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Labor Relations **INK**

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- *EFCA Update*
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- *PLUS January Scoreboard, Employee Relations Tip-Of-The-Month, and more...*

Labor Relations Insight *from Phil Wilson*

Special Book Review: *The Devil At My Doorstep*

"The Devil At My Doorstep" has a fascinating subtitle: "Protecting Employee Rights."

That subtitle explains a lot about the book's author, David Bego. More important, it explains a lot about why David Bego pulled off something that doesn't happen as often as it should. He kicked the SEIU's butt in an anti-corporate campaign. His book gets my highest recommendation.

If you want to know what an anti-corporate campaign waged by the SEIU actually feels like, buy this book. The SEIU has taken anti-corporate campaigns to an art form that would make Saul Alinsky proud. David Bego took their best shot and didn't blink. His tale is at times strategic, sometimes tactical and always very emotional. Just like any anti-corporate campaign. [Read the rest of the article here...](#)



EFCA Update

Disclaimer: today's update is a bit more editorial. We felt this was the best way to help "connect the dots" with recent news relevant to the Employee Free Choice Act and related issues.

Read between the lines. Big Labor is desperate. In the last year or so, they've

- Emptied their wallets into political campaigns, for an as-yet moderate return

EFCA Exposed!

Tag Cloud

Labor Relations News

- SEIU President Calls Senators 'Terrorists' for Opposing the Card Check Bill - CNSNews.com
- Kaiser workers vote to leave SEIU - ModernHealthcare.com
- Labor leader presses Fenty on sick-leave law - Washington Post (blog)
- SEIU-sent officials to probe complaints - San Diego Union Tribune
- BART Avoids Service Cuts and Fare Hikes, For Now - KCBS
- Obama Calls for Change Working Families



Are Still Waiting For - PR Newswire (press release)

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Praise

great site
— P. Mouse1

I like your timeliness and the fact that I find things here I don't find elsewhere. Thanks.

— R. Pfeifer

on the investment.

- Allowed their pension funds to lapse into [desperately low funding](#) levels.
- Squandered resources and damaged their reputations by waging intense [internal wars](#).
- Attempted [hostile takeovers](#) and executed several [mergers](#).
- Continued the decades-long trend of [shedding membership](#), at least in the private sector.
- Repeatedly found themselves [working against](#) the [wishes of](#) their [own membership](#).

Unions mirror government in its most significant attribute – they are both fixated on self-preservation and growth, far beyond actually representing the people they supposedly “work for.” They also understand each other, more so than most of their constituents understand them.



Big Labor is [frustrated with their friends](#) in [Congress and the White House](#) for not obtaining [better](#) results, especially while they maintained a super majority in the Senate. [Threats have been made](#), particularly concerning union participation in the 2010 mid-term elections. But, the current “flavor” of



Washington is still the most [sympathetic to union interests](#) in a long time.

It remains to be seen what will happen with health care. It is a large and complex issue, and even the American people equivocate over their desire for change in this arena. Big Labor is still vested in the outcome, for reasons we've outlined in prior postings and articles. Whether or not a large reform effort can make its way through Congress is still up for grabs, and its not real clear what the options would be if it needed to be dismantled into component parts and attacked on a more piecemeal basis.

The Employee Free Choice Act is a different story. Big Labor had agreed to allow the President to focus on healthcare prior to tackling the EFCA, but they've about lost patience. Although unions still have much to gain via a massive healthcare overhaul, their bank accounts are low, and there is another election cycle on its way. They need cash, and the only source of cash is new members. The EFCA (or its component parts) is their ticket to access the ATM of member dues.

We've mentioned the various strategies that could be used to enact some or all of the EFCA via both [legislative and regulatory](#) means. But here's the point we want to get across today: No matter the outcome of the EFCA and/or its various components, the unions are desperate for membership, and we expect that they will come gunning for new sources of membership soon, and with a vengeance. The Free Enterprise Nation included [“government-coerced unionization”](#) as one of their top 5 threats to our national economy.

As the Bureau of Labor Statistics report reiterated, blue-collar jobs are no longer the primary target of unions. They are spreading into all industries, especially in service sector arenas that are difficult to outsource. The financial industry has found itself in the crosshairs. Gaming, including lately the Tribal contingent, continues under pressure.

Whether or not [Craig Becker is installed](#) on the NLRB, there will be a Democratic/Labor-Friendly majority on the board soon. Becker could easily be thrown under the bus, and someone with just as labor-friendly an attitude installed in his stead. The Republicans could call it a triumph that they took down Becker, but to no significant end.



Whether or not the NLRB is brought up to full strength anytime soon, the DOL (under Solis and company) is already wrecking havoc with regulatory actions. They aren't in the spotlight, nor are they as significant as a single piece of legislation, but their impact is nonetheless just as [threatening to American businesses](#).

It is expedient to expect a more union-friendly environment soon. Consider the likely outcome of the multiplied impact of a host of



Excellent information on EFCA.
— C. Mosquera

Vulnerability Assessment White Paper



regulatory and possible legislative changes. For example, what would a union corporate campaign look like if it were easier to file numerous EEOC, OSHA, Wage & Hour, and ULP charges? What if the [penalty for each violation](#) was substantially increased? What if punitive damages were allowed? How much productivity and money would be lost just refuting such claims, even if you won them all? What happens when unions use the threat of [stockholder resolutions](#) (if you are a public company)?

Corporate [campaigns are on the rise](#). William P. Schurgin, an attorney with Seyfarth Shaw in Chicago, commented at a recent panel discussion on the topic,



Recent Comments

- Joe: I think one major reason for this steep decline is that unio
- Brian: Unions are in trouble. If you can't get the political job d
- Harold: Apparently the AFL CIO wanted to talk to Brown the day befo
- Tom Gilmartin Jr: The EFCA now gains even more importance to Labor as it now b
- joe mieluchowski: Expect a backup plan from unions
- joe mieluchowski: To think that the unions are not prepared with a backup plan
- ED MELVIN: PERHAPS IT IS A NEW DAY LET US HOPE US

“Now, it is hard for unions to make their case for workers to join [a union] based on bread and butter issues. Unions are businesses and they are using corporate campaigns because [the campaigns] do not require them to win over employees. **[Using] corporate campaign tactics unions win 90 percent of the time.**”

At the risk of sounding like a broken record, today's environment may even be a bit scarier than when EFCA was alive and well. Because of our daily involvement in fighting union organizing campaigns (according to DOL reports our firm consults in more than twice as many campaigns as our next closest competitor) we hear not just what the high-profile labor leaders are saying. We hear from those in the trenches – the union organizers brought in to foment unrest in a company, the leaders of union locals initiating such action, the union sympathizers within those companies. We see their shifting tactics and new tricks.

EFCA 2009 Daily Status

H.R. 1409: Employee Free Choice Act of 2009

Introduced	Mar 10, 2009
Sponsor	Rep. George Miller [D-CA7]
Status	Introduced
Last Action	Apr 29, 2009: Referred to the Subcommittee on Health, Employment, Labor, and Pensions.

[View H.R. 1409...](#)

Powered by [GovTrack.us](#).



Unions are not going away, and desperate times will lead to desperate measures. We know that a great many American businesses are indeed vulnerable. As soon as Big Labor changes its focus off legislative action and again sets its sights on the front lines of union membership, many of those businesses will find themselves face down on the mat.

Don't be one of them.

NLRB Playing Games

The [Dana/Metadyne decision](#) of 2007 created a protection for workers that had been organized via card check, by allowing them a 45-day window to ask for a decertification vote using a secret ballot.

The National Right To Work foundation recently caught the [NLRB with its pants down](#):

Contact Congress

Enter your zip code and tell your elected officials how you feel about the Employee Free Choice Act

GO

Prior to the Obama Administration, the NLRB maintained an online database of all card check recognitions and any subsequent union decertification elections. *The NLRB, however, stopped updating this information last spring.* Foundation attorneys recently demanded the NLRB to update the database regularly, and NLRB Chairman Wilma Liebman responded last week. Although she blamed the General Counsel's office for the neglect, she stated the agency would post new information monthly going forward.

The data was revealing at several levels. First, it indicated just how often companies are pressured or succumb to allow organizing via card check. Perhaps more significant, it highlighted how often those same unions were sent packing via secret ballot after having been ensconced using the non-democratic card check process.

Only In A Union

This [tidbit contributed](#) from Winston & Strawn, LLP, attorney William Miossi:

A Federal Labor Relations Authority administrative law judge ruled that NLRB General Counsel Ronald Meisburg must bargain with the National Labor Relations Board Professional Association with respect to a consolidated unit of approximately 130 NLRB attorneys. Meisburg has refused to bargain with the union over the consolidated unit in order to obtain court review of the consolidation, which he argues violates the NLRA's separation of board and general counsel responsibilities. (*NLRB*, FLRA ALJ, No. WA-CA-09-0326, 11/18/09)

LRI's Brand New Online Supervisory Training Program



If there is **one thing** we have learned after more than **20 years and over 10,000 elections** battling unions, it is this:

Your front line supervisors are the number one key to a solid union defense, and a positive workplace.

Nothing takes the place of properly trained front line managers and supervisors, but in today's hectic business environment, we've never asked our front line leaders to do more with less. How in the world can you take the time to pull them from their jobs, and provide *training that really makes a difference!*

Our new **Online Active Interval Training (OAIT)** is the answer. **OAIT** includes:

- Easy access from any computer
- Research-based and validated content
- Best adult learning principles available
- Only 15-20 minutes per week
- Real time tracking of attitudes, skills and knowledge



- Instantaneous reporting and learner feedback
- Personalized action plans for immediate implementation
- Accountability to upper level manager for progress and plan execution

OAIT is incredibly value-priced, PLUS you can [try it absolutely FREE!](#)

“Green Job” Union Trough

Interesting [testimony](#) at a recent House Education and Labor Committee forum confirmed our [earlier warning](#) about the Green Jobs industry:

“Green jobs’ is a phrase being used to describe work that is environmentally friendly, both inside and outside the construction industry,” Worth told the forum. “However, there is no agreed-upon definition. Currently, organized labor is attempting to define ‘green jobs’ as positions held by workers that receive special green training through union-only apprenticeship programs.”

Hate to say “we told you so...”

Given that narrow definition, literally all government contracts would be unionized merely by categorizing the work as a “green job.” But why stop there? Given the enviro-whacko aims of this administration, EPA regulation could apply that definition to permitting for any construction project.

“Organized and certain special interest groups claim that only union apprenticeship programs can properly train workers to build green projects,” Worth said. “However, these claims are nothing more than an effort to monopolize the construction workforce on green building and other construction projects. Most green building techniques involve simple architectural changes or the use of environmentally-friendly building materials, which requires workers to learn skills that can be taught through both union and nonunion training programs.”

Employee Relations Tip Of The Month

The Power of Praise

Mark Twain once said, “I could live for two weeks off one good compliment.” As a manager, do you take the time to praise and recognize your employees when they do a good job? What are you doing to fully leverage this powerful motivational tool? Timely, sincere, specific praise is one of the most important things you can do to get better results out of your people.

Here are some easy, low or no-cost *actions you can take now* to increase engagement by leveraging the power of praise and recognition:

1. Make recognition a standard agenda item for your team meetings. Either begin or end each meeting by dedicating a few minutes to allow team

- members, yourself included, to publicly praise or recognize another person. Ask your boss to attend a meeting during which you thank your employees for their specific contributions.
2. Use internal communications such as the company intranet, newsletters, or a "Wall of Fame" to showcase employees who have been recognized for their outstanding achievements or contributions.
 3. Organize a cross-functional team of employees who are chartered to develop a Peer Recognition Program. Provide them with appropriate boundaries (i.e., monetary limits, etc.) and get out of their way!
 4. Write personal 'Thank You' notes to employees when they do something that warrants recognition or praise.

To learn more about how to improve the morale and engagement of your employees, check out [LRI's Online Supervisor Training](#).

Hat Tip to Eric Vanetti of [VantagePoint Alliance](#)

The Sound of Silence

Heard of [Bernie Madoff](#)? Of course you have. Got caught running a huge Ponzi scheme.



How about Melissa King? Who? You know, the famous business administrator for New York Local 147 of the Laborers International Union of North American. Famous for what, you ask? Apparently not satisfied with a salary of over half-million a year (that's dollars – not pesos), she [embezzled around \\$42 million](#).

You heard that right. Well, at least you finally heard it. Pretty telling when what's being called the largest union embezzlement in history goes virtually unreported in the media.

Labor Reformers Booted

At 11,000 or so members, Teamsters Local 743 in Chicago is one of the largest in the country. Fed up with Chicago-style internal politics, and after two elections were stolen by [corrupt, now imprisoned local leaders](#), the membership was finally able to elect a slate of reform-minded officers in 2007.

It was only a matter of time until some grounds, no matter how illegitimate, were found to "suspend" the reform-platform president, Richard Berg, and his secretary-treasurer, Gina Alvarez.



Richard Berg

What [precipitated the action](#)?

Not everyone was happy with Local 743's new direction, including some of the newly-elected officers. They agreed to run with Berg on a reform platform that included reducing the salaries of overpaid union officials. But they demanded higher salaries once they were in office. When members complained that some union representatives weren't doing their job, Berg investigated the complaints, took the cases to the union's Executive Board, and those union representatives were terminated.

Unhappy at the financial reforms and the demands for accountability of union staff some Local 743 officers teamed up with Berg's opponents in the Teamster hierarchy. They filed internal union charges falsely claiming that Berg had failed to present the terminations and other union matters to the Executive Board. Not a single one of the charges alleges that Berg or any other Local 743

reformer took a penny for personal gain.

Berg is going through the internal appeal process, but our bet is that he will be forced to head to federal court.

SCORE BOARD

Who are the winners (and losers) of the labor movement?
Don't guess, just check the LRI Scoreboard

[View this month's scoreboard \(archives also located here\).](#)

[Download a PDF of this month's scoreboard.](#)



New Union Argument To Entice Potential Members

For Big Labor, health care is not about health care. Health care is about finding new ways to drive people into union membership. We've [highlighted already](#) the direct means of categorizing more health care employees as government employees, which makes them easier to organize. The latest closed-door deal-making aimed at securing Big Labor's vote for the current version of the bill provides another, albeit more indirect, means: exemption from the "Cadillac tax" on more expensive employee health plans.

This 40% tax on certain plans was designed to help pay for the bill. The compromise is a series of exemptions which, if political operators are shrewd enough, will become permanent. According to the [Wall Street Journal](#), this means "the 87% of Americans who don't belong to a union will now foot the bill for a \$60 billion giveaway to those who do."

"What, you don't belong to a union, so your benefits are or may be subject to this tax? Wow – maybe you should join a union!" That will be the new weapon in the union organizer's arsenal.

The tax exemption is not the only give-away to unions. [Others include:](#)

- Companies with fewer than 50 workers would not be required to provide their employees and their families with a government-approved insurance plan. However, for the heavily unionized building trades, that threshold was lowered to just five employees.
- Most employers will have five years to bring the insurance they offer into compliance with government specifications, including a minimum package of benefits. Not only will employers pay more for insurance, but workers could find their contribution going up as well. But once again, if the insurance is part of a union-negotiated contract, employers will not have to make any changes until after the contract expires.
- Beginning in 2017, all union workers would be permitted to buy coverage through the government-regulated exchanges, where insurance is expected to be less expensive. The original House and Senate bills limited access to the exchanges to small businesses, individuals and the uninsured, out of concern that a wider buy-in would undermine the system of employer-provided health care for the vast majority of Americans.

Health care as an organizing tool. Who'd have thought?

FREE! Union Organizing Defense Review & Vulnerability Audit

This has quickly become one of our most popular programs, in light of upcoming labor law changes. It is more important than ever to assess both the internal and external factors that contribute to your company's vulnerability to union penetration, and formulate action plans to shore up any uncovered



weaknesses.

- What are the **most likely labor law changes**, and how will they impact my vulnerabilities?

- What are the **six strategies** I can implement to strengthen my defense against union encroachment?
- When do I talk to my employees about unions? **What do I say about unions?**

CLICK [HERE](#) to schedule your free 30-minute consultation with Phil Wilson, LRI's President and General Counsel.

Union Corruption Top Ten of the 2009

For our corruption highlight in this issue, we'll share the National Legal and Policy Center's list of the ten most egregious union corruption stories of last year.

10. Reports conclude EFCA is gift to unions.
9. New York City contractor, consultant sentenced for scams.
8. Equity fund CEO in Chicago indicted in pension scams.
7. SEIU browbeats California health and home care local.
6. Labor Department rescinds Bush-era union transparency rules.
5. Studies conclude union pension assets lag behind liabilities.
4. Service Employees union becomes an adjunct of the federal government.
3. Benefits administrator in siphons off \$42 million from NYC Sandhogs.
2. Upstate New York unions lose hundreds of millions to Madoff feeder funds.
1. Obama Treasury Department arranges union stake in GM, Chrysler.

Quite a weighty list. Read the article for [additional details, and additional examples](#) of unions and union officials at their "best."

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