

the national lawyers guild

NEWSLETTER of the Labor & Employment Committee

<http://www.nlg-laboremploy-comm.org>



October 2015

From “Right-to-Work” to “Fight for 15”— The Labor Movement at the Crossroads: Learning Lessons, Plotting the Way Forward

BY ANTHONY PRINCE



“From now on, white women and white men will be forced into organizations with black African apes whom they will have to call ‘brother’ or lose their jobs.”

—Van Muse, union-hating white supremacist and Texas businessman who conceived and spearheaded the campaign to pass the nation’s first “Right-to-Work” law in 1946.

The history of “right to work” legislation cannot be separated from the role of racism and the super-exploitation of black workers. With the enactment this year of a “right-to-work” bill in the former union stronghold of Wisconsin, half of the fifty United States have now toppled a major pillar of the traditional trade union movement.

At the same time, we see the emergence of a “new” movement of low-wage, contingent, immigrant and part-time workers, at its core, workers of color.

This, the fastest growing segment of the labor force, is today compelled to consider and deploy new strategies and tactics in the fight for economic justice.

What are the hard lessons of the setbacks to organized labor? What has been historically—and

continues to be today—the role of racism and the “southern strategy” in expanding “right to work” from the Deep South to the industrial heartland?

Join an outstanding panel as we discuss and debate how “Fight for 15” and other forms of the low-wage worker movement can avoid the pitfalls of the past and help lead all of society towards a just and equitable social order and the role of the Guild lawyer in this process.

Our speakers include:

Sheilah Garland-Olaniran.

Veteran civil rights fighter, current political director for National Nurses United in Illinois with years of experience organizing workers in the Deep South, will address the historical roots of right to work and the targeting of black workers then and now.

John Philo. Leading labor and social justice attorney with the Sugar Law Center in Detroit who will report on the American Legislative Exchange Council (ALEC), the spread of different forms of right-to-work and other anti-union legislative attacks and assess the legal strategies that have been tried to defeat them.

Jose Castañeda. Member, Salinas, California, City Council and lifelong advocate for labor in agriculture “behind the lettuce curtain” will speak on “Fight for 15,” the exploitation of farm labor and its connection to the spate of recent police killings of Latino farmworkers in the tri-county area.

Lillian Jimenez. Formerly with the Illinois Department of Labor, Lillian is an attorney, co-chair of the TUPOCC Caucus in the Guild’s Chicago Chapter and political activist who fights wage theft and other forms of exploitation of immigrant and other low-wage workers.

Ethel Long-Scott. Executive Director of the Women’s Economic Agenda Project (“WEAP”) of Oakland, California, Ethel will share WEAP’s experience in developing new forms of organization and strategies for low-wage and no-wage women in the Bay Area and across the country.

Anthony Prince. (Moderator): Former Director of Collective Bargaining for SEIU Healthcare Wisconsin and legal counsel for Teamsters Local 705 in Chicago, Anthony will focus on lessons learned from four years of Wisconsin labor battles—from Act 10’s gutting of public sector collective bargaining to the enactment of the nation’s 25th right to work bill.

2015 NLG CONVENTION

Join us in Oakland

SEE SCHEDULE ON THE BACK PAGE

TURNING THE TIDE: Fighting the Nationwide Assault On Low-Income Workers

BY JOHN PHILO

Margaret Thatcher made a career out of preaching TINA—short for “There is no alternative,” by which she meant that the “free market” had won and social democracy had lost. Francis Fukuyama declared the End of History based on the same thesis. And just this week John Kasich told a member of the public who was protesting his proposal to cut Social Security benefits to “Get over it.”

But none of what has been done to workers globally or here in the U.S. over the last few decades has been either inevitable or irresistible. As the attack on workers’ rights has become more intense than ever, we need to know just who we are fighting in order to figure out how to defeat them.

Through groups such as the American Legislative Exchange Council (ALEC), the U.S. Chamber of Commerce, National Right to Work Committee, and affiliated state organizations, radically conservative corporate interests have pushed legislative agendas at the state and local levels of government in an effort to end collective bargaining rights and close the door on raising employment standards for unorganized workers. The corporation is emerging ever freer from boundaries set by organized labor’s power to negotiate improved work conditions and government’s power to set minimal standards of decent work. In this environment, opportunities for economic and social advancement steeply decline and Black and Latino workers bear much of the cost.

Workers earning poverty-level wages are disproportionately Black and Latino. While nearly two-thirds of the low-wage workforce is White, Black and Latino workers are over-represented. Low wage jobs employ 30% of all Black workers and 40% of all Latinos. In increasingly low wage growth industries such as retail, Black and Latino employees often earn just 75% of the wages of similarly situated White workers. With this overrepresentation in low wage industries and disparity of wages comes a related and widening wealth gap between White households and others.

This disparity is not limited to wages. Low wage workers in general, and Black and Latino workers in particular, are much less likely to have employer-sponsored health insurance, retirement plans, paid sick days and life insurance. Blacks and Latinos also work in disproportionately more dangerous industries and suffer higher rates of workplace injury. They also are found to have less wage security and are more likely to be employed in precarious work—work that is part-time or temporary with unpredictable hours and schedules. The impact of radical corporate legislative agendas to end collective bargaining rights and remove employment

standards is likely to stonewall efforts to improve working conditions for low wage workers and deepen existing divides.

Improvements in working conditions for low wage workers have traditionally come through union representation and government statutes and regulations raising minimum standards at all worksites. Collective bargaining rights have long been an important tool for workers to attain meaningful bargaining power with corporate employers and improve the working conditions of union and nonunion workers alike. Despite a history of racial exclusion in a few unions, unions have been a powerful force through which Black and Latino workers have achieved greater economic opportunity and meaningful improvements in the working conditions throughout the country. The decline in union power over the past two decades weakens the gains made and markedly diminishes opportunities for improvements in the future.

The decline in union power is not the a result of some natural process of Darwinian social evolution; it is the product of conscious strategies by those who view workers and their families as fungible, exploitable and ultimately disposable members of our society.

The minimum standards set by government have also come under increasing attack. Government legislation such as minimum wage laws, health and safety regulations, and protections for worker pensions raise the floor for all workers. In passing the federal Fair Labor Standards Act, Congress explicitly sought to eliminate barriers and ensure a minimum standard of living necessary for the health and general well-being of all workers. The federal Occupational Safety and Health Act sought similar goals - to assure so far as possible the health and safety of every working man and woman in the nation. These laws and a tapestry of others have provided a floor that helps to define the minimum contours of decent work for all persons. The floor has been pushed lower and lower and gaps continue to exist. Ongoing and accelerating strategies to end the power gained through collective bargaining and eliminate minimum standards for decent work are being played out in state legislatures and city councils throughout the country.

While various groups have been at the forefront of specific campaigns, the activities of ALEC reveal the accelerating scope of attacks against all workers, but particularly low wage workers. ALEC is a nonprofit organization that drafts and promotes model legislation for distribution to state legislators throughout the United States. ALEC does not disclose the authors of its work, but its model legislation is conservative and libertarian and directly benefits the largest corporations and multinationals. The organization does not disclose member lists, but is composed of corporate representatives



Art Heitzer to receive the Debra Evenson Award

The Guild's International Committee is honoring one of our own, Art Heitzer, with the Debra Evenson Award at the Guild's Convention in Oakland this year. Art, for those of you who haven't had the pleasure of knowing him, has practiced civil rights and employment law in Milwaukee since 1975; before that he was a student activist at Marquette who helped lead a movement against institutional racism that resulted in the creation of the Educational Opportunity Program in 1968, a national model for recruiting and retaining students of color.

He has held leadership roles in Guild, where he founded its Economic Rights Task Force, and has chaired the International Committee's Cuba Subcommittee for over a decade. Working on behalf of the NLG with the Center for Constitutional Rights, Heitzer helped train and establish a network of over 50 lawyers in the U.S. to assist travelers from U.S. who had visited or wanted to visit Cuba. He



also assisted in the defense of all of the "Trials for Travel" —approximately one dozen administrative prosecutions under the administration of George W. Bush—as well as directly representing dozens of Cuba travelers. This included the Methodist Three, in which the government settled their case with no penalty, in response to the filing of unprecedented counterclaims alleging racial profiling and interference with religious practices. In the last 25 years, he has counseled over 1,000 Cuba travelers, usually pro bono, and continues to do so.

Art has been to Cuba numerous times, including working in construction as part of the 5th Venceremos Brigade and in sister church, sister city, and professional research trips. In 2000 he helped bring 200

Guild members and their families, including a sizeable number of labor and employment lawyers, to the 15th Congress of International Association of Democratic Lawyers in Havana. Likewise, as part of the Cuba Subcommittee, he brought and hosted the President of the Cuban Supreme Court, Ruben Remigio Ferro, on his

only visit to the U.S., and also top Cuban diplomat Josefina Vidal, both of whom spoke at NLG conventions.

His support of the Cuban Five included penning an open letter to President Obama on the 15th anniversary of their arrest, in September 2013, which was circulated worldwide. He has spoken on the case, including as part of the Five Days for the Five campaigns in Washington, D.C.; and his writings include a detailed review of the case published in the NLG Review (Summer 2014), and a prominent letter published by the New York Times shortly before the White House ordered their release. In March 2012, he presented the certificate of NLG Honorary Membership to the late Roberto Gonzalez, a U.S. born Cuban defense attorney who vigorously advocated for the Five (including his brother Rene) around the world and before NLG conventions.

A lot has happened in the last ten years—and in particular in the last year—and we will be gathering on



Friday the 23rd to honor Art for decades of work. **Join us!**

Turning the Tide *(continued)*

and state officials. It is funded by companies such as Exxon Mobil, corporate foundations, Koch brothers' organizations and large industry trade associations.

In recent years, ALEC has been promoting and is accelerating an anti-worker program aimed at both state and local government initiatives. ALEC's program has three inter-related components. First, it promotes model state legislation to further weaken collective bargaining rights and union power. Second, it is promoting state legislation that will preempt local legislation that promotes the individual rights of workers. And finally, the group is promoting model state and local legislation that is decidedly anti-worker. Through state legislation, ALEC seeks to weaken collective bargaining rights and to prohibit local governments from enacting county or city ordinances or policies that regulate any aspect of an employee's wages, benefits or working conditions. At the same time, ALEC is

promoting model legislation that seeks to establish right-to-work legislation and eliminate minimum wage laws.

A few examples of ALEC's model legislation that directly impact low wage workers includes bills to:

- Enact Right to Work;
- Repeal prevailing wage laws;
- Prohibit checkoff of union dues by employers;
- Repeal minimum wage laws;
- Prohibit local living wage ordinances;
- Eliminate common law exceptions to the employment at-will doctrine;
- Prohibit all state and local government policies that promote preferential hiring and affirmative action programs based on race, ethnicity and gender;

(continued on page 4)

Turning the Tide *(continued)*

- Provide immunity from liability to all past employers when providing information to future employers regarding a job applicant;
- Prohibit paying unemployment insurance benefits to workers with newborn or newly adopted children while the worker is on family leave;
- Prohibit laws requiring employers to provide paid sick days; and
- Provide employers access to all of an employee's past medical records when an employee is injured at work.

Where adopted, such legislation severely weakens the power of workers to act collectively to improve wages and benefits for all and severely weakens the rights of individual workers as protected by government legislation. The end result would leave workers to appeal solely to the U.S. Congress, where conservative interests plowed substantial money and resources into state legislative efforts in 2010 to redraw congressional districts such that House of Representatives is unlikely to change its anti-working people agenda in the years ahead. In the absence of action in the Capitol, workers are left with an illusory power to negotiate individual contracts with employers for any improvements in their working conditions.

While these initiatives are being promoted nationwide and many other states have equal or greater rollbacks, events in Michigan provide a concentrated example of the ongoing assault on workers' rights and its impact on communities of color.

In Michigan, workers have experienced a broad assault against their labor and employer rights and communities of color have been hardest hit. A short ten years ago, an overt attack by any state official on collective bargaining rights or on most minimum workplace protections was widely seen as politically untenable. Michigan had long considered itself a state with moderate views on workplace issues. Few candidates for state-wide offices had openly sought the elimination collective bargaining rights and statewide repeal of local workplace protection laws and even fewer were elected.

Times have changed dramatically. In retrospect, the Great Recession provided the crisis that gave cover to a radical anti-worker reform agenda.

By 2010, many Michigan cities and school districts were in severe financial distress. The municipal financial crisis led to passage of the state's first "emergency manager" law, *Local Government and School District Fiscal Accountability Act*. The statute allowed the Governor to appoint an "emergency manager" to govern any city or school district found to be undergoing a financial emergency. The powers of all elected officials were transferred to the emergency manager. Among the powers granted to emergency managers is the unilateral power to reject, modify, or terminate the terms of any existing contract, including collective bargaining agreements.



Additionally, the new law provided that as existing collective bargaining agreements expire, a city or school district under state control had no further duty to negotiate with unions representing city workers and could impose new terms and conditions of work without consulting the worker's union. And, emergency managers can unilaterally privatize or terminate the staff of any department, work unit, agency, office, commission, board, etc.

Michigan's law resulted in emergency managers becoming the governing officials in all but one of Michigan's largest Black majority cities – Detroit, Flint, Pontiac, and Benton Harbor. The appointments have raised seismic issues related to the loss of democratic political power and the suspension of elected governance by the people. In response, citizens mobilized in 2012 and an alliance of urban and rural voters passed a statewide referendum repealing the emergency manager law. On the same ballot however, an initiative to prohibit Right to Work laws was defeated. The lame duck legislature acted quickly to re-enact a new referendum-proof emergency manager law with the same powers and then new Right to Work laws.

As a result of the appointment of emergency managers in these and other majority minority communities and passage of Right to Work, public sector unions have experienced a sudden and dramatic loss of collective bargaining power. Nearly 40% of public sector workers are traditionally union members and over 20% of Black workers are estimated to be employed in a government job. In Michigan, most public sector union members live in the Southeast corner of the state where the majority of the state's Black population lives and works. The combination of governance by emergency manager and Right to Work has resulted in large membership losses for the state's public sector unions that has and will continue to translate to a loss of economic power and opportunity in communities of color throughout the state.

Attacks on workers' rights in Michigan however has not been limited to organized labor. Since 2011, bills have been introduced and laws adopted on a range of worker issues. Workers compensation reform has been enacted greatly restricting the ability to recover benefits and allowing a worker to have benefits terminated when they can, in theory, work a particular job regardless of whether they have the training for it and regardless of whether such a job is available in Michigan. Worker compensation payments are now down by nearly one-third and have been declining every year since the new law's passage.

In the face of a reluctant Congress and in recognition of the traditional role of local governments as laboratories of democracy, activists have sought the adoption of city ordinances to advance the rights of workers. Over the past decade, living wage, minimum wage, paid sick day, domestic partner benefits and a range of other campaigns have resulted in the passage of local ordinances that expand the right of workers to decent work. East Lansing was the

first community in the United States to enact civil rights protections that included sexual orientation. Cities such as Warren, Ypsilanti and Ann Arbor were early adoptees of living wage ordinances and in recent years, advocates in Detroit have sought to replicate the local minimum wage successes in California, Maryland and other states. Campaigns had also begun to advocate for paid sick day ordinances in several Michigan cities. Each of these initiatives has been stopped or called into question by a new state law.

In June 2015, Michigan adopted ALEC's model legislation prohibiting local municipalities from adopting or enforcing new city ordinances and policies that regulate employment, including ordinances that:

- Require payment of prevailing wages, minimum wages or living wages;
- Require employers to provide paid or unpaid sick leave or family leave;
- Regulate hours and worker scheduling by employer; or
- Require an employer to provide any specific fringe benefit to an employee.

The law will have the broad effect of preempting future campaigns to expand workers' rights through local legislation.

Another aspect of the state's campaign against workers is found in revisions to Michigan's unemployment insurance compensation system. Since the Great Recession, unemployment has remained higher than national averages throughout the state and in communities of color, unemployment rates are markedly high. In Michigan, the official rate is 5% for all workers, but is 16% for Black workers and is similarly high for Latinos. The unofficial rates are projected to be much higher. In 2012, state officials changed restitution and fraud policies to target unemployed workers. The state instituted an automated system to detect perceived fraud and eliminated review by staff investigators. The changes resulted in a system that institutes fraud charges, based solely on the paperwork submitted, if there is any conflict between the employer's and worker's statements of how the termination occurred. In other words, the system defaults to the employer's statement as the truthful version of events and then automatically charges the worker with intentional fraud. Avenues of appeal are limited and often entirely unknown to workers. Once fraud is charged, the system automatically assesses full restitution of all benefits paid and the maximum penalty allowed under state law. Fraud charges have also have routinely been referred for criminal prosecution before anyone has spoken to the worker to determine whether the employer's statement was accurate or whether there were routine or innocent errors by the worker or agency staff. Likewise, jobless workers have automatically had their tax returns garnished for the full amount of the charges. Administrative law judges have been outraged at the cases being brought before them where agency staff have testified that under the new policies they have no discretion to reverse the fraud findings – even when they *know* fraud did not occur. For workers who have been

able to obtain representation, hundreds of fraud charges have overturned. Regardless, the system continues.

While Michigan provides a concentrated example, the state is simply one of many experiencing the radical changes that are occurring throughout the nation. Similar attacks are occurring in one state or another in every region of the country. We at the Sugar Law Center for Economic and Social Justice in Detroit are working with coalitions to push back in Michigan and other states. Along with our friends in organized labor, National Lawyers Guild members, committees, affiliates and allies, such as the National Immigration Law Center, Brandworkers International, the Restaurant Opportunities Center, the National Employment Law Project, and many others are doing the same. Through broad coalitions adopting traditional and nontraditional tactics we can, will and are pushing back.

John Philo is the Executive Director of the Sugar Law Center for Economic & Social Justice. He has previously written, both for this Newsletter and elsewhere, on the battle to preserve electoral democracy from Emergency Managers.

WORKERS RIGHTS ARE HUMAN RIGHTS !

We celebrate International Human Rights Day every December 10. This year we have something else to push for: the Workplace Action for a Growing Economy (WAGE) Act, introduced in Congress last month, which would strengthen workers' rights under the NLRA by

- assessing monetary penalties against employers who fire workers for organizing activities,
- requiring employers to pay victims three times the amount of back pay without deductions,
- authorizing personal liability for responsible corporate officers, and
- holding host employers jointly liable for violations against temporary or contract employees.

The Act would also require the NLRB to seek 10(j) relief when employees have been fired in retaliation for their union activities and would provide backpay relief for unlawfully fired undocumented workers.

Our national labor law is still a far way from meeting the minimum standards for freedom of association that international law establishes. This bill, which may take years to enact, is nonetheless a step in the right direction. Members interested in writing or speaking about the need for real labor law protections for workers should contact Erin Johansson, Research Director at Jobs With Justice, at erin@jwj.org.

WHAT WE NEED TO DO: Remarks at ALAL's São Paulo Congress

BY ANTHONY PRINCE

I have been in the trade union movement since age 17, when I was elected the youngest chief shop steward in the history of the Teamsters.

Decades and a law degree later, I now serve as the representative of the Labor and Employment Committee of the National Lawyers Guild to our National Executive Committee.

The Guild was established in 1937 in part as a protest against the then-existing racial exclusion policy of the American Bar Association. The birth of the NLG coincided with the struggles to implement the National Labor Relations Act of 1935, which remains the principal modern legal framework for relations between the employer class and workers seeking to organize for their collective interests in the U.S. Although creating unprecedented legal rights for workers, the NLRA also created a “labor peace” that became necessary as the winds of the coming world war began to blow and the government sought to insure uninterrupted production. At the same time, while the NLRA paved the way for unionization, it also corralled the very unions whose existence it allowed. This piece of legislation relegated labor unrest to the legal arena without granting workers fundamental constitutional rights.

Today, It is quite clear that the world that existed in 1935 has been replaced by a globalized, interconnected economy in which revolutionary advances in computer and information technology have fundamentally altered the production of goods and services worldwide. The result has been the displacement of millions of workers, particularly those in traditional heavy industry, but also in transportation, service and related fields.

One example from where I spent much of my life before becoming an attorney: the steel industry. In 1978, when I went to work for the United States Steel Corporation in South Chicago, it took 11 days to produce the same amount of cold-rolled steel that today takes only 20 minutes. Modern iron and steelmaking technology is replacing the lengthy process involving blast furnaces, iron smelting, the basic oxygen process, the alternate pouring of ingots, their re-heating and shaping in giant rolling mills, scarfing and removal of impurities. When I became a blast furnace millwright there were 50,000 steelworkers in Chicago and Northwest Indiana—today there are fewer than 4,000, and yet the amount of steel produced is greater than ever before. Entire communities have been laid waste, their inhabitants rendered permanently and structurally unemployed and economically desperate as a result. The same thing has happened to one degree or another in every single sector of the U.S. economy.



With these changes has come the near-extinction of the traditional trade unions and an unprecedented set of challenges facing organized labor and those of us who represent organized and unorganized workers. We are coming to the end of one era and the dawn of another. Our own experience reinforces daily the reality that the old legal framework for labor relations in the U.S. is increasingly anachronistic and a fetter on the development of the next necessary stage in the struggle of the working class for a new and just order.

To assess the future of the U.S. trade union movement, we have to look at how the movement began to understand why it is in such profound crisis.

The development of trade unions in the United States cannot be separated from the general history of the country and the central dynamic in that history—slavery and its aftermath. Today—especially as we witness the epidemic of police and vigilante killings of African Americans and other persons of color—great efforts are made to artificially separate the issue of racial discrimination, the continuing “badges and incidents” of slavery from the American working class as a whole. This is the critical, historically evolved Achilles heel of labor in the United States.

Early on, every independent movement of the workers was paralyzed as long as slavery disfigured a part of the Republic. As Karl Marx noted, “Labor cannot emancipate itself in the white skin where in the black it is branded.” Decades after the formal destruction of chattel slavery, President Franklin Roosevelt rejected the demands of black workers to include anti-discrimination language in the NLRA. As a result, labor lawyers found themselves prosecuting lawsuits against major trade unions which became bulwarks of segregation and exclusion of blacks from anything but the worst, most dangerous jobs in America. The Act also excluded domestic workers, government employees and, most significantly, workers engaged in agriculture. The seeds of the current crisis of crumbling union membership were planted long ago.

Before the NLRA, a right to join a union in the workplace without reprisal did not exist in the United States. By making unions legal, the Act gave a gigantic impetus to the union movement. In the six years between the founding of the Congress of Industrial Organizations, forerunner to today’s AFL-CIO, in 1935 and the U.S. entry into World War II in 1941, unions signed up hundreds of thousands of members. As the storm clouds of war darkened, the leaders of the dominant wing of finance capital began to work with the most “responsible” union leaders to ensure a system of labor peace in this country which fenced out more workers than it fenced in. Thus, the die was cast early on for today’s shrinking numbers of organized workers and the crisis of existence now facing the trade unions.

What does all this mean for labor lawyers today? I think it means three things. First, the reality is that the vast majority of labor lawyers in the U.S. are primarily engaged in the day-to-day defensive battles for the essential statutory rights of unionized workers and those seeking union recognition through traditional channels. Without these necessary battles, the workers would be crushed. Yet, at the same time, it must be recognized that we are working within a framework that is on the descending side of history as the economic basis of traditional labor law undergoes revolutionary transformation. The labor lawyer of today has to think and practice beyond these disintegrating parameters if we are to remain part of the cutting edge of real progress for working people.

In the U.S. and much of the world, the composition of the working class and the objective center of gravity of the labor movement is shifting away from the traditional heavy industry, large-scale, labor-intensive manufacturing and the more privileged sections of the working class towards the low-wage, no-wage, contingent, day labor, part-time, minority, immigrant, non-union, and most exploited and underpaid sectors. Although a relative handful of labor lawyers are rendering assistance to many “Low Wage Worker” struggles, the vast majority of our colleagues are—as with the majority of traditional unions—disengaged from the bitter struggles of this growing, cutting edge section of the working class.

A good example is the campaign launched and financed by the United Food and Commercial Workers to support efforts to organize viciously anti-union Walmart, today the largest single private employer in the world. After almost a decade of creative, headline-grabbing strikes and other actions, the “OUR Walmart Campaign” is now being terminated, and its most talented organizers have been fired with the justification that the Union “did not see any growth in membership” despite pouring millions of dollars into the effort. In my opinion, this short-sighted decision of the UFCW speaks volumes about and is emblematic of the narrow, parochial and outdated conceptions and practices of traditional trade unionism. Only by rejecting such anachronisms will we appreciate the necessity for a truly independent mass movement of the most exploited workers that will develop new strategies and tactics appropriate for qualitatively changed conditions. We labor lawyers—working not just for, but with the actual shop-floor leaders of these struggles—must be part of that process.

Second, I believe we labor lawyers must become the architects of the next, necessary social order. That may sound like a tall order, but in fact, U.S. history is full of examples of attorneys who understood the necessity for and became part of new movements for basic, sweeping systemic change. For example, abolitionist lawyer Salmon P. Chase of Ohio brought dozens of “freedom” lawsuits on behalf of runaway slaves in the years preceding the American Civil War. He lost his biggest case—*People v. Van Zandt*—defending a member of the Underground Railroad and challenging the hated Fugitive Slave Act. But committed to more than simply defending one case, Chase had thousands of copies of his closing argument printed and distributed throughout the country. Van Zandt

became a character in Harriet Beecher Stowe’s seminal *Uncle Tom’s Cabin*. Chase’s “losing” argument proved pivotal to rallying public sentiment against slavery, later becoming the program of the newly formed Republican Party and its presidential candidate, Abraham Lincoln. Chase was one of a handful of lawyers motivated by a vision, part of the team of legal architects who helped fashion the legal jurisprudence that helped end a barbaric economic system.

Today, millions of poor and working people across the planet are advocating for a new and just world where the marvels of the new technology will emancipate labor rather than simply and tragically result in a growing scrapheap of dispossessed and unneeded workers. We labor lawyers can and must play a role in charting the legal component of that struggle. To that end, I am one of a group of attorneys and others who are hoping to soon convene in the United States and then on the international level a comprehensive legal conference to address the question of the role of the pro-worker, progressive and revolutionary legal community in bringing basic, systemic change. I hope that both the Guild and ALAL will play a prominent part in such an undertaking.

Third, and finally, it must be recognized that increasingly, the traditional venues for obtaining justice for working people are being sharply curtailed. In the United States, access to the civil justice system is more constrained than at any time in recent history. The economic crisis and massive cuts in spending for the courts have only exacerbated the problem. Those who do manage to get their wrongful termination or workplace discrimination claims before a tribunal “of competent jurisdiction” are finding it increasingly difficult to prevail against the endless resources of the employer/corporate bar. Thus, we who took oaths to uphold justice must begin to think about new ways to achieve it both inside and outside the courtroom. We must start thinking in terms of the public as our jury and history as the bar before which we practice. One aspect of this approach in the United States must be the creation of new rights. While political and civil rights have long been the only rights to which Americans believe they are entitled, the idea of economic rights: a legal right to food, a home, to an income, to human health—in short, “The Right Not to Be Poor”—must be introduced into the national dialogue since, ultimately, it is the threat of poverty—now affecting 47 million Americans—that looms like a sword of Damocles over the heads of the entire working class and is effectively used to wrest deep concessions at the bargaining table.

*This is an excerpt of Anthony Prince’s remarks at the 2015 Sao Paulo Congress of the Asociación Latinoamericana de Abogados Laboralistas. Please join us Saturday the 24th at 10:45 am for **Advocating for Economic and Social Rights Throughout the Americas: A Transnational Dialogue** presented by the International Labor Justice Working Group and co-sponsored by the Labor & Employment Committee and the International Committee, featuring labor law experts from the U.S., Canada, and Latin America. This panel will explore struggles affecting working people throughout the hemisphere, discuss the detrimental impacts of neoliberal policies, and foster collaboration in our efforts to work for change.*

OUR BEST HOPE

BY AARON MAIR, ESTELA VAZQUEZ, & LENORE FRIEDLAENDER

Every Labor Day we join together to celebrate the contributions of workers of all races, ethnicities, and nationalities to the struggle to hold our country true to the promise of a political and economic democracy, “with liberty and justice for all.”

We recognize that the movement for a truly just society is much stronger when we join forces. The same interests who stand in the way of workers’ struggles for economic justice are standing in the way of environmental justice and a clean energy economy, and they are standing in the way of racial and immigrant justice.

Together, we are celebrating the burgeoning movements, many led by youth, people of color, and women but benefitting all of us. We embrace those who work to build bridges between our movements and reject the legacy of an outdated agenda that fosters institutionalized police violence, and social, economic and political inequalities that have systematically disempowered Native Americans and Communities of Color. Whether the demand is for economic justice represented by the “Fight for \$15”, justice for immigrants led by the Dreamers, racial justice as manifested by Black Lives Matter, or climate and environmental justice as reflected in the People’s Climate Movement, the common thread is youth-led uprising of millions of working class and progressive people, are calling for a more equitable and just democracy.

Our common message is that this “movement of movements” for equity and justice represents hope, perhaps the only real hope, for a better future for all of us. We recognize that a people with a living wage, in good union jobs, living in a safe clean environment must be freely able to vote and elect politicians and regulators that shape public policy for a clean powered America. That’s not just common sense - it echoes the promises our nation was built upon.

Our environmental, civil rights, and labor organizations together represent a rainbow of millions of Americans who are committed to achieving the same hopes and dreams expressed—sometimes loudly, sometimes brusquely, sometimes imperfectly—by these young people. Over the last year, we joined with 400,000 others in the People’s Climate March, demanding our leaders act now to halt catastrophic climate disruption. We stood with fast food and big box workers in cities across the country demanding a family-sustaining wage and respect through “Fight for \$15.” We joined the Fast for Families in demanding a path to citizenship for millions of undocumented workers forced to live in the shadows by our nation’s cruel and unjust immigration laws. We’re walking with the Journey for Justice from Selma to Washington, fighting back against the assaults on our hard won voting rights. We celebrated the beautiful, inspiring and radically transformative vision of Pope Francis’ encyclical on protecting the earth and all

creation. We watched in admiration as our youth rose up to resist the institutional racism reflected in police violence from Ferguson to New York City to Cleveland to Baltimore. We commemorated and renewed our resistance to the unjust storm of Katrina-compounded injustice in New Orleans and the Gulf Coast.

We have marched together for justice in Detroit on October 3, and are preparing to act together as the People’s Climate Movement in cities across the country on a National Day of Action on October 14. That day, people will send a message to the fossil fuel industry-funded climate deniers in the halls of power that we aren’t falling for their deception, and that we demand immediate, bold fair and just action to tackle the climate crisis. Finally, we will top of this year of joint action for justice in December by standing together with people from across the globe in Paris, as we insist that the world’s leaders deliver a fair, ambitious and enforceable climate agreement.

It’s easy to hear divisive, fear-driven rhetoric in the news these days, but that phenomenon cowers in stark contrast to the unity and power of our people-driven movement of movements. In the unforgettable words of Indian novelist and activist Arundhati Roy:

“Remember this: We be many and they be few. They need us more than we need them. Another world is not only possible, she is on her way. On a quiet day, I can hear her breathing.”

Aaron Mair is President of the Sierra Club president. Estela Vazquez is Executive Vice President of 1199 SEIU. Lenore Friedlaender is an Assistant to the President of 32BJ SEIU. Reprinted by permission of the Sierra Club; the original can be found at <http://www.sierraclub.org/compass/2015/09/labor-day-2015-uniting-labor-climate-and-racial-justice-movements-our-best-hope>. And go to <https://www.youtube.com/watch?t=71&v=itj4dDoHJS4> for more commentary on this issue.



ROCKing the House

The Restaurant Opportunities Centers United (ROC United), is a national organization of 13,000 restaurant workers, 100 high-road restaurant owners and thousands of engaged consumers united to raise restaurant industry standards.



With over 10 million employees nationwide, the restaurant industry is one of the largest and fastest growing private sector employers in the country. Unfortunately, despite its growth and profitability, the industry is less than .01% unionized and restaurant jobs tend to provide low wages and few benefits. To address the multitude of issues facing restaurant workers, ROC United engages in a tri-pronged model of change to build power and voice for restaurant workers. This model involves:

1. Organizing workplace justice campaigns to demonstrate the public consequences for employers who take the low-road to profitability by violating workers' rights
2. Promoting the high road to profitability through partnerships with responsible restaurateurs, developing restaurant coops, and workforce development programs that provide restaurant workers with training and skills that allow them to move into higher paying jobs in the industry
3. Lifting industry standards through participatory research and worker-led policy campaigns, such as raising the minimum wage and eliminating the sub-minimum wage for tipped workers.

Through innovative organizing and legal strategies, ROC United's Workplace Justice prong has been able to win 13 major organizing campaigns against exploitation in high-profile restaurant companies, resulting in over \$7 million in financial settlements and improvements in workplace policies such as the institution of grievance procedures, raises, anti-sexual harassment policies, paid sick days, and job security measures.

Currently, ROC United's Workplace Justice prong is engaged in the Dignity at Darden campaign, which is designed to draw attention to the low road policies of Darden Restaurants and exemplify the Big Business Restaurant Industry's prioritization of short term profit over long term sustainability of their workers, communities, and food production. Darden Restaurants, parent company to Capital Grille, Olive Garden, Longhorn Steakhouse, Bahama Breeze, Seasons 52, Eddie V's, is the largest full-service restaurant company in the world and a major contributor to the National Restaurant Association. By changing Darden, ROC United aims to change the entire restaurant industry.

Through the Dignity at Darden campaign, Darden employees have organized actions on-the-ground and online to let Darden leadership know that low wages, problematic scheduling, and the elimination of auto-gratuity are not okay and that employees matter more than breadsticks.

STREET VENDING: CHALLENGING THE CRIMINALIZATION OF WORKERS

BY CYNTHIA ANDERSON-BARKER

There are more than 10,000 street vendors in Los Angeles County, nearly all of them immigrants, many of whom have no other way of supporting themselves. They have, in response to prosecution and constant harassment from the police, organized to resist these efforts to criminalize them. The Los Angeles Chapter of the Guild and other advocates for workers pushed to the margins of our economy have joined their fight, both in Los Angeles and elsewhere.

This year's Convention features a workshop on Friday the 23rd that will explore the role of legal and community advocacy in challenging the criminalization of street vending in Los Angeles and throughout the United States. We will look into how Guild attorneys, community organizers, and non-profit organizations have worked together to develop strategies to highlight and challenge the criminalization of street vendors by defending them against prosecution, while increasing public awareness of police harassment through media and community organizing campaigns to stop law enforcement from targeting vendors. This workshop will provide tools for advocates combatting the criminalization of street vendors in their local communities through the use of legal clinics, court challenges, media events, demonstrations, and public policy advocacy. We will provide hands-on materials that we have developed here in Los Angeles and can be used everywhere. We invite you to join us.



Cynthia Anderson-Barker is a civil rights and criminal defense attorney in Los Angeles, who has, among many other things, represented students who walked out of class to join immigrant rights demonstrations, forced local communities to stop impounding immigrant workers' cars over minor traffic or parking violations, and challenged the unconstitutional conditions to which adults and youths in custody are subjected.

As the campaign progresses and grows, ROC United is looking to expand its base of legal support. If you are interested in learning more about this campaign and how you can support the Dignity at Darden campaign:

**Please join Sheila Maddali, ROC United's Legal Coordinator for a conference call:
October 14, 2015 at 3pm EST.**

Dial in #(605) 475-6700, Access Code: 238-5225.

If you are interested in learning more but unable to make the call, please email Sheila@rocunited.org

NLG LAW FOR THE PEOPLE CONVENTION

JOIN US IN OAKLAND

Wed Oct 21 6:00 pm - 9:00 pm

Bay Area NLG reception

Bissap Baobab
381 15th Street, Oakland

Thurs Oct 22 11:30 am - 1:15 pm

Labor + Employment C'tee Meeting

Kazan McClain Satterley &
Greenwood, 55 Harrison St #400
(Take the free shuttle that runs
every 15 minutes from hotel
towards Jack London Square. Get
off at last stop. Or walk, about 10-
15 minutes)

Thurs Oct 22 1:30 pm - 3 pm

**International Committee CLE—
Challenging Colonialism**

Thurs Oct 22 3 pm - 5 pm

Int'l Committee CLE—UN Charter

Thurs Oct 22 5 pm - 6:15 pm

**Task Force on the Americas
meeting**

Thurs Oct 22 5 pm - 6:45 pm

**National Immigration Project
reception**

Thurs Oct 22 7 pm - 8:45 pm

KEYNOTE by Alicia Garza,
the Special Projects Director for
the National Domestic Workers
Alliance (NDWA) and co-founder
of #BlackLivesMatter

Thurs Oct 22 8:45 pm - ?

Labor + Employment C'tee party

IFPTE Local 20, 810 Clay Street
(about 5-10 minutes from hotel)

Fri Oct 23 7:30 am - 8:55 am

**International Labor Justice
Working Group Meeting**

Fri Oct 23 9 am - 10:15 am

**Waging a Battle for
Immigrants' Rights in the
South**

Fri Oct 23 10:30 am - 11:45 am

**Wade in the Water: Detroit,
Neoliberalism, and the Future
of Cities**

Fri Oct 23 10:30 am - 11:45 am

**Street Vending: Challenging the
Criminalization of Workers**

Fri Oct 23 5:45 pm - 7:15 pm

**International Committee
reception and award ceremony
honoring Art Heitzer**

Sat Oct 24 9 am - 10:30 am

**From "Right to Work" to
"Fight for 15"**

Sat Oct 24 10:45 am - 12:15 pm

**Advocating for Economic and
Social Rights throughout the
Americas: A Transnational
Dialogue**

Sat Oct 24 3 pm - 6 pm

**Anti-Racism and TUPOCC
programming**

Sat Oct 24 6:45 pm - 7:30 pm

**Pre-banquet reception (no cost
—open to all)**

Sat Oct 24 7:30 pm - 10 pm

**Banquet + Awards (ticket
required)**

Sun Oct 25 11 am - 12:15 am

**Local Hire Policies and Job
Creation for Environmental
Justice Communities**

Sun Oct 25 11 am - 12:15 am

**Hot Topic: Fighting the
Neoliberal Corporate Agenda by
Defeating the TPP and TTIP**

Sun Oct 25 1 pm - 2:30 pm

Workshops IV



Labor & Employment Committee

c/o Kazan McClain Lyons Greenwood & Harley
Jack London Market
55 Harrison Street #400
Oakland, CA 94607