



THE UNIT OFFICER/STEWARD'S PROTECTED STATUS

Are unit officers/stewards who aggressively protect the rights of members protected from retaliation or discipline? The answer is generally “yes,” but be careful: that doesn’t mean a unit officer/steward has the freedom to shoot off his or her mouth to management or engage in extreme behavior on every issue. While handling contractual issues with management, unit officers/stewards are considered equals, but that equality only applies to activities relating to their work on behalf of the union. There are limits to a unit officer/steward’s right to argue forcefully or otherwise emphasize the union’s stand in vigorous ways. Some of these limits and rights will be discussed here. To set the stage, let’s take a quick look at **TWO KEY RULES** governing unit officer/steward’s rights.

1. THE EQUALITY RULE

Under the law, when unit officers/stewards are engaged in representational activities, they are considered equals with management. Vigorous advocacy is permitted, and what would not be allowable in the normal boss-employee relationship. The equality rule does not apply to their personal behavior or insubordination not related to their duties. The later is what often gets a unit officer/steward in trouble.

2. THE SAME STANDARDS RULE

The employer may take the position that, because the unit officer/steward should know the contract better than the members, the unit officer/steward’s standard of behavior should be better. Under the law, though, an employer must apply the same standards to unit officers/stewards as other employees. And, unit officers/stewards are subject to the same discipline as other workers if they violate the rules of conduct.

Since the line between acceptable and unacceptable behavior is not always clear, unit officers/stewards who go to extremes can risk their jobs. While they are protected while functioning as union representatives,

in their personal behavior they are judged by the same rules as other workers.

Here are some examples of protected and unprotected activities as found in recent arbitration decisions:

POLITICAL BUTTONS

A unit officer/steward was cited for “gross insubordination” for wearing a political button following issuance of a new policy prohibiting wearing of political emblems. The arbitrator disagreed with the decision and lifted the suspension because the officer removed the button as soon as the boss told him he was subject to discipline; he wore the button in an attempt to secure written evidence of the policy, which management hadn’t given him; and another manager’s comments about the gravity of the infraction was inadequate notice to employees.

WORKING IN THE RAIN

It was raining and management ordered a unit officer/steward to work outdoors. He disagreed with a union bargaining concession that allowed working in the rain and left the job. He was fired and later claimed he left because he was sick. The arbitrator upheld the discharge, saying he fabricated the illness excuse to cover going home when ordered to work.

LOUD & BELLIGERENT IN MEETING

A union officer/steward was disciplined when in a grievance meeting he responded to management in a “loud, belligerent, and vulgar manner.” The arbitrator reversed the discipline, saying that the unit officer/steward’s language was not so outrageous that it crossed the line between vigorous advocacy and misconduct.

In another case a unit officer/steward was fired when he attended a meeting called by management to discuss the need to have employees work a full shift. He walked off the job and shouted obscenities after

the meeting. The arbitrator upheld the discharge on grounds he had gone too far.

CHECKING TIME CARDS

A unit officer/steward was fired after he was ordered to stop looking at other employees’ time cards but had continued to do so. The arbitrator upheld the discharge, saying management had reasonable cause to require the unit officer/steward to go through supervision before reviewing time cards. The arbitrator noted the unit officer/steward should have followed the principle of “obey now, grieve later,” when there was no immediate danger from health or safety hazards. Further, the union did not establish that the unit officer/steward who was fired for insubordination was a victim of retaliation, even though he thought he was. The arbitrator said the unit officer/steward’s subjective feelings were not supported by the facts.

“ONE OF THESE DAYS...”

During a heated encounter with a supervisor, the unit officer/steward said, “one of these days...” but never finished the sentence. The unit officer/steward was fired for threatening his boss. The arbitrator said the unit officer/steward should not have been fired and ruled that the statement in and of itself was not a threat; gentility is not characteristic of grievance processing; and the evidence didn’t prove that the grievant threatened the supervisor.

Two key things to remember when considering a unit officer/steward’s protected status:

- Unit officers/stewards enjoy significant but not total protection while they are engaged in union business.
- Insubordination that occurs as a result of the unit officer/steward’s personal (as opposed to union) response to a situation is punishable under the contract and rules, the same as others in the workplace.

By George Hagglund

New Years Resolutions and How to Achieve Them!

Here is list of some common New Year's resolutions with links to useful articles that deal with the issues in greater detail.

- *Get in shape:* Losing weight is the top resolution for Americans. It's easy enough to start an exercise and diet program, but the trick is to find a decent one that will give you steady results and will be easy to stick to in the long run. (www.lifehack.org/articles/lifestyle/10-fitness-mistakes-you-need-avoid.html)
- *Start eating healthier food:* Switching to a healthier diet can be tricky when we are surrounded by cheap junk food. Learn to control emotional eating and check out these healthy recipes. (www.lifehack.org/articles/lifestyle/6-ways-control-emotional-eating.html)
- *Improve your concentration & mental skills:* Today we can use anything from apps to ancient meditation techniques to boost concentration and hone our mental skills. (www.lifehack.org/articles/productivity/12-ways-prevent-your-mood-from-killing-your-productivity-work.html)
- *Meet new people:* When we get stuck in a rut we usually end up staying at home, missing out on a lot of interesting opportunities for networking and having fun. Meeting new people can be beneficial to your mental well-being and help your career, so don't be afraid to get out and make some friends. (www.lifehack.org/articles/communication/ten-tips-for-shy-people-meet-friends.html)
- *Become more confident and take some chances:* A good dose of self confidence will help you lead a much happier life overall. (www.lifehack.org/articles/lifehack/63-ways-to-build-self-confidence.html)
- *Become more polite:* Good manners makes it easier to connect with others, avoid offending people and ensure that others perceive you as trustworthy. (www.lifehack.org/articles/communication/10-smart-ways-deal-with-rude-people.html)
- *Reduce stress:* While stress may be an unavoidable side effect of our hectic modern lifestyle, it can be effectively managed. (www.lifehack.org/articles/lifestyle/10-unconventional-ways-reduce-stress.html)
- *Get more quality sleep:* With big TV's, computers, smart phones, tablets and all sorts of gadgets with glowing lights, it can be hard to get enough sleep at night. There are fairly simple ways to achieve this number if you make use of science and everyday hacks. (www.lifehack.org/articles/lifestyle/how-sleep-better-10-things-remember-for-good-nights-sleep.html)
- *Watch less TV:* The average person wastes a lot of time in front of the TV, time that could be better spent developing skills, learning or keeping your body active. Once you manage to cut down on TV time, you will realize just how long and productive a day can be. (www.lifehack.org/articles/productivity/6-steps-to-remove-tv-from-your-life.html)
- *Read more:* Books are an excellent way to gain a lot of knowledge on a huge variety of topics, and are also great exercise for your brain. You only need to make it a habit, discover your type of books and find a bit of time for reading here and there.
- *Become tidier:* A cluttered desk of chaotic home will negatively affect your productivity and even your mood, so it helps to clear the clutter, and lead a tidier and more organized life. (www.lifehack.org/articles/lifehack/7-ways-to-clear-the-clutter-and-find-your-life.html)
- *Learn to dress with style:* The way you dress can say a lot about you, and wearing the right clothes can make you seem powerful and confident, which in turn can help you get promoted. www.dresscodeguide.com/
- *Spend more time with the people that matter:* There is just too little time in this life for us to waste it on insincere and toxic people. We should focus on the people we care about and those you care about us, as this is the best way to stay happy. (www.lifehack.org/articles/lifestyle/5-ways-to-spend-time-with-your-kids-when-you-have-no-time.html)

Edited from "50 New Year's Resolution Ideas and How to Achieve Each Of Them" by Ivan Dimitrijevic

The Fight for the Right to Keep your Property

The United States Supreme Court recently heard oral arguments in *Timbs vs. Indiana*, an interesting asset forfeiture and property rights case. Many states (including New York) enforce statutes which confiscate a person's property (typically a motor vehicle) as a punishment for certain criminal offenses. The Timbs case centers on the Eighth Amendment's protection against excessive fines. Timbs was convicted of crimes which carried roughly \$2,000 in fines. In addition to the fines, the State of Indiana confiscated his motor vehicle worth roughly \$42,000. The argument on behalf of Timbs is that the State should not be permitted to confiscate a person's vehicle worth \$42,000 for a crime in which the fines are severely less (\$2,000).

Those opposed to asset forfeitures are not just defending Timbs who can afford a \$42,000 vehicle, they are really focused on defending the less well-off individuals. Timbs will likely be able to purchase himself a new vehicle after the State confiscates his. However a large amount of asset forfeiture occurs to individuals who cannot afford to immediately purchase a new vehicle. This leaves these individuals without the transportation they relied upon to perform their daily activities.

As this case was only recently heard before the Supreme Court, a decision will not be rendered for several months. However, the Supreme Court rule that asset forfeitures such as the one issued against Timbs violates the excessive fines clause of the eighth amendment, there will be sweeping changes to state court laws across the nation.

Be Mindful of your Beneficiary

Whereas the Timbs case has only recently been heard before the United States Supreme Court, *Sveen vs. Melin* is a case in which the Supreme Court rendered a decision this past summer. Here are the facts. Sveen and Melin get hitched. Sveen takes out a life insurance policy naming his new wife Melin, as beneficiary. Down the road Sveen and Melin divorce and Sveen passes away a couple of years after the divorce.

Before his passing, Sveen never changed the beneficiary to his life insurance policy. Minnesota (like New York) has a revocation-upon-divorce statute for life insurance beneficiary designations (meaning once someone is divorced, their now ex-spouse is no longer entitled to be the beneficiary of a life insurance policy.) Melin fought for the proceeds arguing the revocation was in violation of the Contract Clause of the Constitution. After years of litigation, the Supreme Court upheld Minnesota's revocation-upon-divorce statute and Melin was not entitled to any of the life insurance proceeds.

The simple lesson for all to learn is that upon changes in circumstances in your life, always make sure your assets are in order (and feel free to call us should you have any questions regarding this.)

Winter's Coming

As the temperatures dip, many people will begin to conduct routine maintenance on their snow blowers. Yet for some this could be the equivalent of handling a live grenade. Certain snow blowers produced by MTD Products and sold at Home Depot and Sears (under the Craftsman logo) and other local hardware stores, were recalled in 2006 due to a defective plastic rim that easily exploded during inflation of the tire. Now, a dozen years later, people are still being injured by these products. Injuries can be severe including broken bones, lacerations and eye damage, among others. Brands recalled include Troy Bilt, Yard Machines, and Craftsman. Plastic wheel rims have been cited for years in recalls of products that include wheelbarrows, scooters, hose carts and wagons. MTD shifted to metal wheels on its snow blowers in 2007, but many of the recalled models remain in circulation to this day, presenting a risk to the consumers who purchased these machines years ago. As put by Rachel Weintraub, Director of Product Safety for the Consumer Federation of America: "The biggest problem with a recall is that the hazard is already out there. To get all the pieces back is kind of like putting Humpty Dumpty back together again."



STEWARD TIP OF THE MONTH

The Five D's to handle paper clutter

Those who master paper clutter have mastered the art of single handling. These people touch a paper and take action. They don't pile, table, ponder, check, reconsider or delay. They get rid of the paper the first time they handle it.



If you want to become a single handler, follow the Five D's:

- **DUMP IT.** If you don't need, get rid of it. Sort your mail over the recycling bin or waster basket. Everything that swirls into the bin or basket is no longer your problem.
- **DELEGATE IT.** Delegate and give yourself more time to work on high-value tasks while building the skills and confidence of people you delegate to.
- **DETOUR IT.** Maybe you need more information before you can delegate or dispose of paper, or perhaps the paper raises significant questions that need to be answered before you act. If you can detour and park the paper for later follow-up, you've saved some deliberating now.

BEWARE: Don't park paper permanently! Create a detour file for delayed papers, but be sure you get the information you need and deal with the paper.

- **DO IT.** Take action, either to get the task done quickly or because there's a high level of urgency associated with it.
- **DEPOT IT.** A depot is a place where something is deposited or stored. Establish an effective depot for papers you need to keep (and only the papers you need to keep).

Time Management for Dummies
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