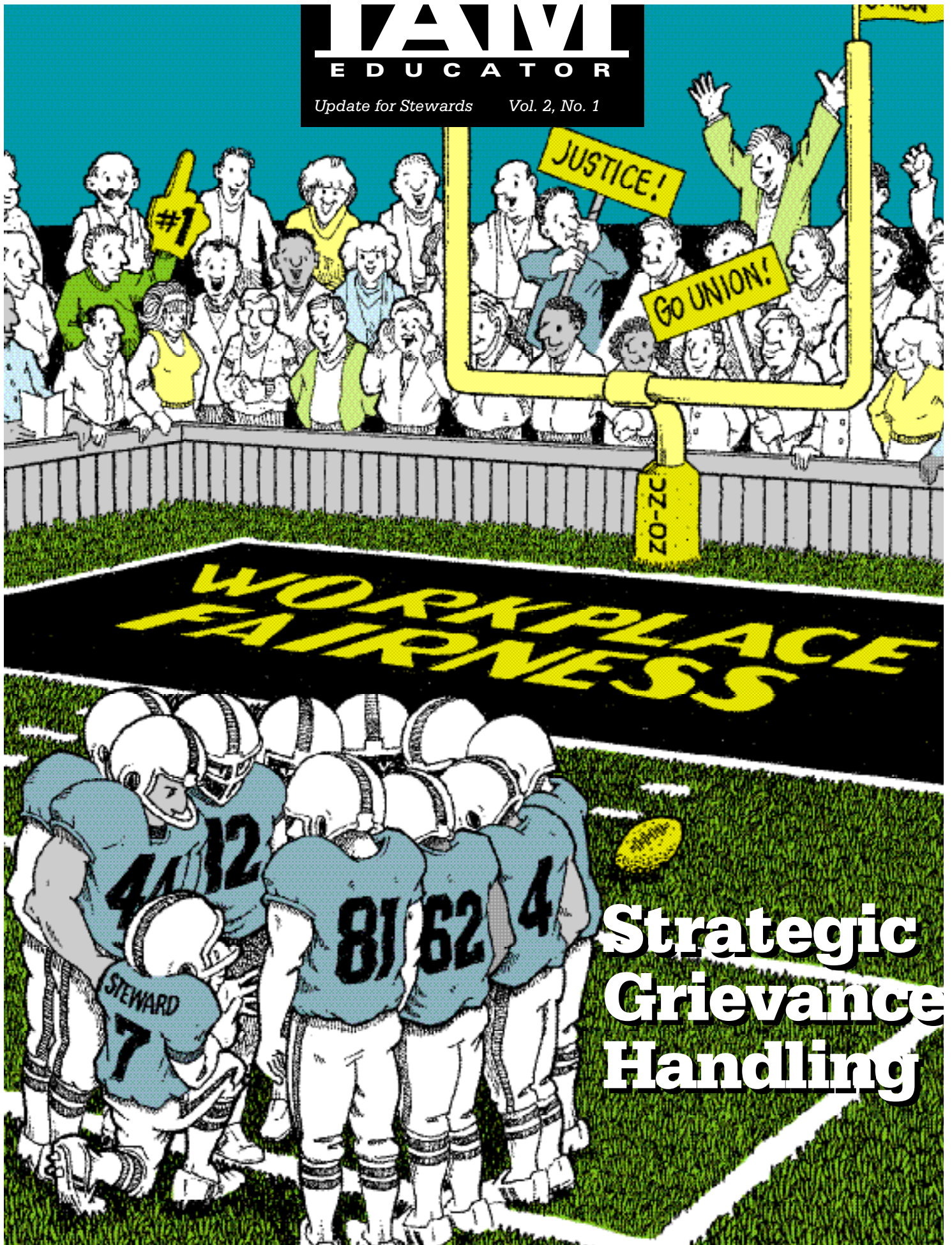


I A M

E D U C A T O R

Update for Stewards Vol. 2, No. 1



Strategic Grievance Handling

Strategic Grievance Handling

Imagine a doctor who tells every patient to take aspirin no matter what the ailment, or a carpenter whose only tool is a hammer.

No, this isn't an article about HMO's or an ad for tools. It's about thinking strategically when you file grievances. Rather than "prescribe" a written grievance for every problem your co-workers encounter on the job, or view every workplace issue as a "nail" that needs pounding, you can be more thoughtful and strategic — and strengthen your union and its ability to fight for the workers — by asking and answering questions like those below.

Is this a continuing problem or one-time occurrence?

When you've got a situation where one member is unfairly disciplined for absenteeism, a grievance that challenges management's action might be exactly the right thing to do. But what if the discipline is part of a new harsh attendance policy, and this one discipline is the beginning of managements' expected crackdown? Filing one grievance at a time may never get you the solution you need, at least not in a timely manner. But dealing with the policy with some group grievances and actions, and perhaps making it an issue in bargaining, might get better and faster results.

If this case is going to create a precedent, is it the right test case?

If you decide to challenge management's new attendance policy through a grievance, you want to make sure you have a case that very clearly demonstrates the unfairness of the policy to an arbitrator. If the grievance goes to arbitration and you lose, you may be stuck with the result for a long time. It is often wiser — a better strategy — to wait for a stronger case or series of cases that the union can

take to arbitration with the hope of getting a favorable decision or a good settlement from management.

Who has the power and authority to resolve the issue?

It's not always clear who in management can resolve an issue. Often stewards are tempted to "beat up on" the closest or nastiest manager or Human Resources representative they can find. But if these are not the people who can change things, you are wasting a lot of energy and time on the wrong targets. It may take some probing to find out just who in management has the final say on an issue, but it's time well spent.

What is the source of the problem?

Let's say you are about to file your umpteenth grievance over an incident where a member curses out a supervisor — a supervisor who routinely provokes these incidents by "forgetting" to talk to employees with the proper respect. Does one more grievance challenging the discipline do anything to attack the source of the problem? A more strategic approach might be a group grievance about the supervisors' unacceptable behavior.

Besides grievances, how else can we resolve this problem?

Would even an arbitrator's decision telling the disrespectful supervisor to "cease and desist" change the situation?

Perhaps yes, but more likely the problem will continue until you change or expand your strategy and tactics. It might be time for some kind of demonstration. Or giving the silent treatment to the supervisor. Or filing a discrimination charge (if some of the supervisor's com-

ments or conduct constitute unlawful discrimination). Or all of the above.

Like the carpenter with only a hammer, a steward whose toolbelt contains only grievance forms doesn't have all the tools necessary to get the job done.

What forces are in the way of resolving the problem?

Let's say the disrespectful supervisor is getting the best productivity that management has ever seen from the workers.

Does upper management have much incentive to lean on him to clean up his act? No, so your strategic thinking might lead you to come up with a group plan that offsets the productivity gains. Perhaps bringing large numbers of workers to long grievance "meetings" with management, or making sure everyone is taking enough

time to do every job exactly correctly and safely, will give you the leverage you need to achieve a solution.

Or maybe the reason management is dragging its feet on reining in the offending supervisor is its concern that it will cause them to lose "face" — look bad in front of the workers and weaken other supervisors. If this is the case, then you and your members need to do some strategic thinking about whether it's worth it to give management a face-saving way out of the situation.

So the next time management gives your members a "headache" don't just reach for the grievance aspirin. Stop and think strategically about other alternatives. And remember, sometimes it takes something other than a hammer to screw management's bad decisions to the wall.

— Ken Margolis. The writer is on the labor education faculty at Cornell University.

Think twice before you file that grievance: there may be a better way to reach your objective

Lying to Cover Up Dishonesty

When workers do something dishonest or make an error that violates an employer rule, they may try to lie their way out of it. While that may be an understandable (although hardly admirable) response, a study of arbitrators' decisions makes it clear the tactic is not a good one: getting caught lying is likely to result in a harsher penalty than would have been imposed for the original act. Because human beings try to cover their tracks by lying, it's the rare steward who won't be faced with representing a co-worker who gets into trouble this way. So, for a taste of what you can expect, you might want to take a look at arbitration outcomes in a variety of such cases.

Funeral Leave

An employee requested personal leave on short notice to attend a funeral, but engaged in moonlighting by driving a tour bus instead. He lied when asked where he had been, and was fired. The arbitrator upheld the discharge, saying that even though personal days may be a private matter, the employees knew that once a schedule was posted, changes were a problem for the company, and the employee lied about where he had been.

Borrowing Money

A nursing home worker was fired for violating a rule that forbid staff members from borrowing money from patients. The arbitrator reduced the penalty to a three-month suspension. Even though she knew about the rule, the arbitrator said, the worker had no intent to defraud the patient, and it was not an act of dishonesty sufficient to justify discharge.

Diligent Security Guard

A security guard was demoted for keeping an audit group waiting for 15 minutes,

being out of uniform, deliberately lying, and trying to enlist a co-worker in a cover-up as to the reason for delay. The arbitrator reversed the demotion and instead ordered an eight-day suspension, saying that the guard's radio had alerted him to unusual activity on the company's grounds. The arbitrator said, however, that it was not unreasonable for the company to require the guard to be fully dressed in his uniform when on duty.

Bus Ride

A transit company employee was fired after he took a bus for a joy ride and lied to the company president about his actions. The arbitrator put him back to work, declaring that the discharge was in violation of the concept of progressive discipline, and no criminal charges were brought since no one thought the grievant was stealing the bus.

Union Business

A worker called in sick and then participated in picket line activities at another of the company's plants. When confronted, she lied about her actions and was subsequently fired for absenteeism. The arbitrator upheld the company, saying that, even though the progressive discipline scheme called for a lesser penalty, her misconduct involved dishonesty, abuse of time, and receiving pay under false or misrepresented circumstances. The union pointed out that the union president had also taken time off to be on the picket line, but the arbitrator noted the president had taken union leave time off and didn't misrepresent his actions.

Smoking on the Job

A worker was caught violating a no-smoking rule, lied about it, and was fired six months later. The arbitrator upheld the discharge, since rules stated that violating the no-smoking rule and lying were both

grounds for discharge, and the company took prompt action when it discovered the falsification.

Stealing Company Property

A worker was fired for helping to hide a co-worker's theft of company property and falsifying a report as part of the cover-up. The arbitrator upheld the firing because the worker had lied about his role in the incident when he was subsequently questioned by the foreman and he was subject to immediate discharge under the terms of an earlier reinstatement agreement.

Dental Appointment

A dispatcher reported to work more than two hours late and then lied repeatedly to his supervisor, telling her he had been to a dental appointment. The arbitrator reduced the penalty to a suspension because the grievant lied to hide the fact he was having marital and personal problems, and the lie was such that a lesser degree of progressive discipline was appropriate.

So, some points to keep in mind when handling disciplines that flow from charges of lying:

- n Lying can alone be sufficient to warrant discharge or suspension, especially if there's a rule that the employer can quote. Make sure that you check the employer's rule book on how it treats lying or fabrication.
- n Some acts that resulted in lying may be of such a petty nature that the arbitrator is willing to reduce the penalty. Make sure you determine whether the lie had a serious impact upon the business.
- n Using sick, funeral, or personal leave for some purpose and then lying about why you took the time off can lead to problems. Make sure that your co-workers are aware of the need to be honest about why they took time off.
- n Workers who cover up for other employees may themselves be subject to suspension or discharge, especially if the dishonest act is a serious one.

— George Hagglund. The writer is professor emeritus of labor education at the University of Wisconsin – Madison.

“GLBT”: It Stands for “A Union Issue”

As times change, so does the range of issues a good union steward must be familiar with in order to serve the needs of members. A good illustration is concerns related to sexual orientation and identity that come up in the workplace.

Not too many years ago, the existence and the needs of those outside of the mainstream society’s definition of sexual identity were pretty much ignored, and the question of their rights was just about universally a non-issue. To say that things have changed in recent decades is a huge understatement. More and more people, from all walks of life, are “out,” and both the larger society and labor unions are engaged in lively discussion and action over issues including discrimination based on sexual orientation, marriage rights, and equal access for gays to the union contract rights and other benefits that are available to straight people.

Insufficient Legal Protections

But for all the advances in getting rid of this type of second-class citizenship, there’s still quite a ways to go. In the United States, the proposed Employment Non-Discrimination Act, which would outlaw employment discrimination based on sexual orientation, has not yet been enacted into law. While 11 states bar discrimination based on sexual orientation, the absence of federal legislation means that discrimination is not illegal in 39 states. In Canada both the Human Rights Act and legislation in all provinces and territories now outlaws discrimination based on sexual orientation, but transgendered people aren’t covered except in the Northwest Territories. (“GLBT” stands for “gay, lesbian, bisexual and transgendered” with that last category referring to someone who is not comfortable with or rejects the traditional definition of gender identity.)

The day-to-day consequences of the lack of legal protection are broad and seri-

ous. Without the protection of a union contract, for example, most American workers have no legal recourse if they are fired because they’re gay. And if your union contract, like most, gives rights based on marital status, you will be able to get health care coverage or to use leave time to care for your ill life partner only if you’re straight (since gay marriage is not quite yet a reality).

Leadership Recognizes the Issues

The national labor federations in the U.S. and Canada now each have an arm that focuses the organization’s work on these issues, and countless national and local unions have placed these items high on their bargaining and legislative agendas. What’s the basis for this understanding that GLBT issues are union issues?

n the fundamental union principle is fairness, and every union member deserves the protection the union offers; it simply doesn’t matter whether that member is black or white, male or female, or gay or straight;

n since discrimination against GLBT people and assigning them to second-class citizenship is perfectly legal in so many instances, there’s extra importance to achieving protection in the workplace that only a union can win;

n unions increasingly are becoming a voice heard louder and clearer outside the workplace, including in the political arena. So they have the power to be a leading force for equal rights for GLBT people, just as they often have been for women, people of color, and others treated unfairly in society;

n looking the other way when any type of discrimination exists in the workplace plays right into the employer’s hands; the oldest trick in the book for keeping workers weak as a group is to divide and conquer. For the maximum power in any fight the union has with the employer, it needs the unity of all groups in the workplace.

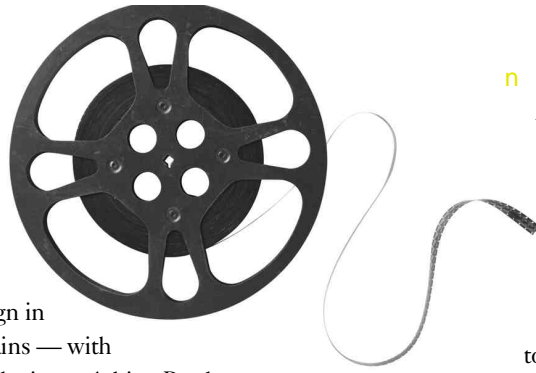
The Steward’s Job

What’s your job as a steward in fighting against these kinds of discrimination in the workplace and working toward equal rights? The main battlefield is usually the collective bargaining agreement. Contract provisions that include sexual orientation and identity on the list of prohibited types of discrimination are becoming increasingly common, as are extending various benefits — health care, sick and bereavement leave, and so on — to an employee’s gay or lesbian partner. And once the contract rights are won, your role as the “eyes and ears” of the union and as an advocate for members’ rights means that you’ve got a key role to play both in educating your co-workers as to their collective bargaining protections and in uncovering instances of unfair treatment so that the union can use the grievance procedure or other tools to ensure equality. Outside the workplace, you can make legislative and other links between GLBT issues and other union issues.

Finally, a word to straight union steward brothers and sisters: as in every other aspect of your work as a union representative, no one expects you to be an instant expert in this particular set of issues. The only reasonable expectation is that you understand the importance of working for fair treatment for your GLBT co-workers, and that you turn to others for the background information you may need. In addition to resources provided by the AFL-CIO and the Canadian Labour Congress, many national and local unions now have either departments or caucuses that focus specifically on these issues. And, of course, the likelihood is that in your workplace are fellow workers who are gay, lesbian, bisexual or transgendered: the best estimate today is that around five percent of the population — one in 20 persons — are GLBT. Your responsibility is simply to consult with “out” co-workers so you can learn what you need to know to be effective in this part of your job.

— *Michael Maurer. The writer is author of The Union Member’s Complete Guide.*

Movies that Motivate



How hard can it be to find a good labor film? Sometimes, too hard! Here's a handy guide to "movies that motivate," a film list that you can take to your local video outlet or use to order by phone or on the Internet. There's nothing like a good labor movie to get yourself energized, to use as a draw to get people to a union meeting...or both.

I'll begin with what I call, in more ways than one, a Blockbuster list, since these are old or new feature films easily available, films that will sometimes get us cheering in our seats or on our living room couches:

n Norma Rae, 1979. Based on a true story, this is the gold standard in many ways; we see how an unusual team of leaders — big city organizer, small town gal who gets around — win a recognition vote by defeating apathy, favoritism, racism, company-police coziness, and just about everything else.

n Matewan, 1987. Based on the West Virginia Coal Wars after World War I, local miners learn that in order to win a strike they must accept into their ranks the Italian immigrants and African-Americans who had been brought in to scab.

n The Grapes of Wrath, 1940. It's a Hollywood black and white classic that has never gone out of style: it exposes the cooperation between farm owners and sheriff's lackeys and points to the need for solidarity among the migrant workers of the 1930s, as Henry Fonda brings John Steinbeck's hero Tom Joad to life.

n Newsies, 1992. Some adults find it silly, but your potential preteen labor organizer will love this Disney family film, in which NYC's newsboys organize to defeat evil newspaper bosses; based on actual incidents in 1899, it includes an incredibly militant trolleyman's strike that inspired the newsies.

n Bread and Roses, 2000. A relatively recent dramatization of SEIU's Justice for

Janitors campaign in LA which explains — with Academy Award winner Adrian Brody as an organizer! — the nuts and bolts of the campaign to organize the immigrant labor force.

If these are not available locally, you can rent or buy them: as DVDs now dominate the market, prices have come down, but there are still outlets to rent either DVD or VHS tapes or buy both. Here's a highly selective list of outlets I use, but don't forget that even amazon.com can offer some good deals as well, selling both new and used films. The following will work for the classics listed above as well as some of the feature length films I recommend below:

n VHS sales only:

Movies Unlimited at www.moviesunlimited.com or 1-800-4MOVIES

n VHS and DVD rentals and sales:

Facets Video at www.facets.org or 1-800-331-6197

n VHS and DVD rentals only:

Video Library at www.vlibrary.com or 1-800-669-7157

n VHS and DVD sales only:

Labor Heritage Foundation at www.laborheritage.org or 1-202-974-8040

n DVD sales online only:

Deep Discount DVD at www.deepdiscountdvd.com

n DVD rental online only:

NetFlix Inc. at www.netflix.com

The following feature length films are really worth seeing, but they are usually not available around the corner; you will have to go on line or call. If you are fortunate enough, you can check one of them out at a local library or media center:

n Harlan County, USA, 1977.

Academy Award-winning documentary on a strike won in part by miners' militant wives in eastern Kentucky.

n The Killing Floor, 1984. Feature film on organizing in the meatpacking industry in Chicago, when black-white conflicts before and after World War I had to be resolved to win.

n Salt of the Earth,

1954. A blacklisted feature film in which (again) the wives of Mexican American miners carry on the struggle, not only against the mine owners but against their suspicious husbands.

n Ten Thousand Black Men

Named George, 2002. How to win respect and a union for the African-American sleeping car porters.

Too many people hear the word "documentary" and groan ("not exciting," they say, or "not entertaining"), but I can point to three documentaries that are not only exciting and entertaining but ones in which the good guys win and show you how they do. They're a little harder to find (and usually more expensive to rent or buy), but worth the effort:

n Justice in the Coalfields, 1995.

How the UMW fused a successful coalition of supporting unions, regional workers, and national organizations to stop Pittston Coal from destroying the health provisions of their contract. Order at www.appalshop.org or 1-800-545-7467

n One Day Longer, 2000.

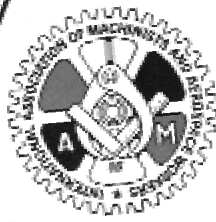
The moving story of the HEREIU strike at the Frontier Casino in Las Vegas, when workers walked the picket line for six years and won. Order at www.balmaidenfilms.com or 1-310-559-7065

n At the River I Stand, 1994.

The story of the bravery of the Memphis sanitation workers, all African-American, whose AFSCME strike brought Martin Luther King to the city to help mediate, with tragic consequences. Order at www.newsreel.org or 1-877-811-7495

— Tom Zaniello. The writer is director of the honors program at Northern Kentucky University. He also teaches *Images of Labor in Film in the National Labor College at the George Meany Center* and is author of *Working Stiffs, Union Maids, Reds, and Riffraff: An Expanded Guide to Films about Labor* (ILR/Cornell University Press, 2003), available at

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Dear Sisters and Brothers:

This issue of the *IAM Educator* explores Strategic Grievance Handling, an area of representation where experience and training are priceless. Nothing distinguishes a union-represented workplace quite as much as the due process of an established grievance procedure. Nothing raises the profile of our union more than the successful defense of its members and their contract.

Many IAM representatives have the advantage of a long history in workplaces where they represent members. Established practices and undisputed contract language often make for timely resolution of contract-related disputes. In newly organized and highly adversarial environments, however, grievance handling can be an extension of contract negotiations, where employers seek to establish advantages they were unable to achieve at the bargaining table.

As a grievance handler, you must be attuned to the individual case at hand, as well as the larger issues. It is worth remembering that every dispute has the potential to end up before an arbitrator, whose rulings can have far reaching and long-lasting impact.

This issue urges union representatives to consider all their options when faced with problems that appear bound for the grievance procedure. "Sometimes it takes something other than a hammer to screw management's bad decision to the wall," concludes the article. I would add that it is just as important to understand the full power and force of the grievance procedure. Used wisely, it reminds employers and employees of their mutual obligation to resolve differences in the most timely and efficient manner possible.

And that's a good thing.

In solidarity,

A handwritten signature in black ink, reading 'R. Thomas Buffenbarger', is enclosed in a rectangular box.

R. Thomas Buffenbarger
International President

