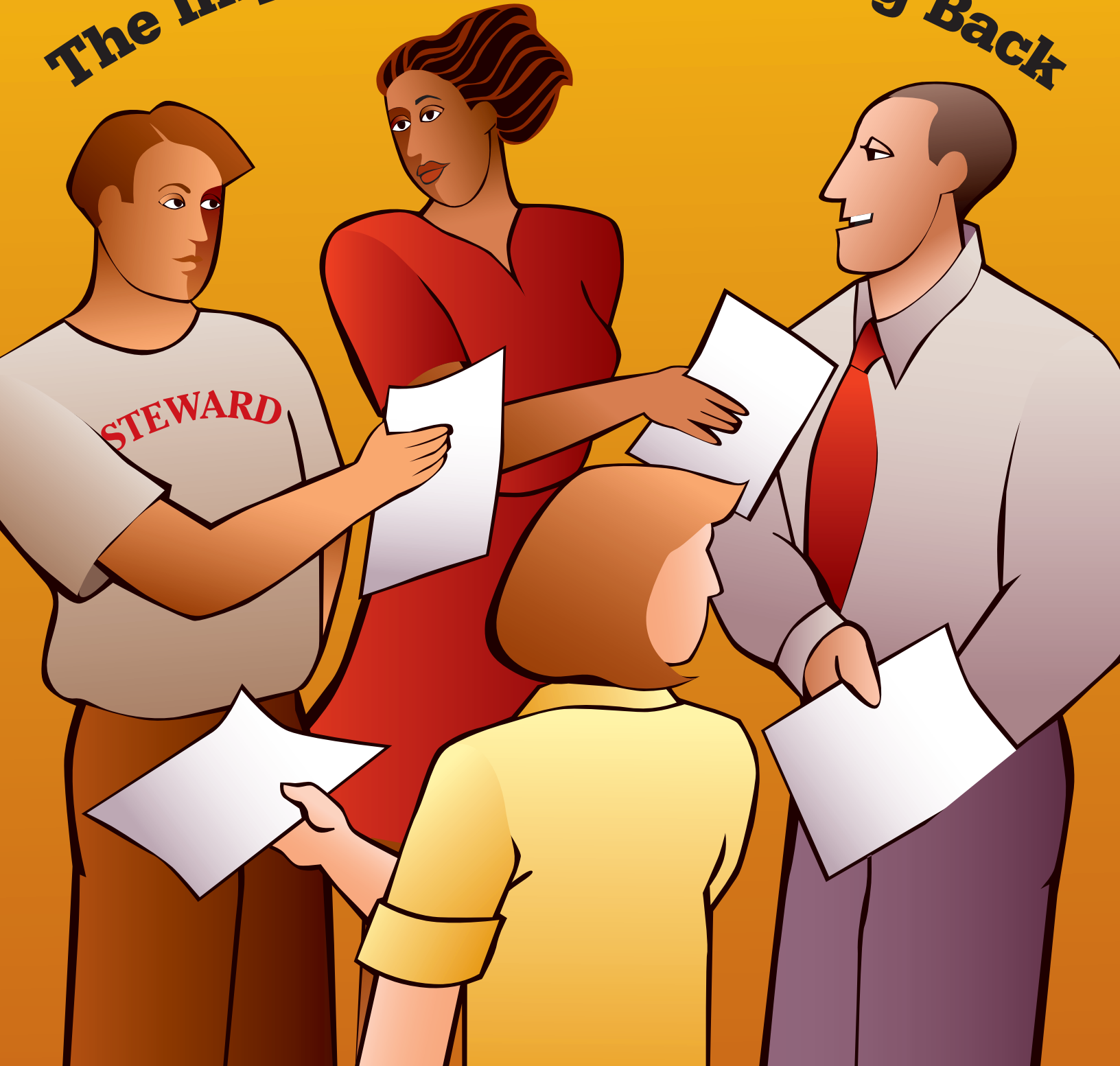
# TAMI

E D U C A T O R

Update for Stewards

Vol. 3, No. 4

## The Importance of Reporting Back



# The Importance of Reporting Back

**A**s kids in school, we learned about the 3 R's. As stewards, here are three more R's that are important:

1. **R**ead the union contract,
2. **R**ite everything down, and
3. **R**eport back.

While the first "R" seems obvious and the second "R" is practical — if not always practiced — the third "R" is often neglected. As a result, great opportunities for strengthening our unions are passed up.

Reporting back simply means keeping members informed about the progress of situations that affect them.

Here's an example.

## The Mystery Check

A worker was sitting at her desk at a major national, unionized corporation recently when a clerk strolled by and dropped an envelope on her desk. The worker opened the envelope and out tumbled a check for one week's pay — no explanation, no notification.

With some investigation, the member discovered that a union rep and company officials had some sort of meeting somewhere over a grievance that she had filed several years ago. She had been hit with a five-day suspension for absenteeism, and then, after missing more time, with a 20-day suspension. But while she had in fact missed time, she was entitled to leave under the Family and Medical Leave Act (FMLA) because she was caring for her ailing mother. Generally speaking, the FMLA prohibits any attendance discipline in such a situation for up to 12 weeks of a worker's time missed over a 12-month period.

To be quite honest, she had lost track of the grievance, although she kept the faith that somehow "the union" would turn the situation around. She had not been notified that any kind of hearing was scheduled, nor had any officer of the

union contacted her to let her know how the case was progressing.

While she was delighted to receive this one-week's pay, now she started to wonder what happened to the other four weeks. Would she get paid for them? Did she lose them? Was this check for the suspension week or for something else?

What's wrong with this picture?  
Plenty.

In this case, the union was very successful in retrieving lost wages for a worker whose rights under the FMLA were ignored by the boss. After considering a grievance, the union's national officers instead threatened a lawsuit for the FMLA protection, and company officials — apparently reading the FMLA for the first time — decided to settle the dispute. This worker soon received the other four week's pay, and her attendance record was cleansed. Eventually, the settlement involved hundreds of workers, in several locals, with a huge amount of back pay and a cleansing of disciplinary files.

But — who knew?

Eventually, the local union officers received formal notification from the company, and through the national union structure, and began to spread word of the victory among the members. A proactive campaign, however, could have brought important organizational gains to the local.

## Communication is Vital

It is a cold hard fact of life that any failure of the union — a lost arbitration, a rejected grievance, internal squabbles — is instantly transmitted around the work site, usually with the eager assistance of management in a conscious — and continuous — effort to undermine and to discredit the union. The boss understands the value of reporting back very well, so why do we have such a hard time carrying out the same plan?

Reporting back at every level of the union is very important, and every union should have a structure in place to make sure it happens. A steward should keep careful track of every grievance, and make sure to regularly tell the members about the developments — good or bad — in every case. It is a lot more pleasant to be the bearer of glad tidings, for sure, but the need to report back also applies to union losses as well.

## Get Organized

Of course, this obligation requires a steward to get organized — you can't organize anyone else if you're not organized yourself. A steward should chart every grievance, where it is in the process, and which members are directly affected. Periodically, the steward needs to check back and let people know what's happening.

One important element of reporting back is to notify all of the union members (and non-members as well, in an open shop) because it proves that the union is powerful, and working, every day. Many members believe "the union" is only around during contract negotiations and they overlook the day-to-day importance of the protection of the union contract and union organization. They also think that individual grievances only protect an individual, without realizing that the whole contract is being defended.

The evolving structures of local unions make reporting back even more essential. Once upon a time, union officers worked right alongside the members, in small local unions where everyone knew everyone else. Locals now are getting larger, and often include multi-site units and even different employers. Grievances can be handled by officers, or by district reps or even by national union staff people, so the lines of communication can be long and complicated. Official union notices or newsletters are often published long after an event, so the steward has to be sharp and prompt.

*— Bill Barry. The writer, director of labor studies for the Community College of Baltimore County, Maryland, thanks the members of CWA Local 2101, in Parkville, MD, who helped with this article.*

**T**he most vital part of any army is the front-line soldier. Without the troops, even the most brilliant battle plan is useless.

In a union, the front-line soldiers are its stewards. Without stewards diligently enforcing their contract in the workplace, that contract is just words in a book. Without stewards looking out for the interests of their co-workers, abuse and discrimination are invited.

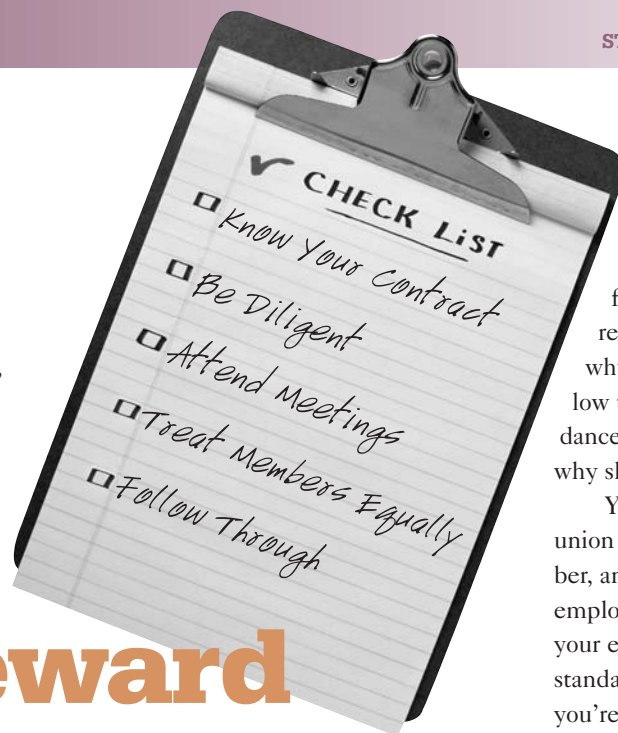
A steward is, at one time or another, part attorney, part psychologist, part policeman and part priest. He or she is expected to represent, defend, analyze, protect, sympathize with and be the confidant of fellow members. A steward is also expected to be a leader and a role model in the workplace.

With this significant role come many important responsibilities to both your union leadership and your brother and sister workers.

### **Know Your Contract**

First, the steward must have a good, working knowledge of the union contract. Such an understanding is the foundation of every representative's work. Stewards are questioned or challenged on contract issues almost daily. Knowing the article numbers and general location of provisions that consistently come up will make stewards more efficient representatives — and make their lives easier as well.

Stewards are the eyes, ears and sometimes voice of the union in the workplace. Union leadership depends on stewards to help carry out the policies and initiatives of the organization, and for feedback on the problems and issues confronting the membership. That doesn't mean calling the officers daily, or about every little issue. Remember, they have multiple responsibilities as they deal with all the complexities that come with leading an organization, so a good steward learns to seek counsel when necessary but not involve the top leadership in routine matters.



## Steward ABC's

Another important aspect of your responsibilities to your union leadership is grievance handling. The way in which you initially handle a case can have a tremendous effect on its outcome. Dispute resolutions and arbitrations can be won or lost on your diligence in gathering evidence, procuring witness statements and every other step in the grievance process. And remember that the very best grievance for the union is the one you win without having to file: rallying your co-workers to pressure management to do the right thing not only can resolve the problem much faster than a multi-step process, it helps to strengthen the union at the same time.

Your responsibility in this area also includes telling a member when he or she doesn't have a legitimate grievance, along with an explanation as to why.

### **Attend Meetings**

In addition, your union leadership depends on you to regularly attend membership meetings in order to stay informed and, much like the town crier of old, to carry important information back to the workplace for those members who can't or simply don't attend.

For your brother and sister members, your responsibilities to them are just as vital as those to your union leadership.

More often than not you're the most visible representative of the union in the workplace. As such, you're a measuring stick for your fellow members. If you're not a registered voter and politically active, why should they be? If you don't follow the work rules, have a good attendance record, and abide by the contract, why should they?

You owe it to yourself and your union to be a good and responsible member, and you should be a solid, reliable employee as well. It's against the law for your employer to hold you to a higher standard than other workers just because you're the union steward, but the fact is that the better the worker you are, the more respect you'll get from management on all fronts — including when you're wearing your steward's hat.

It's also important that you treat all members fairly and equally regarding their rights in the workplace and protections under the contract, no matter what your feelings about the individual are. You have a legal duty of fair representation and — at the risk of putting both yourself and your union in legal hot water — must honor and respect that duty.

### **Follow Through**

Finally, you should always follow through to resolution any task that you take on, whether it's for a member or the union leadership. By doing so, you'll gain respect and admiration as someone who can be depended on.

Being a steward can mean long hours with little or no compensation. Stewards can find themselves criticized more often than they are praised. You're a hero one day and a bum the next. But take comfort in the fact that your union couldn't operate effectively if not for your daily efforts. Recognize that you're an integral part of the representation process, and remember the responsibilities that go with it.

So march on, good soldier, for the battle would be lost without you.

— David Bates. The writer is a 22-year member and former steward and president of a Transport Workers Union local in Florida.

# Alternative Approaches to Discipline

**S**ometimes a worker is guilty as charged and even the greatest steward in the world can't prove otherwise. But if the steward has good negotiating skills, the worker in question has an otherwise clean record, and the employer is reasonable, it still may be possible to help. There are two methods worth trying, called limbo and conditional discharge.

## Living in Limbo

"Limbo" is effective for first-time verbal or written warnings where there's been no previous history of the conduct or behavior and the employee has a good record. It can also be used in other situations.

To start, union and employer agree the purpose of the discipline was to "wake up" the worker to change his behavior, not permanently damage or punish him.

Next, an agreement is put into writing stating the discipline will be temporarily removed from the file and the member's record under the following conditions:

1) Paperwork supporting the discipline, and the discipline itself, will be held in a special employer file for a period not to exceed normal contract limits for active discipline, or some other agreed-upon date. At the same time, all references leading up to and including the discipline will be purged from all of the worker's files.

2) If, by the time the agreed-upon date is reached, there has been no repeat of the conduct or behavior, the discipline will "die a natural death" in the special file and the paperwork will be destroyed. It will never be considered as having been a part of the employee's record or having ever occurred.

3) If, before the expiration date, the behavior or conduct is repeated, then the original discipline and documentation comes back into the file but both sides agree it will not be grieved. The employer can impose the next step of discipline for the repeat behavior/conduct, with the understanding the union can grieve it.

The basic idea behind this limbo method is that it's not productive to argue about whether or not a verbal or written warning was appropriate or will change a member's behavior or conduct, because labor and management simply cannot predict the future — only the worker can determine what happens down the road. Using the limbo alternative can result in positively re-focusing the traditional labor-management "blame and shame game" by empowering the member and allowing him to take control of his future by having an opportunity to correct the past. For management, especially, it's a way to motivate a potentially valuable long-term employee.

## Conditional Discharge

The other method, used in termination situations, is called conditional discharge. It doesn't change termination but it does provide a process for the member's possible return. Although it can be used in different circumstances, its primary use has been in cases involving substance abuse and off-duty criminal behavior.

First, the off-duty criminal charge.

In such situations, both sides can waste a lot of time in the grievance process playing criminal court and trying to predict the outcome of a civil trial. Under conditional discharge, however, the member, although temporarily discharged, can be re-instated under the following conditions: The grievance process is sus-

pending with the parties agreeing the outcome of original criminal charges will resolve the grievance as follows: 1) either the withdrawal or acquittal of the original arresting charges will result in the return of the member to full employment and make him 100 percent whole, or, 2), should the member be found guilty of the original criminal charges, or accept a plea bargain, the union will either not file the grievance or will withdraw it.

In substance abuse cases the conditions for reinstatement can be as follows:

■ The member can be eligible for employment after demonstrating three things: successful completion and long-term maintenance of rehabilitation; successful long-term maintenance of employment with another employer, and documentation about the member's success from counselors and others in his support system.

■ After being determined eligible for employment the member is free to apply, and management agrees to consider the application without any prejudice.

■ If the member is selected for a position he will be on probation for a period greater than the contract normally allows, to be agreed upon in advance by the parties, and so stated in the conditional discharge.

■ At the successful end of the probationary period the employee is to be completely reinstated and made 100 percent whole as if he never left the company, and the discharge is purged from all records. Again, this is a way the employer can bring back, with confidence, a trained, veteran worker.

**I**n summary, the next time it looks like the employer is holding all the cards you may want to see if he'll consider one of these approaches. They have the potential to help co-workers who find themselves in hot water, and to help employers motivate and keep skilled employees who made mistakes but proved they had mended their ways.

— Bob Oberstein. The writer is a professor at Ottawa University, Phoenix, Arizona, where he teaches courses in labor management relations, human resources, effective grievance processing, arbitration and labor/employment law. He also serves as an arbitrator, mediator and fact-finder.

# Vacation and Holiday Disputes

**E**veryone likes paid holidays and vacation time, but to some stewards it seems as if these benefits bring nothing but headaches: not the time off, of course, but the conflicts that can arise around issues of pay and scheduling.

Workers want to take the time off that most suits them, while management needs to maintain productivity during certain times by keeping enough people on the job. Sometimes those interests conflict and cause real problems. Here are some arbitration cases that illustrate what stewards can run into — and maybe expect as the outcome of their grievance.

## Computing Vacation Pay

An employer computed vacation pay on the basis of a 40-hour work week instead of average weekly earnings, the approach the union thought proper. The arbitrator sided with the company, noting that vacation pay based on 40 hours had been the practice for the past 20 years.

## Earning Vacation While on Workers' Compensation

A worker off as a result of an industrial injury filed a claim for vacation earned over the period he was out. The claim was denied by the company. An arbitrator upheld the worker, noting that past practice treated time off on industrial injuries the same as time spent in active employment, provided the worker had been off for over a year.

## Pay for Holidays

Some employees called in sick the day before Good Friday holiday and were denied pay on grounds they didn't have a doctor's excuse. The arbitrator ruled for the union, noting that past practice didn't require employees to provide medical verification for pre- and post-holiday absences to receive holiday pay.

In another case, an employer denied holiday pay to employees who were tardy

or left early the day before or after a holiday, claiming management had a standing policy that justified the denial. The arbitrator sided with the union, saying that the contract called for merely showing up for work on the day before and after the holiday.

## One-day Vacations

The employer decided to bar employees from scheduling one-day vacations on the same day they wanted off. The union said this policy violated a long-standing past practice. The arbitrator went along with the company, saying the contract provided that the "company will determine when each employee may take his vacation," and past practices aren't controlling when the contract is clear.

## Fired and Then Reinstated

An employer refused to credit discharged employees with previously earned vacation time after they were reinstated through a mediated agreement. The company contended that it had a long-standing practice on the question dating back to 1979. The arbitrator ruled for the union, accepting the union's argument that they hadn't heard about the policy until it came up in this grievance and they had never agreed to the policy.

## Laid off and Re-hired

The employer pro-rated vacation benefits of employees who returned to work after a layoff. The union said the benefit should not have been reduced. The arbitrator agreed with the union, saying that while employees get pro-rated vacation pay if they terminate service, the seniority provision states that service terminates only after an employee has been off for

one full year, and that had not been the case here.

## Picking Vacation Dates

An employer based vacation picks on shift seniority, claiming that had been the procedure for the preceding ten years, while the union said the contract called for using classification and employment seniority only. The arbitrator agreed with the union, saying the contract was clear on the question.

**Competing interests can lead to conflicts over pay, scheduling**

## Family and Medical Leave Act

The employer required employees to exhaust their vacation time before non-personal illness/injury (FMLA) leaves could commence. The union complained, and the arbitrator said that the law

put new requirements on the company: workers didn't have to use up their vacation and sick leave time before going off on FMLA leave.

## Vacation Shutdown

The company shut down the plant for vacations. The union filed a grievance, arguing that hadn't happened for 20 years. The arbitrator ruled for the company, noting that contract language stated the employer "reserves the right to designate any period of time during the year for shutting down the plant for taking of vacations."

**W**hen working with cases like these, keep in mind what emerges as a basic principal: The contract is important but arbitrators also look at long-standing past practices or deviations from the language of the agreement, so the steward should be prepared to bring them up.

— George Hagglund. The writer is professor emeritus with the School for Workers at the University of Wisconsin-Madison.

**International  
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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear Sisters and Brothers,

“When the Union’s inspiration through the workers’ blood shall run, there shall be no power greater anywhere beneath the sun; yet what force on earth is weaker than the feeble strength of one, but the Union makes us strong.” The opening verse to *Solidarity Forever* reminds us that collective action is foundation of our power.

In the spirit of collective action and consolidating our strength, I’m proud to announce that the Transportation Communications International Union (TCU) joined forces with the IAM and will become an integral part of our organization. Railroad workers formed both our great Unions and I welcome the TCU into the IAM.

There is no shortage of threats against everything we value as working North Americans. We are in a constant battle to retain workers’ rights in both Washington, D.C. and in Ottawa. But when we stick together and persevere, we can win. The same week Congress approved another failed trade pact, CAFTA, we won a five-year battle to get a tentative agreement for our brothers and sisters in the freight railroad industry.

Solidarity is the key to overcoming the challenges we face. IAM members keep North America moving and I feel that one specific verse of *Solidarity Forever* was written specifically for the Machinists: “They have taken untold millions that they never toiled to earn, but without our brain and muscle not a single wheel can turn. We can break their haughty power, gain our freedom when we learn, that the Union makes us strong.”

Solidarity begins with you, the steward. You are the Union to many members and I can’t thank you enough for doing your part to keep our union strong.

In Solidarity,

R. Thomas Buffenbarger  
International President

