



# The Badger Bulletin

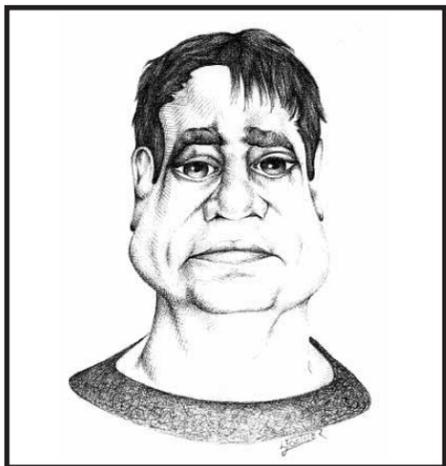
The American Postal Workers Union of Wisconsin

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## THE PRESIDENT'S REPORT . . . BY STEVE LORD



### ~ Notes From DC ~

I've just returned from the National Presidents' Conference in Washington DC. Unfortunately my hopes of finding spring-like weather faded when ten inches of snow fell on the area. Some members from around the country even accused the Wisconsin delegation of bringing the weather with us.

The March NPC in Washington DC was a legislative conference. We heard from President Burriss, Myke Reid, and other national officers. The news is not good. The USPS deficits are becoming staggering. In January alone the shortfall was 800 million dollars. The main reason for our dire financial outlook is the economy, but there are other factors also.

The Postal Accountability and Enhancement Act of 2006 has severely impacted the USPS and in turn the future of our employment. A provision of the PAEA makes the USPS prefund future retirees health care costs to the tune of over 5 billion dollars a year for ten years.

The bill also restricts the USPS' ability to set postage rates. The USPS can only raise rates at the rate of inflation using the Consumer Price Index. The CPI does not include fuel costs. When fuel costs rise the USPS cannot make up for it in postage rates. We also cannot raise rates to make up for revenue declines due to a poor economy.

Please remember that the APWU was the lone voice decrying the potentially disastrous effects of the PAEA. The USPS and all the other postal unions and associations supported this bill. The APWU certainly would have been happy to be proved wrong but unfortunately we were not. So do we throw ourselves on the ground, beat our chests, and pull our hair out? No! We get politically active and look for ways out of this mess; which is precisely why we were in Washington DC.

Milwaukee President Paul McKenna and Vice President Bob Wood, Madison President Marty Mater, Oshkosh President Dave Meier, and I all traveled to DC to lobby our Wisconsin legislators seeking some financial

relief for the USPS. Our APWU Legislative Department prepared a detailed brochure of the APWU's legislative priorities. We presented this brochure at the offices of House of Representative members David Obey, Steve Kagen, Tammy Baldwin, and Gwen Moore. On the Senate side we visited the offices of Herb Kohl and Russ Feingold.

While there are many issues concerning the APWU in the brochure we picked the two we felt most important to discuss during our visits. The first item we discussed was HR22. HR22 is the House of Representatives bill that will give the USPS some relief from the future funding of retiree health care costs. The bill doesn't stop the payment of these funds but it allows the USPS to begin using the fund for present day retirees' health care costs. The savings to the USPS would be about 2.5 billion dollars per year. This would not solve all of USPS' financial woes but in a year such as last year we

would end up in the black.

The other issue we talked about was the Employee Free Choice Act. This bill would make it easier for working men and women to join and form unions. It would prevent companies from browbeating and threatening employees who wish to join or form a union. It would also create a mechanism for arbitration for workers and employers who are unable to come to agreement on a first contract.

You may ask why this is an important issue for postal workers who already have a union. The answer is threefold. First, it is the right thing to do. Every worker should have the same rights as we do to bargain for their wages and working conditions. The second reason is comparability. When we bargain our contracts we are compared to other workers. If by joining or forming unions, workers across America increase their wages we in turn see higher wages. It would put an end

to the race to the bottom that seems to be the plight of the middle class working person. The third reason is to save this country's economy. In my opinion the only way to turn our economy around is by putting money in the pockets of the middle class. Our spending is what keeps the economy sound.

It is crystal clear that the tax cuts to the wealthy have not caused any dollars to trickle down to working Americans. Instead we need a living wage for working class Americans. More unions will accomplish these goals. It is no coincidence that during the heyday of unions the U.S. was most prosperous. This is why Wisconsin delegation went to Washington DC. It is why now that we are back we all must become politically active lest we lose everything we have gained over many years at the bargaining table. Look for these efforts to begin in the near future and plan to get involved.

Thanks for listening.

## Gallup Poll Asked The Wrong Question

by Mike Mazurkiewicz

The announcement last month by the Postal Service of a postage rate hike taking affect this May prompted the Gallup Poll to conduct a national opinion poll. The results reveal that a majority of Americans prefer cutbacks in postal services, such as ending Saturday mail delivery and closing post offices — to either government assistance or higher stamp prices. This is an attitude shared widely by Americans of nearly every demographic. As a postal customer and postal worker I feel that Gallup has done us all a disservice. The polling question erroneously implies that there are no alternatives to increased postage costs other than reductions in service or taxpayers' assistance. Respondents should have been asked these questions:

- Would you prefer reducing postage discounts for large mailers that exceed savings to the Postal Service — or a rate hike?
- Would you prefer reducing the Postal Service's practice of outsourcing jobs and operations at hourly rates greater than postal worker's — or a rate hike?

The Postal Service is not immune to the rising costs which are affecting homes

and businesses across America today. An increase of just one cent per gallon of gas costs the USPS \$8 million annually. In addition, the economic meltdown has resulted in a drop in business mailings that provide 2/3 of our revenue. But the cost of financially ruinous practices by the Postal Service is unnecessarily being passed on to individual customers and small businesses while negatively impacting its universal service obligations, jeopardizing the security of the mail, and threatening union jobs.

Bulk mailers receive discounts for barcoding mail pieces that the Postal Service could barcode for a fraction of a penny. Large business mailers receive additional presorting discounts that exceed the savings realized by the USPS. National Service Agreements (NSA), like the one given to Bank of America, receive approval by the Postal Regulatory Commission (PRC) — despite knowing that the agreement would cost the USPS \$50 million. Other mailers have since filed suit to obtain similar discounts. Periodical rates, recently changed to favor large mailers over small publications, now threaten the voices of our democracy. These rates (written by *Time-Warner*) were adopted at the last minute to replace a rate proposal made by the Postal Service itself! Small

mailers now pay more while big mailers pay less.

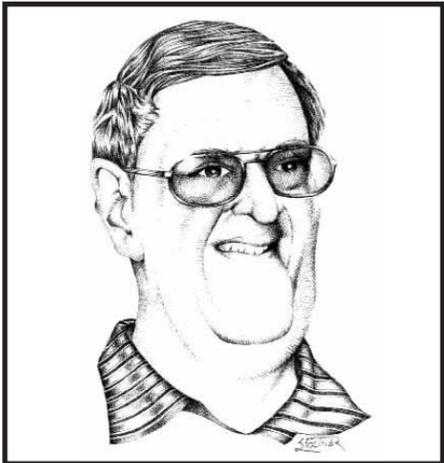
A recent report by the Government Accountability Office (GAO) concluded that the USPS is unable to demonstrate that it saves money by outsourcing. The report also stated that the Postal Service has no comprehensive mechanism to measure savings. Without cost-savings data, postal managers, stakeholders and Congress cannot assess the risk and value of outsourcing. Although the Postal Service generally agreed with the report's findings, the USPS disagreed with a recommendation to provide Congress with the information about the results of outsourcing.

The Postal Service continues jumping on the outsourcing and privatization bandwagon at the expense of good jobs, safety and security, and reliable delivery of basic services. Current plans include privatizing our Bulk Mail Centers and increased use of private mail houses for processing. In addition, all new mail delivery routes will be considered for outsourcing to companies that often provide low wages, no benefits and, according to a report by the Office of Inspector General, no equivalent background checks. In our post 911/anthrax era it is inconceivable that subcontractors will be entrusted with our bills, voting ballots,

*continued on page 8*

**EDUCATION AND ORGANIZATION . . . BY RICK GALLO, DIRECTOR**

# Attitude Anyone?



I am always struck by the difference in attitudes from one person to another. But, after working at the post office in excess of 36 years, I must admit that one thing I've never been able to accept is management's attitude! Just when you think you've seen it all; some nitwit boss comes up with something even more stupid! Lately, we have had a rash of grievances, and local management has copped an attitude that they are in charge, they know everything, and don't get in their way! From what I am hearing, this scenario seems to be a common one in post offices all across the country. Stress levels are running high, and management seems to believe they are the infallible kings and we the lowly serfs. Discipline levels are also running higher than normal. The latest hot-button topic has become box mail "up-time" scanning. Box sections must now scan a bar code upon completion of distribution each day. Management insists the scanning is just a measurement system to track box mail on-time performance. But if an office is missing a scan, or scans late, indicating that the box distribution was not completed before the designated cut-off time; watch out! Late or missing scans require the postmaster to telephone higher managers with a full explanation, and devise an action plan to prevent repeat failures.

In fact, in my office, the supervisor checks

the box distribution every day, and must inform the postmaster what time distribution was completed, whether or not the scan was made, and verify that the scanner was downloaded so the postmaster can report to his higher-ups. It's a regular dog and pony show. There are no exceptions and no excuses. Unfortunately, if a scan is missing, there have already been instances of discipline given to employees for failing to complete the scans. Now, you'd think that there must be a whole lot of much more important stuff for these high level muckity-mucks to deal with than that, but that's the hot issue right now. It's almost comical to see the supervisors and managers scurry around in fear that we might miss a scan, or not finish on time. Sicko that I must be, I always hope we might miss a scan, or finish late, just to watch the anticipated panic by the bosses.

In my mind, the fact that this whole scenario seems to establish a work and time standard not negotiated or agreed upon with the union, is a key consideration. The fact that employees could be subjected to discipline for a missing or late scan is also of some concern. So, I filed an information request to find out exactly what instructions have been issued, and what the rules are for this scanning procedure. Guess what? Request denied.

I guess that's all top secret stuff, and us

serfs are not capable of understanding such complex management issues. There's that attitude thing again. If only I had a security clearance, or something. Postal management seems to think this is the Jet Propulsion Lab, or that box mail instructions are issues of national security. Give me a break; this is management arrogance at its finest. It seems like that same attitude overshadows far more than it should these days. We are forced to pursue grievances about issues that never should have arisen in the first place. And, it appears that there is no willingness to settle grievances, or honestly deal with issues, and everything is pushed to a higher step. Nobody in management seems to be held accountable at any level. Maybe that's why USPS seems to be circling the drain. Even more perplexing, management usually tries to blame the union for the sad shape of USPS. We all know too well who the real culprits are; I believe the problem rests with those making the decisions.

On another note, the APWU of Wisconsin will be conducting educational seminars in 2009. Our first will be a spring educational program on April 4 and 5 in Oshkosh. In the fall, our John Akey Seminar will be held in brother Akey's home town of Wausau. The Akey seminar will be held on August 14 and 15, 2009, and will feature 18 different classes. Please plan to join us.



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The APWU of Wisconsin publishes this newsletter as a means of communicating with our members. The union encourages letters to the editor; letters must be signed but name will be withheld upon request. All opinions expressed are those of the writer, and not necessarily those of the state organization or its officers.

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**LEGISLATIVELY SPEAKING . . . BY JEFF WORDEN, LEGISLATIVE DIRECTOR**

# The APWU Legislative Agenda

Just a quick update on what's going on with the legislative issues. I recently contacted Myke Reid (APWU National Director of Legislation) concerning a booklet that the APWU Legislative Department had sent out in 2007. It was entitled "Legislative Priorities for the APWU". The brochure identifies the legislative agenda of the APWU and points out areas of major concern-areas of where attacks on labor are likely to arise.

During most of the year of 2008 we were told that many of the issues the APWU was trying to discuss were pretty much "falling on deaf ears".

Some of the issues of concern to the APWU were;

- Employee Free Choice Act**
- Retiree Health Care 'Premium Conversion'**
- Social Security Fairness for Federal Retirees**
- Voting By Mail**
- FMLA**

**Requiring Non-Members to Pay Their 'Fair Share'** (This is a very big issue with many locals throughout the country. Just think of the revenue it would/could bring in and let's face it, most people would probably just join the union thereby increasing revenue.)

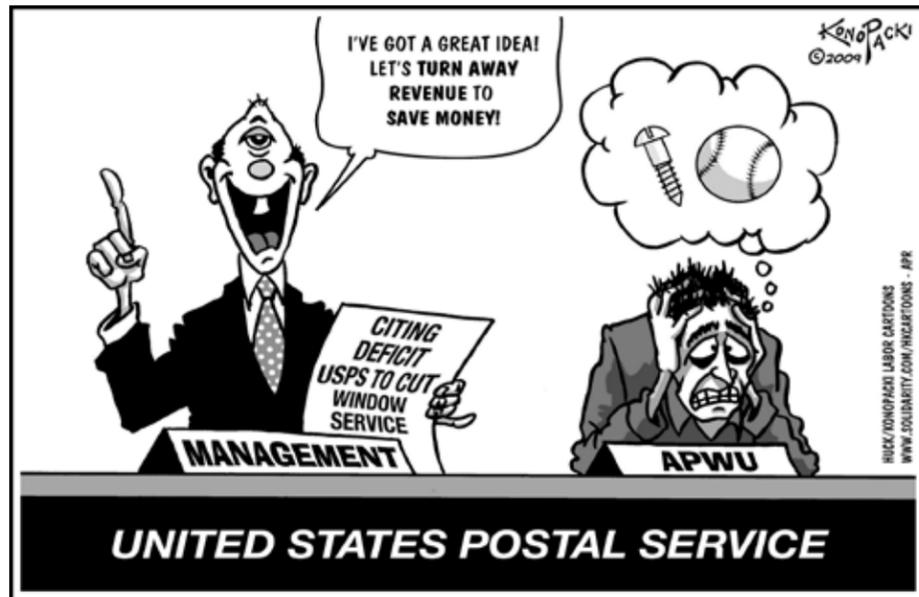
**Universal Healthcare**

The past administration was not at all labor friendly; therefore the issues listed above would have to wait until a labor-

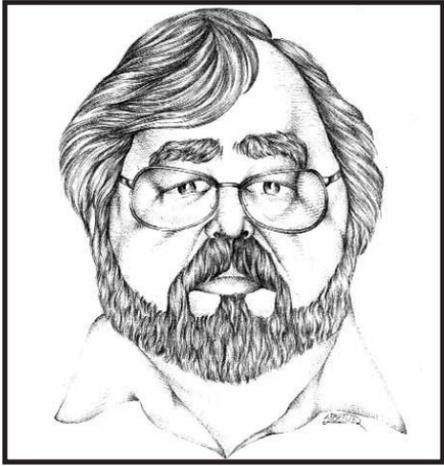
friendly president was in the oval office. I spoke to Myke Reid who assured me that these issues were not gone forever; as a matter of fact the APWU Legislative Department has put together a "NEW" legislative priority booklet. There will be copies handed out to all attend the upcoming "President's Conference". While I will not be attending the President's Conference-Director Myke Reid told me that I will be receiving a copy of this booklet. I will do my best to keep you informed through the newsletter. With the Economic Stimulus Package now signed into law and the fact that we have a labor friendly President I

believe that things will start to get better. But, we still need to keep active by attending union meetings, reading our national, state and local news letters. We have to talk to our families and friends and when possible-write or call our elected officials.

Remember, we all worked hard to get labor friendly people elected to office, now let's call our elected officials and remind them of their promises made during the campaign. If you get nowhere with them, then just remind them of "who" it was that helped them get elected...that usually helps, if not please let me know! Take Care.



# BADGER BULLETIN BOARD



by John E. Durben,  
Editor

What if we made it easier to do business with the USPS? That's one of the messages that scrolls across the screensaver of your postal computer. The marquee continues with more propaganda about how the postal service is helping the customers. Items such as less steps and easier forms; who are we helping anyway?

If you do a little research on the Internet (and you don't have to search long or hard) you will find numerous negative headlines addressing bad service and complaints.

How many of you have an Automated Postal Center (APC) in your postal lobby? Customers are strongly urged to use the APC rather than attempt their transaction at the window with a window clerk.

The familiar blue collection boxes that were once placed in high traffic areas around your town to provide a convenience for mailers that wanted to deposit their mail, are they all still present and accounted for? Or have they begun to disappear too? If anyone needs some — we've got a nice collection of them cluttering up our employee parking lot. Bet you didn't know that they create some rust and may be an environmental problem.

Another subject that comes up is delivery of mail. The Internet has its share of articles and editorials concerning mail delivery. The postal service will do everything possible to avoid home delivery to postal patrons these days. Now days they erect a cluster box in the area some place where the customer has to go pick up the mail. In the newer suburbs the delivery people are contract employees. They're not even postal employees.

Check your local phone book once. Can you find a phone listing for your local post office? Congratulations if you can. Most likely what you'll find is the 800 number that is also answered by contract employees. Do we even know if they are located in the United States? Do you consider this service if you hide your identity so that they can't contact you locally. In my position at work I field questions quite often from patrons that get my number from the 800 person. For those of you who were not aware I work at the Green Bay office (543). I get calls from customers in 498, 499, 541, 542, 543, 544, 545, and 549 normally. It's common to get a call from a customer in say — Appleton, Wi. and they tell me they just put up a new home and they want to know where they should place their mail box? I just tell them — put it where ever it's convenient for you. *No not really.* I normally call Appleton or where ever and ask them to call their customer to help them out.

Have your window hours been reduced

## Yeah! I Said That . . .

too? Our window now opens an hour later on week days at 8:30 am. That didn't sit too well with some of the customers but that didn't matter. The box mail used to have a delivery time before 8:00 am. It was convenient for customers to do their postal business at the window and pick up their mail before they went to work. Oh... did I mention the APC? They put a window clerk out in the lobby to assist customers on the APC though? Great Service!

Speaking of window clerks, they are reducing the number of window clerks too and now I've heard they're reducing counter space in our lobby as well. More service — should be interesting when the line is backed up through the doors and back in the first lobby. I guess we'll jam that APC down their throats if they want to use it or not? Has anyone heard the APC ask the required **hazmat** questions or smile when the "Mystery Shopper" is standing in front of it? If you did — let me know.

How about the consolidation of mail processing? I'll bet you never get complaints in your office regarding mail delivery, do you? Postal records indicate mail volume is plummeting but for some reason we still can't clear the mail? (Maybe the new "intelligent barcode" is the answer? I doubt it.)

The ~~Postal Service~~, Post Office is going out of their way to destroy the "Service". They proclaim that they are creating great service for the American Public but all they are worried about is a few corporate mailers that dictate what they want. No wonder these corporate mailers wrote letters supporting the nice pay raise and bonuses that our elite leaders just received while our bottom line is bleeding red. (I hope they remember that when our contract is set to expire next year.) Now I've heard that top management wants to freeze the pay of lower management because of the budget after they received theirs. Sounds to me like something that would

happen on "Wall Street".

I didn't want to start rambling, but now that I mentioned the budget I just have a couple of things to mention yet and then I'll hit "Save" on my computer and quit griping for a couple of months.

The budget is a serious matter facing the ~~postal service~~ post office. There's no doubt about it. Yet I see cases where they are taking advantage of a disadvantage when it comes to one item in particular and that is Safety. A few items in our particular office have come up regarding safety and budget was the first response.

One place we could save money and help out our budget is to quit subsidizing the private mail houses that our performing our work. Why does the postal service post office insist on paying these private firms more money in discounts and refunds than what we can perform the same work for? I have a theory about that and I thought of it years ago. Take the above scenario and add to it that flat mail prices have sky-rocketed in the last couple of years; it is my firm position that we are scheming from within with the private sector to privatize the postal service. Correct me if I'm wrong, but I believe the private sector can now handle flats. Who is transporting our regular mail and parcels now? A big deal was recently announced with returned parcels.

I believe the stones are being put in place one at a time until a signature is scripted on the dotted line and the postal service post office will be a skeleton compared to what it is now. If we can cling to the private express statutes, we may be delivering some first class letters.

I have one more suggestion for the "budget" and then I promise I'll hit "Save". I believe the ~~postal service~~ post office can save a significant amount of money if they would restructure the management hierarchy. I realize this would only pertain to a handful

of post offices (as far as what I am addressing however I believe there is currently something in the works on the Area Level) in Wisconsin but if it was done nationally I think they'd save a few bucks.

A number of years ago if you remember the guy that screwed up the stuff in Tennessee — Runyon got put in charge and he decided it would be cute to separate mail processing and customer service. What that did is allow the opportunity for each department to blame the other for their own inaccuracies. You've got a house that is divided when you have a plant manager who does his own thing because he/she is boss and a postmaster likewise. (When I heard we were getting a plant manager I thought we were going to grow a vegetable garden.) I am a firm believer that you have to have one "Head Honcho" boss per installation to take charge and make decisions, right or wrong and be done with it. When two individuals have different opinions on the same subject the workers, and the American Public feel the consequences. We have this situation in my office and I don't have ill feelings toward either of the individuals but I don't think the system works. (Keep in mind that if the ~~postal service~~ post office installation that you serve in has this situation your bosses — bosses are butting' heads too, and so on.)

Our office has supervisors on all three tours and then a boss in charge of each tour and then the plant manager in charge of the tour supervisors. In my opinion this is over-kill. My suggestion is to have tour supervisors that report to a plant manager that reports to a postmaster. Simple — one person makes decisions affecting the whole workforce and community that is covered under their jurisdiction. If they screw up — that's who you go to. If things are rosy — that's who you go to.

As previously promised I will now hit "Save". Have a nice day!

## HUMAN RELATIONS . . . BY RENEE HEANEY, DIRECTOR OF HUMAN RELATIONS

### Let Me Introduce Myself . . .

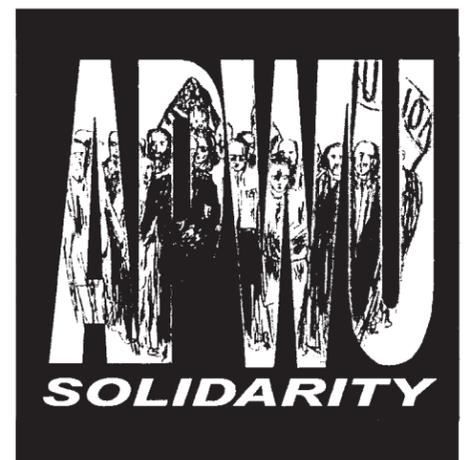
For those who don't know me, I am a member of Local 4532 in Wausau, I was appointed to this position of Director of Human Relations at the end of 2008 after Linda Maly resigned. I have been actively involved with the APWU for roughly eight years, I have been a steward since I began but also working a few years as Trustee. I've been with the postal service for about 12 years, with some of those being non-career years, and the time I spent as a T.E. I was a proud Union member.

I've always tried to help inform members of my local to the best of my ability when they have had issues with the Family Medical Leave Act, Employee Assistance Program, EEO and Workers' Comp., and in my current position I hope to help educate and guide members in the right direction to finding an answer or help with these issues. I also hope to gain more knowledge on all of the issues while in this position.

There have been some changes to the Family Medical Leave Act effective on Jan 16, 2009. Some of the forms have changed, but please be aware that you don't have to use a specific form. You just need the proper information. The APWU is recommending that you use APWU forms when requesting FLMA. These are available through your Local Presidents and I will also try to get them posted on the WI APWU website ASAP. Some of the regulations changed including: the notice time you have to give for leave, serious health condition definition, amount of documentation needed and employers right to contact medical provider without your knowledge. Those are some of the changes but there have been many changes to forms created by the DOL. So again the APWU would advise you to use forms provided by the APWU but if you chose not to, be sure you tell your health care

provider to only give the basic "facts" for your condition.

Hope to see you all at the Spring Seminar in April, hopefully by then this frigid weather will finally be behind us. Have a Happy St. Patrick's Day.



# Wal-Mart: Recession Profiteer

Bank and insurance CEOs aren't the only ones getting rewarded for horrendous behavior in this recession. There's Wal-Mart, whom Newsweek now has anointed as "Our Corporate Savior." (Hat tip to dakine01.)

"Wal-Mart recently announced that its same store sales in January were up 2.1 percent, which was more than forecast. With the company's huge network of stores and ability to strong-arm suppliers, Wal-Mart offers shoppers good merchandise at prices which becomes more and more attractive as the downturn continues."

The brutal truth is that Wal-Mart is profiting in the midst of misery because of policies that, like those of the financial services industry, fueled the nation's economic disaster. While banks rolled up and peddled collateralized debt packages like cheap tuna wraps, Wal-Mart's assault on America's economy came from another angle—everyday low wages. By paying the vast majority of its workers little more than the minimum wage and offering health care plans most can't afford, Wal-Mart shifted its corporate expenses to taxpayers.

So, two things happened: Workers sunk into debt—mortgages, tuition loans, credit cards—unable to support families on such low wages, and states were forced to channel precious resources to full-time workers whose employer should have paid them enough to afford private health care. Now with state budgets collapsing, 1 million people are expected to lose state-funded health care—many of them, undoubtedly, Wal-Mart workers.

An AFL-CIO study from a few years back found that in 19 of 23 states surveyed, Wal-Mart topped the list of employers pushing workers into state-provided health care programs. In Georgia in 2002, for instance, the Department of Community Health found that 10,261 kids (6.2 percent of all Georgia children who participated in PeachCare, the state's health care program for low-income children) had parents working for Wal-Mart. PeachCare coverage for children of Wal-Mart employees costs state taxpayers an estimated \$6.6 million per year.

But Wal-Mart has had more than one way to soak up taxpayer money. The study found that Wal-Mart also wrung at least \$1 billion in economic development assistance from state and local governments over the past 20 years.



A list of wage abuses (never mind gender discrimination, health and safety violations and so on) filed against Wal-Mart is not possible to compile in one place. Here are just a handful provided by Wake Up Wal-Mart:

- In December 2005, a California court ordered Wal-Mart to pay \$172

million in damages for failing to provide meal breaks to nearly 116,000 hourly workers, as required under state law. Wal-Mart appealed the case.

- Wal-Mart's 2006 Annual Report showed that the company faced

57 wage and hour lawsuits. Major lawsuits have either been won or are working their way through the legal process in states such as California, Indiana, Minnesota, Oregon, Pennsylvania and Washington.

- In March 2005, Wal-Mart agreed to pay \$11 million to settle allegations that it had failed to pay overtime to janitors, many of whom worked seven nights a week.

Meanwhile, now former Wal-Mart CEO Lee Scott in 2008 made a cool \$30 million in total compensation.

Wal-Mart in recent months has bought its way to a better media image with high-profile charitable donations and moves to "green up" its products. But we shouldn't let the smoke and mirrors fog our memory of how the corporation treats its workers—and how their low wages affect us all.

After cleverly getting taxpayers to fund its bottom line, and paying workers wages so low many are mired in debt, Wal-Mart now is the only place where many of America's workers can afford to shop.

But apparently, they can't afford much. Wal-Mart announced last week it is joining the long list of corporations laying off workers.

Our Corporate Savior.

— Source: AFL-CIO NOW BLOG

## Managers — Not Workers — Are Overpaid In Manufacturing Jobs

Some pundits and lawmakers—Sen. Bob Corker (R-Tenn.) [1] comes to mind—falsely claim that union workers are overpaid and are to blame for the decline of U.S. [2] manufacturing. But a new report, released last week by the Economic Policy Institute ([3] EPI), busts that myth and shows the convenient conventional wisdom to be wrong.

EPI economist [4] Josh Bivens lays out the facts in [5] Squandering the Blue-Collar Advantage, which show that U.S. manufacturing's blue-collar workforce, far from destroying U.S. competitiveness, is actually

one of the key elements making a positive contribution to competitiveness—a contribution being undermined by a variety of other factors.

Says Bivens: "If the story of U.S. manufacturing began and ended with its blue-collar workers, the outcome would be far different from what we're seeing today. In hourly pay and productivity, U.S. manufacturing workers give their companies a significant competitive edge—one that is being drained away by other negative forces."

Bivens identifies three key factors undermining U.S. competitiveness:

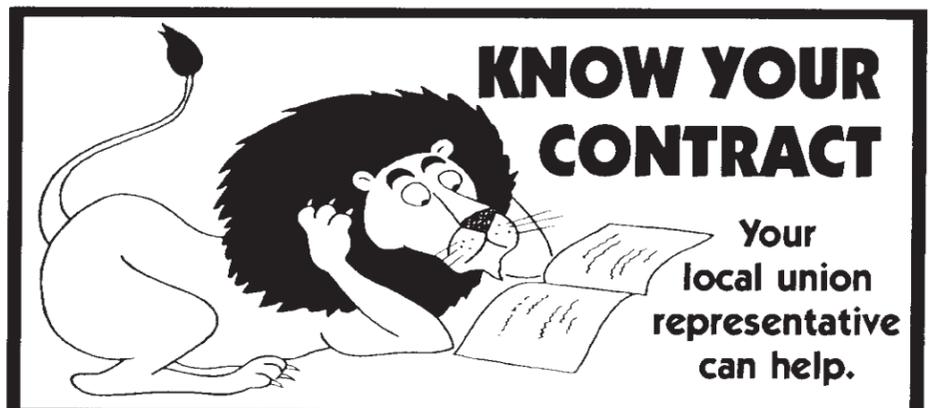
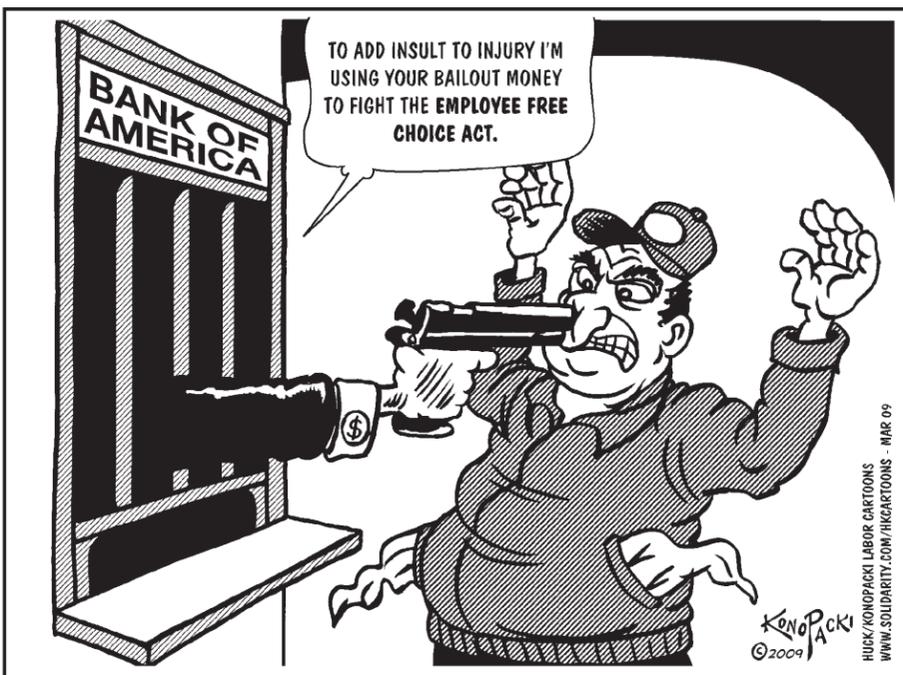
- The overvalued U.S. dollar, which artificially drives up the price of U.S. goods abroad and drives down the cost of foreign-produced goods here. Over the past 10 years, this imbalance alone has created a 10 percent to 16 percent cost disadvantage

for U.S. goods, compared with the previous decade.

- The high cost of U.S. health care is another significant factor. Reducing these costs to the same level as our comparable trading partners could create a 4.6 percent cost advantage.
- U.S. managers—not workers—are overpaid. Bringing white-collar wages in line with those in comparable countries could result in a 6.4 percent cost advantage for U.S. manufacturers.

Bivens adds: "If we want to restore the strength of U.S. manufacturing in our economy and in the world, we have to address the real anti-competitive factors that are dragging it down. In this effort, the wages and productivity of the unionized blue-collar workforce are an important asset."

Source: AFL-CIO NOW BLOG



# Facts About The ADA Act

by Gary Kloepfer, Asst. Director A, Maintenance Division

(The following information was obtained from a variety of websites and represents my reading of the Act. It does not represent the current position of the APWU.)

In 1990, Congress enacted the Americans with Disabilities Act (ADA) to provide a clear and comprehensive national mandate for eliminating discrimination against individuals with disabilities. Upon enactment of the ADA, the United States Supreme Court became constitutionally obligated to interpret and enforce the law in a manner consistent with Congress's directives. But as a result of several prominent Supreme Court decisions in ADA cases, legislators in Congress have become displeased by the manner in which the law has been interpreted. In response, Congress has passed the ADA Amendments Act of 2008 (ADAAA), effectively expanding the scope of the original law.

In expressing its dissatisfaction with the Supreme Court's decisions in ADA cases, Congress found that the Court has "narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect." Moreover, Congress found that the definitions of two seminal legal terms used by the Equal Employment Opportunity Commission (EEOC) were inconsistent with Congressional intent because they expressed too high a standard for individuals seeking protection under the law. Thus, Congress drafted the ADAAA with the goal of correcting the judicial contraction of the ADA's scope, as well as the EEOC's expansion of several of the ADA's minimum applicability thresholds.

In June 2008, the House of Representatives passed a version of the ADAAA (H.R. 3195) by a vote of 402 to 17; the Senate unanimously approved its own, slightly different version of the ADAAA (S. 3406) on September 11. Six days later, the House approved the Senate's version, and, on September 25th, President George W. Bush signed the bill into law, which will take effect on January 1, 2009. Although the ADA prohibits discrimination on the basis of disability in several different areas, the ADAAA will likely have its greatest impact in the employment context, requiring employers with 15 or more employees covered by the ADA to adjust their policies and procedures to comply with the ADAAA. Some of the new law's significant provisions are described below.

## SCOPE OF "DISABILITY" BROADENED

Determining an individual's entitlement to protection under the ADA hinges on whether or not that individual suffers from a "disability," as the term is defined by the ADA. Although other terms and phrases found within the definition of disability have been changed by the ADAAA, the definition of "disability" itself was not. However, what the ADAAA does do is state that "the definition of disability . . . shall be construed in favor of broad coverage of individuals under [the ADA], to the

maximum extent permitted by the terms of [the ADA]." This provision was included in the ADAAA to reinstate the broad scope of protection afforded by the ADA that, in the view of the Congress, the Supreme Court has improperly narrowed.

## LIST OF "MAJOR LIFE ACTIVITIES" EXPANDED

To qualify as a disability under the ADA, a physical or mental impairment must substantially limit "one or more major life activities" of an individual. In one Supreme Court decision legislatively overruled by the Congress's enactment of the ADAAA, the Court had held that the word "major" in this context "need[s] to be interpreted strictly to create a demanding standard for qualifying as disabled." In the ADAAA, however, Congress has explicitly rejected this standard as contrary to the broad scope of protection that is available under the ADA.

Moreover, the ADAAA provides an expanded list of "major life activities," which includes, but is not limited to:

- caring for oneself;
- performing manual tasks;
- everyday activities such as breathing, seeing, hearing, speaking, eating, sleeping, and walking;
- standing, lifting, and bending;
- learning, reading, concentrating, thinking, and communicating; and
- working.

The ADAAA also introduces a non-exclusive list of major bodily functions, the operation of which constitute major life activities. The list includes, but is not limited to:

- functions of the immune system;
- normal cell growth; and
- functions involving the digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.

## LOOSENING OF "SUBSTANTIALLY LIMITS" REQUIREMENT

While under the ADA a physical or mental impairment must "substantially limit" one or more major life activities, the ADAAA includes several provisions that loosen this requirement. First, the ADAAA rejects the Supreme Court's requirement that the word "substantially" be interpreted strictly to create a demanding standard for individuals seeking to qualify as disabled. Furthermore, the ADAAA rejects the Supreme Court's rule that the word "substantially" be read to mean "prevents or severely restricts." In this regard, the ADAAA significantly reduces the degree of impairment required for protection under the ADA.

Second, the ADAAA provides that an impairment that substantially limits one major life activity need not limit other major life activities to be considered a disability. Third, the ADAAA provides that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when it is active.

Finally, the ADAAA provides that the determination of whether an impairment substantially limits a major life activity

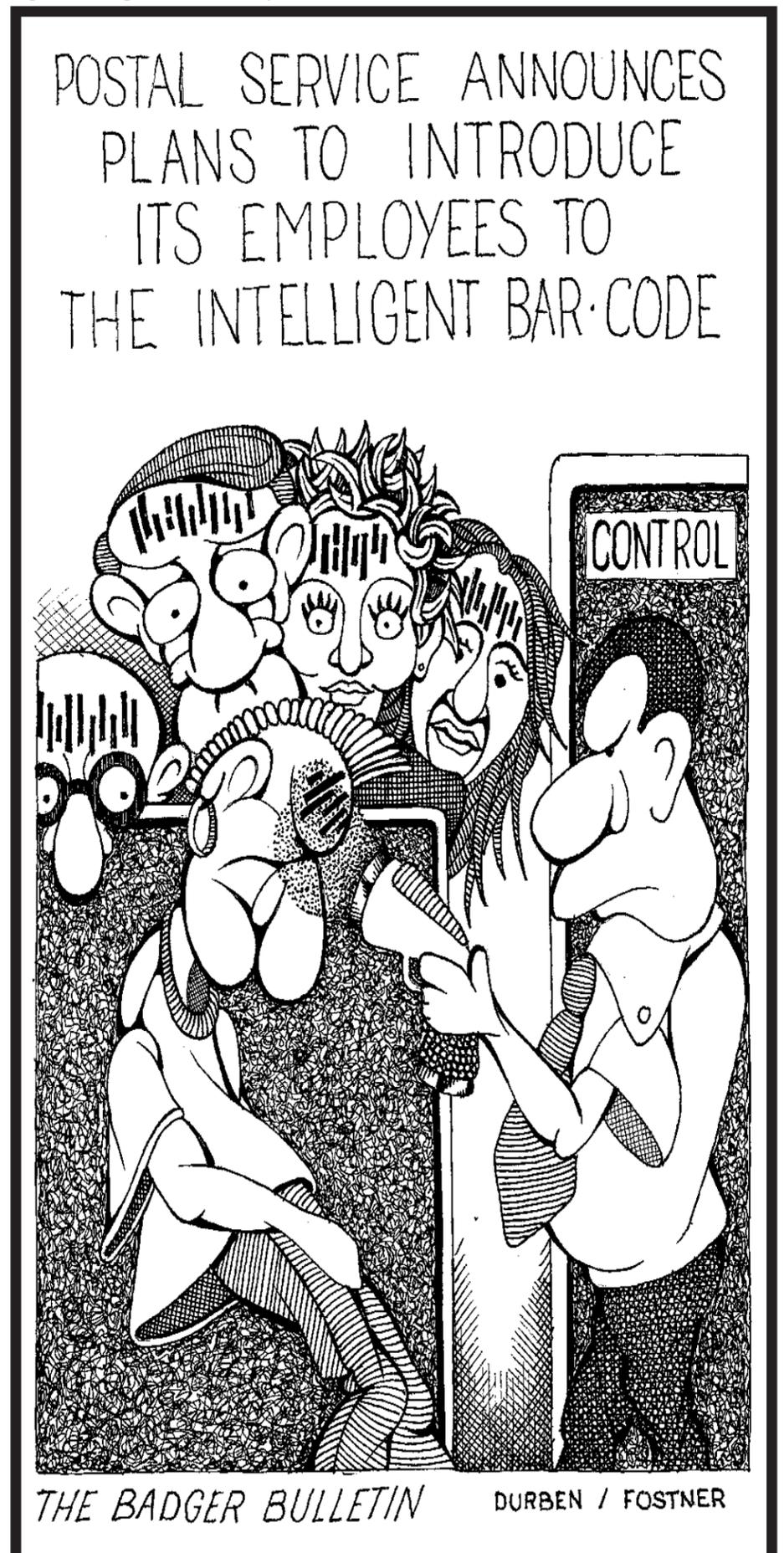
shall be made without regard to the ameliorative effects of mitigating measures such as medication, prosthetics, hearing aids, mobility devices, and oxygen therapy equipment. This provision in the new law expressly overrules a case in which the Supreme Court held that determining whether impairment substantially limits a major life activity requires reference to the ameliorative effects of mitigating measures. However, there is an important exception to this rule — one that states that the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether impairment substantially limits a major life activity. The purpose of this exception is to prevent the many individuals

who wear either ordinary glasses or contact lenses from making claims of disability on those grounds.

## RELAXATION OF "REGARDED AS" REQUIREMENT

The ADA prohibits discrimination against an individual who is "being regarded as" having a disability. Traditionally, an individual claiming that he or she was "regarded as" having a disability had to prove that an employer regarded him or her as being substantially limited in a major life activity. The ADAAA has lifted this burden of proof by providing that an

*continued on page 6*



# JOYCE RICHARDS SCHOLARSHIP PROGRAM RULES for 2009

## Sponsored by the APWU Wisconsin AUXILIARY

- 1. There shall be one (1) or more scholarships of \$250.00 each.
- 2. The funds for these scholarships are to be raised by the APWU Wisconsin **Auxiliary**.
- 3. This scholarship is for graduating high school seniors only.
- 4. The student must prove their acceptance to an accredited University, College, Trade, Technical and / or vocational School not later than September 30, 2009.
- 5. The student must have maintained a "C" or 2.0 grade average over their high school curriculum. Verification of grades and graduation must be supplied before payments are made.

- 6. At least one parent or legal guardian must have been a member of the APWU Wisconsin **AUXILIARY** in good standing for a minimum of six months immediately and consecutively preceding the deadline date for application; as well as a minimum of six months following the award drawing when selected, except in the case of death of a member.
- 7. The Scholarship Committee shall consist of up to five (5) members. Two (2) of these members shall consist of the current elected President and Secretary-Treasurer of the APWU Wisconsin **Auxiliary**. The President of the APWU WISCONSIN **Auxiliary** shall appoint the remaining members.
- 8. The Committee shall be convened by July 15, 2009 or the Monday thereafter. The

- Committee Chairman will have verified all the membership qualifications by this date.
- 9. The submission deadline for scholarship applications is JULY 9, 2009. The drawings shall be held at the July 2009 APWU Wisconsin **Auxiliary** Scholarship Committee Meeting.
- 10. The Committee, upon verification of each application, shall place said applications in plain "like type" envelopes and the envelopes are to be placed in a drawing container. There shall be one (1) winner and an alternative drawn. If funds permit there shall be more than one winner and alternative drawn.
- 11. The scholarships will be paid to the school scholarship offices. The scholarship

- must be used within the following scholastic year.
- 12. The selected students(s) shall submit, to the Committee Chairman, proof of their full time enrollment in the school of their choice as set forth in rule number four (4). Payment shall be made upon the receipt of verifications.
- 13. All disputes concerning the Scholarship Program shall be submitted to the Committee Chairperson within thirty (30) days of the drawing, in written form. They shall be answered in writing within fifteen (15) days.
- 14. These rules governing the JOYCE RICHARDS SCHOLARSHIP FUND-sponsored by the APWU Wisconsin Auxiliary can only be amended, changed, or deleted once a year at the fall meeting of the Scholarship Committee.
- 15. Only one application per student will be allowed.

# JOYCE RICHARDS SCHOLARSHIP FUND

## Sponsored by APWU Wisconsin AUXILIARY

### 2009 SCHOLARSHIP APPLICATION

\*\* This scholarship Application is offered to Current Graduating High School Seniors, whose Parent or Legal Guardian is a member in good standing of the APWU Wisconsin **Auxiliary**.

THIS APPLICATION MUST BE IN THE HANDS OF THE  
"JOYCE RICHARDS SCHOLARSHIP" COMMITTEE CHAIRPERSON:  
DIANE GREEN  
2547 S 92ND ST  
WEST ALLIS, WI 53227-2311

**NO LATER THAN 4:00 PM MONDAY JULY 9, 2009**

**One application per student**

\*\*Applicants must have maintained a "C" Average throughout their High School Curriculum. Transcript of same will be requested of winning applicants.

**\*\*APPLICANT INFORMATION \*\***

Scholarship Applicant's Name: \_\_\_\_\_

Applicant's Social Security Number: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

High School: \_\_\_\_\_

Year of Graduation: \_\_\_\_\_

**\*\*APWU WISCONSIN AUXILIARY MEMBER INFORMATION \*\***

Parent's Name (or Guardian): \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

**\*\* JOYCE RICHARDS SCHOLARSHIP INFORMATION \*\***  
(To be completed by APWU WI Auxiliary Committee Chairman Only)

Date and Time of Application Receipt: \_\_\_\_\_

Membership Verification: \_\_\_\_\_

Verified By: \_\_\_\_\_

### Facts About The ADA Act

*continued from page 5*

individual may be unlawfully regarded as having a disability "whether or not the impairment limits or is perceived to limit a major life activity." However, the ADAAA provides that transitory and minor impairments which have an actual or expected duration of less than six months are not considered disabilities under the "regarded as" prong of the definition of disability. Additionally, the ADAAA provides that an employer is not required to provide a reasonable accommodation or make reasonable modifications to policies, practices, or procedures for an individual who meets the "regarded as" prong of the definition of disability.

#### SHIFT OF FOCUS IN ADA CASES

Through the ADAAA, Congress has conveyed its intent that the primary object of attention in cases brought under the ADA should be whether covered entities have complied with their obligations and that the question of whether an individual's impairment qualifies as a disability under the ADA should not demand extensive analysis. Such a shift is significant because the Postal Service has had success in arguing that an employee is not disabled under the ADA and is therefore ineligible for its protection. There is no denying that the ADAAA has expanded the number of individuals who may be entitled to protection under the ADA. At the very least, the ADAAA has made it easier for employees to state a claim under the ADA. At this time, the ultimate impact of the ADAAA is difficult to determine. Adding to the uncertainty is the fact that the EEOC has yet to promulgate any regulations interpreting the ADAAA's provisions.

Nevertheless, on January 1, 2009, the Postal Service, which is covered by the ADA, will be required to comply with the new law.

Further information will be provided after the EEOC promulgates the new ADAAA regulations.

### John Akey Seminar Registration

Seminar Fee \$50 After July 14 \$15

Choose one class for each time period

(If you choose an all day class you must take it for a.m. and p.m.)

Friday 9:00 a.m.

- Clerk Craft Roundtable
- MVS Roundtable
- Sec/Treasurer Survival (all day)

Friday 1:00 p.m.

- Grievance Writing
- Fitness for Duty
- Sec/Treasurer Survival (all day)

Saturday 9:00 a.m.

- Local Safety and Health
- National Reassessment Prog.

Saturday 1:00 p.m.

- Subcontracting 101.2
- Energizing Membership
- I Remember When
- Basic OWCP(all day)
- Maintenance Roundtable
- Support Services Roundtable
- Basic OWCP(all day)
- Parliamentary Procedure OSHA and You
- Excessing Redux
- Holidays/Overtime Retirement
- Developing Interview Skills
- Dealing with the OIG
- Current Legislative Issues

#### Hotel Reservations

Classes will be held at the Holiday Inn and Stoney Creek Inn. Rooms have been blocked at both of these hotels. Rooms have also been blocked at the Lodge at Cedar Creek which is down the street from the seminar hotels. This hotel was booked for overflow and because it has an indoor water park for members who bring their families.

All hotel reservations are due by July 14, 2009

#### Holiday Inn and Suites

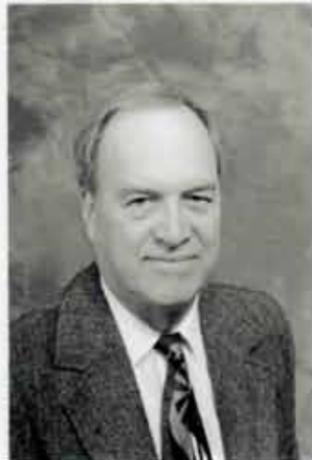
1000 Imperial Ave  
Rothschild WI, 54474  
715-355-1111 \$70 Single \$82 Double

#### Stoney Creek Inn

1100 Imperial Ave  
Rothschild WI, 54474  
715-355-6858 or 800-659-2220 \$84

#### Lodge at Cedar Creek

805 Creske Ave  
Rothschild WI, 54474  
715-241-6300  
\$139 includes 4 waterpark passes



# 2009 John Akey Seminar

August 14-15, 2009

Wausau, Wisconsin

Presented By

Wausau WI Area Local

APWU of Wisconsin

Minnesota Postal Workers Union

Minneapolis Region National Business Agents

### Classes

Basic OWCP	Sue Carney/Richard Boutwell
Sec/Treasurer Survival School	Dick Haefner/Judy McCann
Grievance Writing	Willie Mellen
Fitness for Duty Exams	Lyle Krueth
Parliamentary Procedure(friend or foe)	Pat McCann/Jerry Sirois
OSHA and You	Gary Kloepfer
Stewards Rights	Lyle Krueth
Excessing Redux	Willie Mellen
Your Local Safety and Health Comm.	Gary Kloepfer
Holidays/Overtime	Merlie Bell/Sharyn Stone
National Reassessment Program	Sue Carney/Richard Boutwell
Retirement	Dick Haefner/Judy McCann
Subcontracting 101.2	Troy Rorman
Developing Your Interviewing Skills	Lyle Krueth
Energizing Your Membership	Terry Grant/Tony Carobine
I Remember When(a look back at the union movement)	Greg Proferl
Dealing With the OIG	Willie Mellen/Merlie Bell
Current Legislative Issues	Myke Reid/Steve Albanese

Craft Round Tables with National Officers: Jim McCarthy, Mike Morris, Steve Raymer, Mike Foster, Bill Manley

Name \_\_\_\_\_

Local \_\_\_\_\_

Address \_\_\_\_\_

E-Mail \_\_\_\_\_

Phone # \_\_\_\_\_

Mail form/payment to Dale Anderson, PO Box 260222, Madison, WI 53726

# Ford, Chrysler, And GM's Contributions After 9/11

CNN Headline News did a short news listing Ford, Chrysler, and GM's contributions to the relief and recovery efforts in New York and Washington after 9/11. The findings are as follows: (info from the web).

1. Ford: \$10 million to American Red Cross, matching employee contributions of the same number, plus 10 Ford Excursions to the NY Fire Department. The company also offered ER response team services and office space to displaced government employees.

2. GM: \$10 million to American Red Cross, matching employee contributions of the same number, and a fleet of vans, sports utility vehicles, and trucks.

3. Daimler-Chrysler: \$10 million to support the children and victims of the 9/11 attack.

4. Harley-Davidson: \$1 million and 30 new motorcycles to the NY Police Department.

5. Volkswagen: Employees and management created a September 11 Foundation, funded initially with \$2 million, for the assistance of the children and victims of the WTC.

6. Hyundai: 4300,000 to the American Red Cross.

7. Audi: Nothing.

8. BMW: Nothing.

9. Daewoo: Nothing.

10. Fiat: Nothing.

11. Honda: Nothing, despite boasting

of second best sales month ever in August, 2001.

12. Isuzu: Nothing.

13. Mitsubishi: Nothing.

14. Nissan: Nothing.

15. Porsche: Nothing. Press release with condolences via the Porsche website.

16. Subaru: Nothing.

17. Suzuki: Nothing.

18. Toyota: Nothing, despite claims of high sales in July and August, 2001. Condolences posted on the website.

Whenever the time comes for you to purchase or lease a new vehicle, keep this information in mind. You might want to give more consideration to a car manufactured

by an American-owned and/or American-based company. Apart from Hyundai and Volkswagen, the foreign car companies to take money out of this country, but it is apparently not acceptable to return some in a time of crisis. And, we shouldn't bail them out in time of trouble?!

— reprint: Auto City Flint Facts

## Postal Union United To Rebuff Contracting

Outsourcing is a constant threat for the 700,000 employees of the U.S. Postal Service (USPS). In congressional hearings last year, all three major unions representing USPS personnel — the National Association of Letter Carriers (NALC), the American Postal Workers Union (APWU) and the National Postal Mail Handlers Union (a division of LIUNA) made their views known to the congressional Sub committee on the Federal workforce, Postal Service and the district of Columbia.

USPS is looking at three different but related outsourcing plans. NALC members are battling an expansion of the USPS Contract Delivery Service (CDS). Letter Carriers point out that CDS bypasses the normal USPS hiring process, compromising the integrity of mail delivery personnel and undermining the federal commitment to veterans preference.

NALC is intent on addressing the outsourcing issue through collective bargaining, but they have also supported congressional initiatives that would prohibit expansion of postal contracting.

The APWU is confronting USPS efforts to shift sorting and processing away from the current internal USPS network of 400 facilities to a growing number of privately owned and operated sorting facilities handling commercial mailings.

APWU has commissioned its own plan to combat this trend, ensuring that elected officials and citizens are informed if and when their USPS facilities might become a target for closure or service degradation. "The original intent of workshare dis-

counts was to create a private network to supplement postal capacity. Over time, as automation enabled the Postal Service to process an increased volume of mail, the supplemental processing capacity has become redundant at the expense of postal efficiency." APWU President William Burrus told the subcommittee.

Speaking on behalf of LIUNA's Mail Handlers, MHU National President John F. Hegarty challenged the USPS "3-Rs" program (Realignment, Rightsizing and Responsiveness) on the basis of its economics. He charged that USPS is shifting work to support its preference for outsourcing, not on local capacity to perform the work.

## Gallup Poll Asked The Wrong Question

*continued from page 1*

prescription medications and protecting our privacy. Furthermore, outsourcing motor vehicle services will allow unchecked personnel access to postal facilities where they will gain familiarity with USPS vehicles and operations. And finally, the PRC, on record for approving budget negative NSA's, has just recommended the privatization of all retail postal outlets — our local post offices.

Other countries have privatized their mail services with disastrous results for customers, employees and retirees.

Few, if any, savings have been realized. Even with the new rate increase (mere pennies in a world discussing trillions) the USPS will continue to offer the lowest postal prices in the world — without taxpayers' assistance.

As the USPS travels down its road to privatization a new poll question should be asked: Would you prefer to have postal services controlled by companies that will go only where service is profitable — or — would you prefer to have services performed by a most trusted federal agency that will go wherever service is needed?

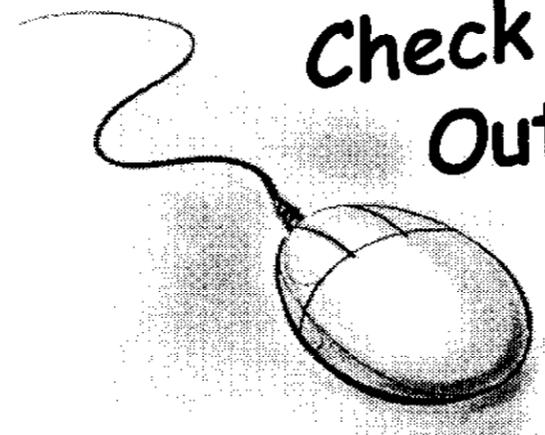


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