

ALRA *Advisor*

January 2008

**2007 Toronto Conference —
Another ALRA Success!**



ALRA *Advisor*

ALRA Advisor is published for members of the Association of Labor Relations Agencies (ALRA) and their staff.



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Photo 1 by Jim Breckenridge
Photos 2-8 by Janet Boehmer

The ALRA Advisor is published bi-annually (January and July). On occasion, special issues are produced on an ad hoc basis.

DEADLINES: *January Issue:* November 1st — *July Issue:* May 1st
ARTICLES: Submit material as e-mail attachments (in MS Word or WordPerfect format)
PHOTOS: Submit digital files (jpeg, bmp, tiff) at 300 dpi. Please do not embed/insert photos in text document.
EDITING: All articles are subject to editing for length and clarity.
SEND: Forward all material to the Editor: Josee.Dubois@psst-tdfp.gc.ca

From the President...

Dear Friends and Colleagues:

First and foremost, my sincere thanks to my predecessor in this office, Marilyn Glenn Sayan, who has been a wonderful mentor and advisor both during her term as President and subsequently – thanks Marilyn! Thanks also to all of the members of the Executive Board, who give up their personal time to work on ALRA activities that will benefit all of the members of the Association. It is my intention as President to continue the good work begun by Marilyn and the Executive Board to ensure that ALRA is a strong voice for labor relations neutrals in North America and to welcome colleagues from other countries to share in our expertise.

As part of our strategy to ensure that ALRA remains a strong and viable organization, we must plan for the future. This will involve attracting new members, and encouraging existing members to send new people from their agencies to ALRA events. Please give consideration to bringing some of your

newer staff or appointees to the next ALRA Conference. To ensure that lessons of the past are not forgotten, I have asked the Past ALRA Presidents to form a Council responsible for institutional memory and mentoring. Marilyn Glenn Sayan has agreed to chair this President's Council for 2007-08.

My sincere thanks also to Reg Pearson and his team at the Ontario Ministry of Labour, who hosted a spectacular annual conference in Toronto, Ontario in July of 2007. Despite the rising Canadian dollar, our hosts managed to bring the "best Conference yet" in well under budget. I am pleased to report that, as a result of the financial success of the Toronto Conference and other efforts made by the Executive Board to economize, ALRA is now firmly in the black and we are therefore able to reinstate the ALRA Training grants. Any member agency interested in applying for a training grant should contact the Vice-President of Professional Development, Les Heltzer.

By the time you read this, planning will be well underway for the 2008



Boehmer photo

ALRA Annual Conference, to be held at the Sheraton Burlington Resort in beautiful Burlington, Vermont from July 19 to 23, 2008. The Executive Board met at the hotel in October and was very impressed with the facilities and the local amenities. Our Arrangements, Program and Professional Development Committees are hard at work devising an excellent week of activities and learning opportunities.

So mark your calendars now and plan to attend the Vermont Conference – it promises to be a wonderful event!

Elizabeth MacPherson
President 2007-2008

Dignitaries welcome ALRA to Toronto...



His Worship
David Miller,
Mayor, City of Toronto



The Honourable
Jean-Pierre Blackburn,
Minister of Labour, Canada



The Honourable
Steve Peters,
Minister of
Labour, Ontario

Photos by Boehmer

LANDMARK LABOUR AGREEMENT REACHED

Magna International Inc. and the Canadian Auto Workers Union achieve deal



Magna workers join CAW under the “Framework of Fairness”

WINDSOR, Ontario - A group of workers at a Windsor plant that makes door parts for mini-vans has become the first to vote in favour of a landmark labour agreement between Magna International Inc. and the Canadian Auto Workers union.

The CAW said Wednesday that more than 250 workers at Windsor Modules, a division of Magna, voted 87 per cent in favour of the agreement, which includes an immediate \$3 an hour wage increase for some workers and a controversial no-strike clause.

The Windsor plant is the first of more than 40 plants in the Magna system to adopt the deal - the first collective agreement negotiated by the CAW and Magna.

(November 7, 2007 THE CANADIAN PRESS)

What is the Magna-CAW Agreement?

Document #1: Framework of Fairness Agreement (FFA)

The Framework of Fairness Agreement is a founding document which will guide the process by which Magna employees can vote on whether to join the CAW and approve their collective agreement, and how the relationship between the company and the union will be managed.

The FFA itself is *not* a collective agreement. A new CAW-Magna National Agreement will be negotiated as part off this process; it will be a separate document. Magna employees will get to vote on approving that contract and joining the CAW, under the process mapped out by the FFA.

The FFA contains the following major features:

Founding principles: The company and the union commit to building an auto industry that is productive, competitive, profitable, and socially and environmentally responsible. The union recognizes that a viable auto industry needs to deliver a competitive profit to its shareholders. The company recognizes that valuing and respecting workers is a crucial ingredient for its continuing success.

Certification process: Magna employees in each facility will vote by secret ballot vote whether to approve the new CAW-Magna National Agreement and join the CAW. Votes will be held at each operating plant (or “Division”), supervised by neutral labour relations professionals.

Contents of National Agreement: The new collective agreement, once it is negotiated, will include the following features: union recognition and dues check-off; non-discrimination and harassment protections; women’s advocate program; wages and benefit schedules; wage increments; retirement programs; work rules, working hours, and holiday and vacation entitlements; seniority; layoff and transfer procedures; the establishment of joint committees; skilled trades provisions and apprenticeships; and more.

Workplace representation: Each facility will have an Employee Advocate working full-time (assuming minimum plant population) to assist employees in addressing their concerns, and to generally participate in building a strong labour-management relationship at the plant level. The Employee Advocate will also represent their facility on the executive board of the amalgamated CAW-Magna local union. Each facility

will also have a Fairness Committee to consider plant-level issues and performance indicators, and review employee concerns. A 50%+1 majority of the Fairness Committee will consist of worker representatives elected from each shift and area of the plant by secret ballot.

Concern resolution: The Framework of Fairness provides a detailed process for resolving employee concerns and disagreements over the implementation of the FFA or the National Agreement, without recourse (in most cases) to standard grievance procedures. Several avenues can be pursued through this process, including open-door approaches to local managers; appeals to the Fairness Committee; formal hearings undertaken by the Fairness Committee; contacting a corporate-level Hotline; and appeals to higher-Level CAW-Magna bodies. If these measures cannot resolve the concern, then it can be referred to binding arbitration by a mutually-selected neutral party.

Contract negotiation: Every three years, the CAW and Magna will negotiate changes to the National Agreement. These negotiations will be overseen by the top-level labour-management body, called the Employee Relations Review Committee (consisting of three union and

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three company leaders). Local plants will provide input, including through the Employee Advocates (*who* represent CAW members at each facility through the amalgamated CAW-Magna local).

Once the top committee has mutually approved changes to the National Agreement, the executive of the CAW-Magna local will be asked to recommend the agreement, and it will then be submitted for ratification by all CAW members at Magna. If no agreement can be reached, or if the tentative agreement is rejected by either the CAW-Magna local executive or CAW members in the ratification vote, then outstanding matters will be referred to a neutral arbitrator for final-offer selection. There will be no work stoppages.

Wage increases: Wage increments will be negotiated annually on the basis of a formula that considers changes in broader economic variables, consumer prices, wage trends in competing companies, and productivity performance at each Magna facility.

Document #2: CAW-Magna National Agreement

The CAW-Magna National Agreement will be approved by the first groups of Magna employees as they vote (by secret ballot) to join the CAW under the terms of the Framework of Fairness.

It will contain first-rate features, including:

- Union recognition and dues check-off.
- Detailed description of the employee representation structure, including the method of selection of the Employee Advocate and the Fairness Committee, and the duties of each.
- Detailed description of the Concern Resolution process, including recourse to binding arbitration if other methods of resolution fail.
- Non-discrimination and anti-harassment measures.
- Women's rights and the role of the women's advocate.
- A standard management rights clause.
- Seniority rights and procedures.
- Layoff and recall provisions.
- Health and safety, right to refuse, and WHMIS practices.
- Skilled trades provisions and apprenticeships.
- Progressive discipline.

- Wage schedule.
- Formula for determining annual base wage adjustments on the basis of changes in the cost of living, trends on competing workplaces, and plant-level productivity and quality performance.
- Benefits and retirement programs.
 - Working hours, shifts, breaks, overtime, and premiums.
- Vacations and holidays.
- Leaves of absence.
- Education programs.

The duration of the National Agreement will be three years, at which point it will be renegotiated according to the process described in the Framework of Fairness.

Negotiated changes to the National Agreement must first be endorsed and recommended by the executive of the amalgamated CAW-Magna local union (consisting of Employee Advocates from each facility), and then ratified by CAW members at Magna facilities in a secret-ballot ratification vote.

If no agreement can be reached on contract changes, or if a tentative agreement is rejected by the CAW-Magna local executive or by CAW members in the ratification vote, then outstanding matters are referred to a neutral party for binding final-offer arbitration.

What the Parties have to say about it

—*Frank Stronach (Chairman of the Board of Magna International Inc.) and Buzz Hargrove (President of the Canadian Auto Workers Union)*

We come from opposite sides of the labour relations street: a manufacturing executive and a union leader. And we've had our share of battles and controversies over the years.

Union drives. Legal appeals. Tough negotiations. Even a strike or two. But, in recent years, we've noticed there are a surprising number of issues on which we now see eye to eye.

We're both passionate about Canada. We both love autos: not just to drive, but because of the immense economic and social

benefits that a healthy auto industry can generate.

Yet, we both recognize that Canada's auto industry and our entire manufacturing base face a moment of truth. New challenges in global competition mean our industry must change, or else it will continue to wither away. And we both agree that the best ace in Canada's automotive hand is our people.

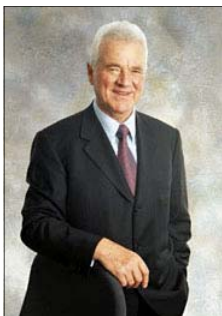
Our most valuable asset, as we find ways to evolve and survive, is the skill, the productivity and the work ethic of Canadian auto workers - matched with the knowledge and creativity of Canadian scientists, engineers and managers.

If we are going to preserve this crucial industry in the face of

globalization, a dollar at parity and climate change, then we need to leverage our "human advantage" to the greatest possible degree.

Which brings us to our announcement on Monday that we are turning a new page in our relationship. Magna and the Canadian Auto Workers union signed a "framework of fairness" that will govern how we work together for many years to come.

Through this agreement, Magna accepts the CAW as a genuine partner,



Frank Stronach



Buzz Hargrove

Photo credit unknown

Breckinridge photo

LANDMARK LABOUR AGREEMENT REACHED

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with a crucial role to safeguard the interests of Magna's workers as the company grows and changes. And the CAW accepts Magna's culture of "fair enterprise," and the unique structures we've put in place over the years to make decisions and resolve concerns with maximum worker participation.

We think we are combining the best of both worlds: the best traditions of union protection and security, the best features of Magna's fair enterprise corporate culture. Indeed, economic studies have suggested that companies that pair union representation with extensive mechanisms for worker involvement and participation attain the best possible combination of high productivity and high morale.

Here's how it will work. Production workers at Magna's Canadian facilities will have the opportunity, in supervised secret-ballot votes, to consider a new labour contract and join the CAW. In facilities where a majority of the work force supports the union, the CAW will become the recognized bargaining agent and the employees will be covered by a new

CAW-Magna national collective agreement.

Like a normal union contract, this new national agreement will continue to offer excellent provisions governing wages and benefits, hours and work

"For the sake of the auto industry, we've put aside our differences"

*Joint statement by
Stronach and Hargrove*

rules, vacations and holidays, seniority and safety. But it will have several unprecedented features, too. Instead of union stewards, "employee advocates" will work with "fairness committees" in each plant to make local decisions and resolve concerns. Instead of traditional grievances, a "concern resolution process" will give workers several avenues to pursue and resolve a concern. Instead of strikes and lockouts, unresolved contract matters will be referred for final-offer arbitration.

This is an experimental approach to labour relations. We believe it will

enhance our shared effort to build a successful competitive industry, but in a manner that respects and invests in working people, their families and their communities.

Magna is Canada's largest automotive employer. The CAW is Canada's largest private-sector union. Both our organizations have demonstrated incredible innovation over the years, as we've evolved to perform our respective functions to the fullest.

In our own ways, we've put a unique Canadian stamp on our auto industry: what we make, how we make it and how we share the fruits of what we've produced.

Our new system of labour relations, we believe, will also be uniquely Canadian—melding North American and European aspects, with a homegrown emphasis on fairness, mutual respect and hard work.

We enter this new phase in our relationship optimistic that it will make a significant contribution to the future success of Canada's most important industry.

(The Globe and Mail, October 17, 2007)

A Neutral's Comment on the MAGNA-CAW Agreement

Time for change; Unions and firms like Magna must co-operate to compete

—Tim Armstrong (Financial Post)

It is big news. Frank Stronach, head of Magna, Canada's largest manufacturer, grants voluntary recognition to the CAW, subject only to a favourable vote by the majority of Magna's 20,000 Canadian employees.

Buzz Hargrove, president of Canada's largest private sector union, gives up the strike right. What's going on?

The negative, knee-jerk reaction by ideologues in organized labour was predictable. To abandon the right to strike, these critics say, is to relinquish the major tool for bargaining fairness and equity in the workplace.

Opponents should consider the context in which the agreement was made and the detailed documentation, which sets out significant gains for the workers.

First the context. We now have a global trading system that enables vehicles and parts to be imported to North America from some developing economies where exploited workers are paid barely subsistence wages.

And many large and burgeoning Asian economies have prohibitively high import tariffs and impenetrable non-tariff barriers that prevent effective marketing and distribution of our imports.

The result is an indigenous North American automotive industry unfairly disadvantaged and under siege in the global marketplace.

To meet this challenge, the CAW and Magna will join forces in lobbying governments to rectify the unfair, job-threatening global trading practices that jeopardize the industry's future.

Stronach's gain is a solid partnership with the influential CAW, with its pragmatic bargaining expertise, its first-class economic and labour-market analytical capabilities and its successful track record in soliciting support from provincial and federal governments.

How about the relinquishment of the strike right?

Opponents have invoked Pierre Trudeau's statement in 1950 that the strike right "enables workers to negotiate with their employers on terms of approximate equality."

Ignored by the critics is Trudeau's subsequent imposition of wage controls,

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which effectively nullified the utility of strike action over wages.

More important, when that statement was made, Asia and Europe were flat on their backs and the North American automotive industry was booming—and the unfair trading characteristics of today's global environment had not emerged.

Critics suggest that the no-strike provision will be forced on Magna workers. Wrong. Acceptance of the agreement depends on a free vote by Magna employees.

If they don't like the deal, they can reject it. They retain the right to terminate the CAW's bargaining rights under the Labour Relations Act if the majority wishes to do so.

If the CAW finds that it cannot advance the workers' interests, it can withdraw without penalty.

Will the Hargrove/Stronach deal lead other companies to seek relief from the strike right? Perhaps. But my sense is that few companies are prepared to grant their unions the elements of workplace codetermination that the Magna deal contains. And even if they are, why shouldn't the workers be given the opportunity to vote freely on their dispute-resolution preferences?

Strikes in Ontario are diminishing in frequency. The time lost through work

stoppages due to strikes, as a proportion of total work time, was nine times greater in 1975-80 than in the last five years. Some well-known and respected unions—The International Brotherhood of Electrical Workers, for example—have voluntarily opted for binding arbitration in their province-wide construction bargaining as a substitute for strike action. I have heard no cries of outrage against the IBEW.

Does this signal that the strike is becoming obsolete? Of course not. But where workers choose to select another method for resolving their differences and preserving the continuity of their employment, that preference should be respected.

And then there are the provisions for significant employee involvement at the workplace. Under the Framework Agreement, the CAW and the workers are given unprecedented access to information concerning Magna's operations. To quote from the agreement, they have the right to review the company's "key operational metrics and measurements," and the right to work with management on initiatives to increase job satisfaction and employment security.

"Quality of working life" experimentation has occurred in Ontario in the past, but, with few exceptions, isolated successes were not sustained.

The economy was booming and organized labour feared "co-option" by management. But this, too, is changing, in part because of the competitive pressures of globalization.

Employee participation can make firms more productive and innovative. Irving Bluestone, a retired vice-president of the United Auto Workers, was Walter Reuther's top aide during the 1960s. In *Negotiating the Future: A Labour Perspective on American Business*, he makes a compelling case for an "enterprise compact," similar to the Magna/CAW pact, where employee participation, developed jointly between union and management, gives employees a meaningful role in workplace organization. I am unaware that Bluestone has been accused of being a sell-out artist.

In her last book, *Dark Ages Ahead*, Jane Jacobs, hardly a reactionary right-winger, warned against irrational resistance to change. She said: "Institutions that cannot adapt adequately to radical jolts in circumstances become irrelevant, and are dropped." The Hargrove/Stronach critics should take note.

—Tim Armstrong is a former Deputy Minister of Labour and Deputy Minister of Industry, Trade and Technology in Ontario.

(National Post, November 1, 2007)

Reflections on the U.S. *National Labor Relations Act*

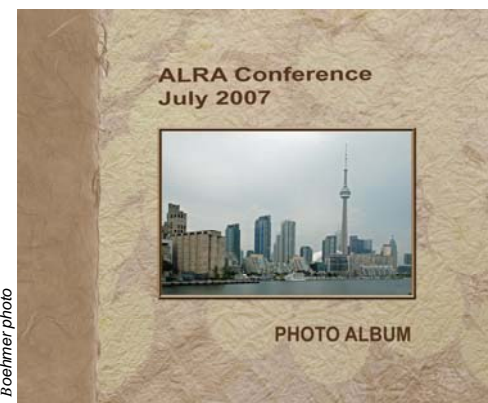
Wilma B. Liebman, a member of the U.S. National Labor Relations Board, has written an essay on the *National Labor Relations Act* and the Board that administers it. She contends that the *Act*, which has not been updated in 60 years, is no longer adequate for today's economy and that the Board has not applied the *Act* "dramatically".

She also recently made a statement before joint United States Senate and House of Representatives subcommittees regarding the performance of the Board.

Links: *Decline and Disenchantment: Reflections on the Aging of the National Labor Relations Board*, by Wilma B. Liebman (22 pages), http://www.nlr.gov/shared_files/Press%20Releases/2007/6_Liebman_-PDF_11_29_07_sgs.pdf

The National Labor Relations Board: Recent Decisions and Their Impact on Workers' Rights, by Wilma B. Liebman, December 13, 2007 (35 pages, http://www.nlr.gov/shared_files/Press%20Releases/2007/WBL_Hearing-Testimony_3.pdf).

Watch for the e-mail notice..



The 2007 Conference Photo Album soon to be on ALRA's website!

DEPARTMENT OF LABOR

Archive of Collective Bargaining Agreements

In May 2007, Secretary Chao issued an order transferring authority from the Bureau of Labor Statistics (BLS) to the Employment Standards Administration (ESA) for maintenance of the statutorily-required file of collective bargaining agreements.

BLS had begun collecting such contracts in 1947 pursuant to a provision in the *Labor-Management Relations (Taft-Hartley) Act*.

ESA is currently the agency within the Department that enforces the *Labor-Management Reporting and Disclosure Act of 1959 (LMRDA)*, which among other things, requires unions to file informational reports about their organizational structure, including copies of constitutions and bylaws, as well as annual financial reports. The BLS will continue to collect data on work stoppages in the U.S.

Although a major purpose of the LMRDA is to provide for democratic union elections and to ensure control by the rank and file through the filing of annual financial reports, the ESA seems to emphasize instead the misdeeds of unions and their officers.

In October, when the US Senate cut the agency's budget, ESA stated that "Today's Senate action hurts rank and file union members by cutting the budget of the enforcement agency that ensures they know how their hard-earned dues are being spent and that protects them from election fraud, embezzlement of union dues and other financial abuses."

More information on all of these items can be found at the Department's web site, www.dol.gov.

FEDERAL MEDIATION and CONCILIATION SERVICE

14th National Labor-Management Conference – June 2008

The FMCS has issued a call for presentations to be made at the 14th National Labor Management Conference in Washington DC, June 9-11, 2008.

The theme of the conference, "*New Era, New Solutions*" is to be explored through major keynote addresses and some 60 workshop presentations emphasizing labor-management cooperation, innovative solutions to labor-management issues, skill-building, and "how-to" learning using real-world examples.

The conference, held every two years, has been a pre-eminent venue for the exchange of ideas among labor relations professionals, academics, arbitrators, consultants, union and management representatives and government officials and workers.

In recent years it has been held in Chicago. For more info www.fmcs.gov,

NATIONAL LABOR RELATIONS BOARD

NLRB Case Production in 2007

The National Labor Relations Board reported on case production in Fiscal Year 2007, noting that it had issued decisions in 287 unfair labor practice cases and 104 in representation cases.

While this represented a decline from the previous year's total of 477 decisions, Chairman Battista stated that "we made tremendous progress getting out some of our oldest and most difficult cases as the result of a determined effort by all Board-side offices.

The case backlog is the lowest in at least 30 years. The Board is indebted to its hardworking and dedicated staffs for the progress we have made."

General Counsel Challenges Combined Board—GC Bargaining Unit

The General Counsel of the Board is challenging a decision of the Federal Labor Relations Authority (FLRA) combining in one bargaining unit employees of the Board and the General Counsel's office. In a statement to employees, General Counsel Meisburg said:

"I believe strongly that the FLRA erred in reaching its decision. Section 3 (d) of the *National Labor Relations Act* establishes an independent General Counsel who has broad authority to prosecute unfair labor practices as well as supervisory independence over General Counsel-side employees.

The FLRA's consolidation decision is conflict with this statutory directive and blurs the lines of supervisory authority that are set out in the... Act.

In creating a single bargaining unit that includes both Board-side and General Counsel-side employees, the FLRA certification threatens the... independence of the General Counsel. This approach is contrary to both the intent of Congress and the express language of [the Act]. On a practical level, this decision disrupts over 40 years of productive collective bargaining at the NLRB...."

The consolidated unit was sought by the NLRB union. In its decision, the FLRA argued that the Board and general counsel have conducted joint bargaining for 30 years and that the board therefore has "a unified agency policy applicable to all employees."

The only way for the General Counsel to obtain court review of the FLRA's decision is by refusing to bargain with the union in the consolidated unit, thereby provoking an unfair labor practice charge by the union. This process has already been set in motion.

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Board Decisions on Protections Applicable to “Salts”

Under the convoluted and difficult process by which employees in the US gain recognition by an employer, unions sometimes send members known as “salts” to seek employment and then organize the workers at their new workplace.

In a number of recent cases, the NLRB has reversed prior decisions protecting such workers from hiring discrimination (because they arguably have no genuine interest in working for the employer) [*Toering Electric Co.*, 351 NLRB No. 18] and altering the standards for determining back pay for such workers. [*Oil Capitol Sheet Metal, Inc.*, 349 NLRB No. 118].

These decisions, as well as others referenced here, can be found on the Board’s web site: www.nlrb.gov.

Voluntary Recognition not a Bar to Decertification or Rival Union Petition

In *Dana Corp.*, 351 NLRB No. 28, the Board held that voluntary recognition

does not bar a decertification petition or rival union petition filed within 45 days of the notice of recognition.

This much-disputed case involved the filing of amicus briefs from various companies, individuals and organizations, as well as members of Congress.

The majority argued that given the uncertainty surrounding voluntary recognition based on a card majority rather than on an election, a 45-day period will be allowed for the filing of petitions before an election bar will be imposed.

The dissenting opinion argues that the majority relegates voluntary recognition to disfavored status and will promote instability in collective bargaining and the recognition process.

OTHER DEVELOPMENTS in the FEDERAL WORKPLACE

Employees at the General Accountability Office (GAO), an arm of Congress, have voted to be represented by a union, the International Federation of Professional and Technical Engineers.

The 2 to 1 vote among about 1,800 eligible voters was the culmination of an effort that began last year in reaction to restructuring of compensation practices at the agency.

In May 2007, the National Treasury Employees Union was certified to represent approximately 21,000 employees of the US Customs and Border Protection Agency.

In August, the US Court of Appeals for the DC Circuit declined a motion by unions to hold a full-court hearing on the reversal by a three-judge panel of a decision blocking the Defense Department from implementing new personnel rules that the unions contend would gut their collective bargaining rights.

The decision may be appealed to the US Supreme Court. In the meantime, the Defense Department has begun to implement provisions of the new National Security Personnel System that do not cover unionized workers.

—Submitted by Joy K. Reynolds

REMEMBERING...

Maggie Jacobsen, Former Member of the National Mediation Board Dies

Magdalena (Maggie) Jacobsen—the daughter of a tugboat captain—who became one of the most prominent women in labor relations has died.

Maggie started her career in 1962 as a flight attendant for Continental Airlines, became a representative of her Union, the Steward and Stewardess Division of the Airline Pilots Association, and was elected national secretary-treasurer of the Union that represented over 20,000 flight attendants who flew on 20 air carriers.

In 1971, Jacobsen studied at the AFL-CIO Labor Studies Program and earned a certificate in labor studies there.

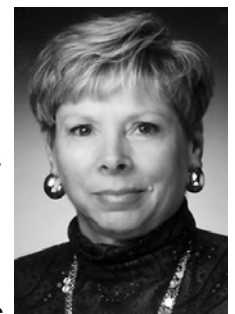
In 1973, she completed Harvard University’s Trade Union Program. She earned a Bachelor of Science degree in Organizational Behavior in 1987 and—in 1989—an MS in Human Resource Management.

In 1972, Maggie became Manager of Labor Relations for Continental Airlines.

Jacobsen became Employee Relations Director for the City and County of San Francisco in 1991 and provided leadership to 93 departments, divisions and commissions in their relations with the 45 labor organizations that represented some 33,000 public employees.

In 1976, she became a Commissioner (mediator) in the Federal Mediation and Conciliation Service (FMCS), a government agency providing services—in large part—to private sector parties

engaged in collective bargaining. In 1992 she accepted an assignment to the Portland FMCS office and, while there, organized the Oregon Chapter of the Industrial Relations Research Association (IRRA)—now called the Labor and Employment Relations Association. In 1998 Maggie was elected national president of IRRA, the one organization in labor relations that serves the interests of the entire labor relations community: academics, labor, management, and neutrals.



Maggie Jacobsen

(Continued on page 11)

In & around the States...



Breckenridge photo



NEW YORK

— Submitted by
Rick Curreri

PERB—Major personnel changes

The New York State Public Employment Relations Board has undergone a series of significant staffing changes lately, starting with the confirmation of **Jerome Lefkowitz** this past spring as the fifth Chair in the forty year history of the Board. He succeeds former ALRA Board member Michael Cuevas, who resigned in December. Mr. Lefkowitz returns to PERB, having served from the Board's inception in 1967 through 1986 as its Deputy Chairman, followed by a year during which he was a member of the Board. A graduate of New York University and Columbia Law School, he was a key player in the original formulation and implementation of the Taylor Law, which governs public sector bargaining in New York.



On the same day it confirmed Mr. Lefkowitz as Chair, the State Senate confirmed the Governor's nomination of **Robert S. Hite** as a member of the Board. Mr. Hite is an experienced labor relations attorney for both management and labor, having represented various municipalities and having served from 1995-2000 as General Counsel to AFSCME District Council 82, which represents, among others, State corrections officers. He is a graduate of Colgate University and Albany Law School of Union University.

William A. Herbert was named PERB's new Deputy Chair and Counsel, which serves as chief legal advisor to the Board. He practiced labor and employment law for over two decades throughout New York State including representation of clients at PERB as well as in federal and state court. A graduate of Yeshiva University, the University of

Buffalo and the Cardozo School of Law, he has published articles in various law journals and lectured on a variety of issues including new technologies in employment, the application of the First Amendment to public employment; and whistleblower and retaliation issues.

PERB's new Executive Director is **Anthony Zumbolo**, who was a mediator and Supervising Mediator with the Board for over 25 years. A regular delegate at ALRA conferences, he also served as project manager for numerous administrative, research and information technology initiatives, including PERB's web site. Dr. Zumbolo earned his Ph.D. from the Rockefeller College of Public Affairs and Policy of the University at Albany, and his dissertation was awarded the national Labor and Employment Relations Association's Best Dissertation prize.

David P. Quinn was named the Board's Associate Counsel and Director of Litigation, having served with PERB as an Administrative Law Judge and Assistant Counsel for 23 years. A graduate of the State University at Albany, Mr. Quinn earned his law degree from Albany Law School of Union University.

A familiar ALRA presence is PERB's new Assistant Director of Conciliation. **Kevin B. Flanigan**, well-known to denizens of ALRA hospitality rooms as one of PERB's two guitar-playing troubadours, had been a mediator and Supervising Mediator with the Board for 25 years, during which time he facilitated the settlement of over 1,000 collective bargaining disputes.

Mr. Flanigan has also served as PERB's principal trainer and facilitator for its Labor-Management Cooperation programs, including Labor-Management Committee Effectiveness, Interest-Based Negotiations, and Facilitated Intensive Negotiations. He is a graduate of St. Bonaventure University and the Institute of Labor and Industrial Relations at the University of Illinois.

Susan A. Comenzo has been named PERB's Assistant Director of Public Employment Practices and Representation. An administrative law

judge with the agency for 28 years, Ms. Comenzo is a graduate of the State University at Albany and Albany Law School of Union University.

The Board also appointed three new administrative law judges.

Melanie Wlasuk is a former General Counsel for SEIU Local 200 in Syracuse and a graduate of Syracuse University's College of Law.

Nancy L. Burritt had over 20 years' experience practicing public sector labor and employment law before PERB, as well as state and federal courts, and is a graduate of Albany Law School of Union University.

Kenneth S. Carlson comes to PERB after representing the State Unified Court System in arbitration hearings and before PERB, for nearly thirteen years. He is also an Albany Law School graduate.

Finally, PERB named **Mary Beth Purcell** as its Administrative Officer. A graduate of Siena College, Ms. Purcell has 27 years of experience as a budget examiner and pay analyst in a variety of State government positions.

MICHIGAN

MERC COMMISSIONER

Nino E. Green of Escanaba was first appointed as a Commissioner on the Michigan Employment Relations Commission on July 1, 2004 and was re-appointed on July 20, 2007.

He is MERC's first commissioner from the Upper Peninsula.

Commissioner Green was admitted to the practice of law in Michigan in 1964. He is the former executive director of U.P. Legal Services and the current chairperson of its successor organization, Legal Services of Northern Michigan. He has broad experience representing labor unions.

Commissioner Green has practiced before the NLRB and MERC and all of the district and circuit courts in the Upper Peninsula, as well as the United States District Courts for the Eastern and Western Districts of Michigan and the District of Minnesota.

(Continued on page 17)

In & around the States...



Breckenridge photo

NEW JERSEY

— Submitted by
Robert Anderson

PERC Developments

Interest arbitration in New Jersey is limited to firefighters and police officers, defined as “employees engaged in performing police services.” In Camden Cty. Prosecutor and Camden County Assistant Prosecutors Ass’n, P.E.R.C. No. 2007-9, 32 NJPER 283 (¶117 2006) and Union Cty. Prosecutor and Union Cty. Asst. Prosecutor’s Ass’n, P.E.R.C. No. 2007-10, 32 NJPER 286 (¶118 2006), consol. and aff’d, 2007 N.J. Super. LEXIS 186 (App. Div. 2007), the Commission held that assistant



prosecutors perform legal services, not police services, and thus are not entitled to invoke interest arbitration. The Appellate Division has affirmed those rulings.

RATS!

A union organizer’s balloon was burst in State v. DeAngelo, 2007 N.J. Super. LEXIS 304 (App. Div. 2007).



The Court upheld the organizer’s conviction for violating an ordinance that prohibited the display of inflated signs to attract the attention of pedestrians and motorists.

The organizer violated the ordinance when he hoisted a 10-foot tall inflatable rat in front of Gold’s Gym as part of a labor protest against the employer. The Court rejected the organizer’s arguments that the ordinance was preempted by the *National Labor Relations Act*; violated the organizer’s constitutional right of free

speech; was void for vagueness; and was selectively enforced.

Judge Sabatino dissented from the majority’s conclusion that the ordinance did not violate the right to free speech. He found that it was not content-neutral given an exception permitting grand-opening signs.

For example, he thought the ordinance would permit a Disney retail store to have a grand opening with a rat-shaped balloon depicting a character from the movie *Ratatouille*.

He thus would have remanded the case for the development of a record on whether there were sufficiently compelling reasons to justify the disparity between a grand-opening sign and other signs and whether the grand-opening exception, if unconstitutional, could be severed from the sign ordinance without compromising the aims of that ordinance.

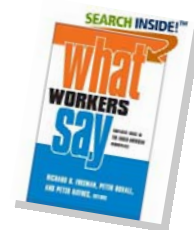
From the bookshelf...

What Workers Say: Employee Voice in the Anglo-American Workplace

Edited by Richard B. Freeman, Peter Boxall, and Peter Haynes. Ithaca, N.Y.: ILR Press, 2007. 244 p. ISBN 978-0-8014-7281-7

This book brings together research on employee voice from the United States, Canada, the United Kingdom, Australia and other countries. The articles in the book examine the opportunities that workers have to voice their concerns, the desire for union representation, attitudes to employer-initiated voice mechanisms, and the most successful models for employee voice.

About the Editors: *Richard B. Freeman* is Professor of Economics at Harvard University and Senior Research Fellow at the London School of Economics; and *Peter Boxall* is Professor of Human Resource Management at the University of Auckland. Peter Haynes is a former senior trade union official.



REMEMBERING—Maggie Jacobsen

(Continued from page 9)

In 1993, President Clinton nominated Maggie Jacobsen to the National Mediation Board, the federal agency with jurisdiction over collective bargaining in the airline and railroad industries. She was confirmed by the United States Senate and served three terms, including service as the Board’s Chairperson.

Maggie mediated the 1994 to 1996 national rail negotiations that produced the longest period of labor peace in that industry in 22 years. Both parties gave her the title “Iron Lady” in testimony to

her efforts to bring the parties to agreement.

She returned to the Pacific Northwest in 2002, where she began a private practice as a mediator and arbitrator.

In 2005 Maggie moved to Camas, Washington, where she continued her practice as a neutral in collective bargaining. While there she became a founding partner in OPTIONS For the Workplace, LLP, a organization that provides services jointly to unions and employees to foster constructive approaches to labor-management relations.

Magdalena Jacobsen is survived by her husband, Bruce Henricus, a retired Teamster leader, two sisters Jean Jacobsen and Annette Allen both of California, and a brother Waldemar Jacobsen of Connecticut.

The family requests that offerings in her memory be sent to: The Susan G. Komen for the Cure, 5005 LBJ Freeway, Suite 250, Dallas, Texas 75244 and/or The Ray Hicky Hospice House, 2112 E. Mill Plain Blvd, Vancouver, Washington 98661.

For further information contact
Bruce Henricus (360) 833-2732
(January 2008)

CANADIAN INDUSTRIAL RELATIONS BOARD (CIRB)

Recent Decisions

In an application filed by the Grain Workers Union, Local 333 C.L.C. (the union), the Canadian Industrial Relations Board was asked to issue a declaration that Prince Rupert Grain Ltd. (PRG) and the British Columbia Terminal Elevator Operators' Association (BCTEOA) constituted a single employer. In order to obtain a single employer declaration, an applicant must establish five criteria.

The Board concluded that PRG was not under the common control and direction of the BCTEOA and that there was no legitimate labour relations purpose for issuing a common employer declaration.

The Board stated that the union's intention in seeking such a declaration was to enhance its bargaining power and to gain, through the Board's declaration, what it was unable to achieve at the bargaining table.

In an unrelated matter, the BCTEOA and other employers jointly filed two applications for declarations of unlawful strike because members of the unions decided not to cross the picket lines set up by the Public Service Alliance of Canada (the PSAC), in connection with the PSAC's legal strike action against the Canadian Grain Commission, and therefore did not report for work.

The collective agreements contained a provision that permitted employees to respect a picket line. The Board found that while picket line clauses may be permissible for other purposes, they are not a means to circumvent the statutory prohibitions. The *Code* neither expressly nor implicitly authorizes parties to contract out of the prohibition against mid-contract work stoppages, therefore insofar as an article in the collective agreement purports to create an exception

to the *Code*, it is invalid and ineffective.

The Board therefore ruled that the refusals to cross the PSAC picket lines in these cases constituted a strike within the meaning of the *Code*. The Board stated that individual employees, unionized and non-unionized alike, remain free to join together to demonstrate their solidarity and support towards other workers, in other ways and at other times, and that this principle and constitutional analysis is not altered by the existence of a picket line clause in the collective agreement. The Board therefore found that the *Code* provisions did not infringe the freedom of association under the *Canadian Charter of Rights and Freedoms*.

The unions have requested reconsideration of the Board's decision.

Appointments

On October 15, 2007, the Honourable Jean Pierre Blackburn, Minister of Labour for Canada, announced the appointment of **Elizabeth MacPherson** as the new Chair of the Canada Industrial Relations Board. Liz is well known to ALRA—as the current President of ALRA and long-time Board and committee member. She has a Bachelor and a Master of Laws degree, and had been the Director General of the Canadian Federal Mediation and Conciliation Service since 1999. Liz assumed her new responsibilities on January 1, 2008.

Ms. Louise Fecteau was re-appointed in her position as a full-time Vice-Chairperson of the CIRB for a term of four years, effective October 1, 2007.

Ms. Judith F. MacPherson was appointed as full-time Vice-Chairperson of the CIRB for a term of five years, effective December 17, 2007. Ms. MacPherson possesses over 25 years of experience as a lawyer specializing in labour, employment, administrative, corporate, commercial and family law. She holds a Bachelor of Civil Law from the University of New Brunswick and a Bachelor of Arts from Saint Mary's University, in Halifax. She currently is an adjudicator with the New Brunswick Public Service Labour Relations Board.

Mr. Richard I. Hornung was appointed as part-time Vice-Chairperson of the CIRB for a term of three years, effective June 7, 2007. Mr. Hornung has extensive experience in labour law, industrial relations and alternate dispute resolution. He holds two Bachelor degrees from the University of Saskatchewan and a Master of Laws from the London School of

Economics. He has occupied various positions, serving as Vice-Chairperson of the Canada Labour Relations Board, and Chair of the Saskatchewan Labour Relations Board.

Mr. Herman Champagne was appointed as full-time Member (employer representative) of the CIRB for a term of three years, effective July 2, 2007. Mr. Champagne holds a Bachelor's degree in industrial relations from the Université Laval and a general law certificate from the Université de Montréal. He has held the position of Director of Human Resources at Technicolor, was responsible for human resources and labour relations activities at Collins & Aikman, and also served as Senior Advisor of Human Resources at Petro-Canada.

(Continued on page 13)

(CIRB—Continued from page 12)

Mr. John Bowman was appointed as full-time Member (employee representative) of the CIRB for a term of three years, effective November 1, 2007.

Mr. Bowman holds a Bachelor's degree in history with a specialization in labour history from the University of Winnipeg. He was most recently the Privacy Officer for the Canadian Auto Workers (CAW)

in British Columbia and various CAW locals. He has served as a long-time national representative with the Canadian Association of Industrial, Mechanical, and Allied Workers and CAW.

Retirement

The Chairperson of the CIRB, **Warren R. Edmondson** retired at the end of his four-year term at the Board on December 31, 2007.

Prior to his appointment to the CIRB, Mr. Edmondson was Assistant Deputy Minister of Labour and Head of the Federal Mediation and Conciliation Service (FMCS).

During his years of service with the federal government, Mr. Edmondson made a valuable contribution to the labour relations community and, in 2001, the Governor General presented him with the Outstanding Achievement Award of the Public Service of Canada for sustained outstanding achievement in modernizing the conduct of labour-management relations in Canada.

He was also an active member of ALRA throughout his career. Happy retirement, Warren!



Breckenridge photo

Warren Edmondson pictured with wife, Kathy (right) and daughter, Jill (left) at his recent retirement party.

ALBERTA LABOUR RELATIONS BOARD

Appointments

The Honourable Iris Evans, Minister of Employment, Immigration and Industry and Mark Asbell, Chair of the Labour Relations Board, are pleased to announce that **Sean Day** of Edmonton is the successful candidate for the Board's search for a cover-off Vice-Chair.

Sean brings many years of labour relations expertise to the Board having acted as counsel on labour and employment matters before the courts, administrative tribunals and grievance arbitration panels. In addition to his counsel work, he served as a

consensually appointed arbitrator on various grievance arbitrations.

Prior to his Vice-Chair appointment, Sean was the managing partner and practiced labour and employment law with Ackroyd, Piasta, Roth & Day before moving to the Edmonton office of the national law firm of Miller Thomson. Sean is renowned for his common sense approach to the law and for his efforts in seeking consensus rather than confrontation.

Sean began his one year appointment on October 29, 2007.

The ALRB welcomed **Tara Chepil** as the Board's newest Labour Relations Officer on October 17, 2007. She previously worked as an investigator/conciliator with the Alberta Human Rights and Citizenship Commission. Tara is a graduate of the University of Regina with a Bachelor of Human Justice and a Bachelor of Arts (Sociology).



Toronto snapshots...



Breckenridge photo

President-Elect **Philip E. Hanley** and wife **Mary Lou** (Phoenix)



Boehmer photo

Mike McDermott (RCMP), **Jaye Bailey** (Connecticut) and **Pierre Hamel** (PSLRB)



Boehmer photo

(L-R) **Dennis Harrison** (Manitoba) and **Warren Nelson** (CIRB)

In & around the Provinces...



ALBERTA

Challenging Alberta's Labour Code

Four Alberta construction unions have joined together to challenge sections of the *Alberta Labour Code* that bar them from striking when 75% of other Alberta construction unions have already reached agreements. This challenge follows the recent Health Services decision in British Columbia in which the Supreme Court ruled that Canadian workers and unions have a constitutional right to engage in collective bargaining.



Links: *The Early Effects of the Health Services Decision*, October 12, 2007, by Chris Donovan, October 11, 2007, *The Court* (Osgoode Hall Law School); "Unions challenge labour laws: Construction unions say Alberta laws breach charter rights," by Larry Johnsrude, October 1, 2007, edmontonjournal.com.

Alberta's eLearning Program on Employment Standards

Alberta's Department of Employment Immigration and Industry has mounted a new interactive, web-based awareness program designed to provide Alberta employees and employers with information on minimum employment standards in the workplace. The first course available on the website is the *Dispute Resolution eLearning Course* which provides information and options to help address disputes in the workplace relating to payment of earnings, leaves, etc. <http://employment.alberta.ca/cps/rde/xchg/hre/hs.xsl/5444.html>



Link: Dispute Resolution eLearning Course: <http://employment.alberta.ca/cps/rde/xchg/hre/hs.xsl/5444.html>

ONTARIO

Ontario Court Confirms Power of Interest Arbitrators Under HLDAA to Issue Supplemental Awards

The Ontario Divisional Court has concluded that interest arbitrators appointed under the *Hospital Labour Disputes Arbitration Act* (HLDAA) may issue supplemental awards if they are necessary to effect an agreement between the parties. The case is significant because it is the first case to explicitly address the extent of an arbitrator's authority to issue supplemental awards in the HLDAA context.



Facts

The case involved an interest arbitration award issued by a Board of Arbitration appointed under HLDAA. The Board concluded a collective agreement between the Ontario Public Service Employees' Union and Brockville Psychiatric Hospital which included a provision dealing with long-term disability (LTD) benefits.

Following the award, a dispute arose between the parties as to whether employees were required to pay benefit premiums while on LTD. The Union sought a clarification of the award from the Board of Arbitration and the Board issued a supplemental award clarifying that the LTD clause in its initial award did not require employees to pay benefit premiums while on LTD.

The employer challenged the Arbitration Board's authority to issue the supplemental award on the basis of the doctrine of *functus officio*. The doctrine of *functus officio* provides that, once an adjudicator has issued a decision, its authority over the matter has ended. Absent exceptional circumstances, the adjudicator does not have a power to re-open or alter its original award. The employer in this case argued that the Arbitration Board was *functus officio* and, therefore, that it did not have the authority to issue its supplemental award

Court Upholds Arbitration Board's Supplemental Award

In *OPSEU v. Brockville Psychiatric Hospital*, the Divisional Court upheld both the Arbitration Board's authority to issue the supplemental award as well as the substance of the award.

Significantly, the Court held that the principle of *functus officio* must be taken to apply differently in the HLDAA context due to the considerable powers granted to Arbitration Boards under the statute. In particular, the statute grants arbitration boards the power to remain seized of all matters in dispute between the parties until a collective agreement is finalized.

In light of these broad statutory powers, the Court concluded that the Arbitration Board was correct to find that it had the authority to issue the supplemental award in order "to comply with its statutory duty to finish the job of crafting the terms of a collective agreement between the parties."

In addition, the Court held that the substance of the supplemental award was not patently unreasonable as the Arbitration Board considered all relevant factors and the award was consistent with the objectives stated in the original award.

Precedent Set Regarding Power to Issue Supplemental Awards

The judgment is significant, as it is the first to explicitly deal with the application of the doctrine of *functus officio* in the HLDAA context. As a practical matter, the judgment recognizes the authority of Arbitration Boards appointed under HLDAA to issue supplemental awards if these awards are necessary to fulfill their task of completing a collective agreement between the parties.

—Prepared by Cavalluzzo Hayes

(Continued on page 17)

CANADA'S NATIONAL MEDIATION TRAINING PROJECT

The first session of a Canadian national mediation training project was held at the Canadian Auto Workers (CAW) Education Centre in Port Elgin, Ontario.

Thirty-one attendees, with labour mediation experience ranging from zero to seven years, attended the one week conference, October 22-26, 2007.

The project was the result of a Report on Industrial Relations Capacity, specifically the anticipated shortage of labour mediators and conciliators, in the provincial and federal jurisdictions. It was prepared by the Labour Relations Committee of the Canadian Association of Administrators of Labour Legislation (CAALL) and presented to the CAALL Deputy Ministers in May of 2006.

The key findings of the report included:

- A specialized skill set is required for acceptance by the community as a labour mediator.

- Skill sets for labour mediators cannot be obtained through generic dispute resolution courses; practical experience is required.
- Most jurisdictions are too small to effectively undertake such training on their own.
- Over the next five years, over 50% of the current mediator complement is eligible to retire.
- The traditional labour relations pool from which mediators are drawn is also shrinking. The labour relations community is facing the same challenge with respect to demographics.
- The capacity issue is common across the jurisdictions.

With the approval of Deputy Ministers, the Labour Relations Committee developed an action plan, with timelines, and set a delivery date for training of October 2007. Included in this plan was the establishment of an

Advisory Council and a Working Group.

The Advisory Council consisted of: Doug Forseth (Saskatchewan); Elizabeth MacPherson (FMCS); Reg Pearson (Ontario); Laurie Rantala (Nova Scotia); and Annette Wall, BC. External members of the Advisory Council were: Rick Baldwin, Mathews Dinsdale; John Johnston (Vancouver Island Health Authority); Hassan Yussuf (CLC); and David Vipond (British Columbia Government Employees Union).

Members of the Working Group were: Heather Calder, Sheri King and Kathy Peters (FMCS); Debbie Cameron (British Columbia Labour Board); Bruce Janisse and Jackie McVeigh (Ontario); and Anne Partridge (Nova Scotia). Jim Breckenridge (Ontario) was appointed as the Course Director.

Professor Rick Jackson of Queen's University served as Academic Advisor.



The first graduating class and faculty of the National Mediation Training Project.

NEW ENGLAND CONSORTIUM of STATE LABOR RELATIONS AGENCIES

— by *Tim Noonan*

30 Years Young

The New England Consortium of State Labor Relations Agencies, the only regional consortium of labor relations agencies in the United States, is celebrating its 30th anniversary in 2008.

The Consortium will be providing staffing assistance for the 2008 ALRA Conference from July 19-23 in Burlington, Vermont. Also, representatives of its agencies are actively involved in the planning of the program and arrangements for the ALRA conference.

History

Beginning in 1978, New England state labor relations agencies developed a mutually beneficial arrangement for the sharing of resources and the training of its members and professional staff and constituent public user groups in a variety of dispute resolution environments—prohibited or unfair labor practice complaints, grievance mediation and arbitration, interest fact-finding and arbitration, bargaining unit determination.

The agencies joined together that year in a formally constituted and informally administered organization, the New England Consortium of State Labor Relations Agencies. In the mid-1980's, the Consortium expanded beyond the borders of New England when it welcomed the New York State Public Employment Relations Board as a member.

The Consortium is currently comprised of the Connecticut State Board of Labor Relations, Connecticut State Board of Mediation and Arbitration, Maine Labor Relations Board, Massachusetts Labor Relations Commission, Massachusetts Board of Conciliation and Arbitration, Massachusetts Joint Labor-Management Committee for Municipal Police and Fire, New Hampshire Public Employee Labor Relations Board, New York State Public Employment Relations Board, Rhode

Island Labor Relations Board and the Vermont Labor Relations Board. Its operation and administration may serve as a model for other regional consortia.

In 1977, representatives from the various New England state labor relations boards assembled in Connecticut to discuss the feasibility of developing a regional index of administrative orders and court decisions affecting the New England public sector labor-management community.

While a regional index published by the numerous boards never materialized, a more important result was forthcoming. The agencies realized the organizational, administrative and training benefits which could be derived by continuous interaction.

So, in 1978, the New England Consortium of State Labor Relations Agencies was established. Initially, the Consortium was funded with grant monies received under the *Federal Intergovernmental Personnel Act (IPA)*.

The primary focus of the Consortium was the identification of professional training needs and the implementation of programs designed to address those needs.

Curriculum areas were designed to cover the wide range of areas where expertise was necessary to function effectively in labor relations. Seminars included dispute resolution, legal principles in decision writing, litigation, fact-finding and interest arbitration, and the use of economic data in collective bargaining.

The programs were directed to agency members and staff, although ad hoc and selected advocates were invited to attend these comprehensive training sessions.

Funding curtailed

In 1980, IPA monies ended. New concerns were presented to the member agencies. No longer could there be dependence on Federal monies.

In spite of this, however, there was universal agreement that the Consortium should continue. The extensive benefits derived from interstate cooperation proved to be worth the investment of agency time and professional resources. The lapse of IPAs did require the members to reassess both funding and mission. While an inquiry was initiated to explore the possibility of additional grant funding, there was not much optimism that such funding would be available.

As a result, the Consortium entered into a new era with two missions. One was to become fiscally independent (except, of course, for the salaries paid to the members by the respective state agencies). The other was to continue training for agency members and staff while concurrently expanding the training component for advocates. The two missions dovetailed and established a blueprint for success.

Dual-purpose Conference

A public sector labor relations conference serves the dual purpose of providing continuing educational opportunities to the New England and New York labor-management community and generating sufficient operating funds for the Consortium to conduct training for members and staff at other times during the year.

The Consortium has sponsored seventeen regional conferences. With modest attendance fees and staff participation from all agencies, the Consortium has managed to derive sufficient monies to act as seed money for future conferences and provide training.

The success of the conferences has been dependent upon the willingness of member agencies to devote sufficient



Tim Noonan (Vermont)

(Continued on page 17)

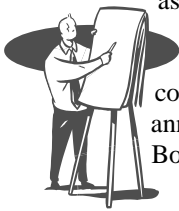
(Continued from page 16)

resources and the eager involvement of labor experts from outside the Consortium. Success also has resulted from providing low cost, labor intensive conferences at site locations which provide the maximum opportunity for attendance.

The conferences have generally attracted between 200–300 attendees. Conferences have been held at various sites, both urban and rural, throughout New England. The most recent conference was held this past summer in Portland, Maine.

The ALRA Connection

The Consortium also was extensively involved in the 1991 and 1994 conferences of ALRA. The Vermont Labor Relations Board hosted ALRA’s annual conference in 1991 in Burlington, Vermont, and other Consortium agencies provided invaluable staffing and program assistance. The Consortium also was centrally involved in planning and coordinating ALRA’s 1994 annual conference in Boston.



Training Sessions

The regional conferences sponsored by the Consortium generally have provided sufficient revenues for the Consortium to conduct training for its agency members and staff, although fiscal constraints resulted in an absence of training sessions during the late 1980’s and early 1990’s.

When fiscal conditions have allowed the Consortium to conduct training sessions, the benefits have been well worth the investment of agency time and resources.

The small staff size of most Consortium member agencies often defeats the feasibility of individual agencies conducting their own training. Training sponsored by the Consortium allows for training of a relatively large number of members and staff and overcomes this problem. Also, the interaction among colleagues in nearby states allows for sharing of common problems and creative solutions.

The Consortium generally has conducted two-day training sessions in the spring on an annual basis since the mid-1990’s.

Consortium training has encompassed the broad range of responsibilities of member agencies: addressing unit determination issues,

conducting representation elections, resolving unfair labor practice charges, mediating and arbitrating grievances and negotiations disputes, and maintaining panels of mediators, fact-finders and arbitrators. Workshops in which the various approaches among states in these areas are discussed have benefited staff in allowing them to perform their duties in a more informed and creative way.

Sharing Best Practices

Meeting colleagues from other states provides the added benefit of developing a group of resource persons to contact for guidance in resolving particular issues which come before their agency.

Staff are able to get a “quick read” on how other states handle a particular problem by contacting persons from other agencies whom they have met at staff training sessions. In sum, the benefits of training return many times the investment of time and resources.

The Consortium conducted its most recent two-day training session in late April 2007 at the Wachusett Village Inn and Conference Center in Massachusetts.

However, it will not be conducting a training session in the spring of 2008; instead it will provide funding to assist its members and staff to attend the ALRA conference in Vermont.

Continued from page 14

In & around the NOVA SCOTIA



Ending the Right to Strike in Nova Scotia Health Care and Community Services

A study released by the Canadian Centre for Policy Alternatives finds that Nova Scotia’s proposed legislation to end the right to strike in health care and community services is unlikely to reduce strike activity in these sectors. The study is the first of three reports. The second will focus on whether strikes are as harmful and the third will evaluate binding arbitration as a solution.

Link: *A Tale of Two Provinces: Alberta and Nova Scotia*, by Judy Haiven and Larry Haiven, Canadian Centre for Policy Alternatives (10 Pages, PDF) <http://employment.alberta.ca/cps/rde/xchg/hre/hs.xsl/5444.html>

Provinces... SASKATCHEWAN

Minimum Wage Increase in Saskatchewan

The Government of Saskatchewan announced increases to the minimum wage. The increase will take place in three stages: \$8.25 per hour on January 1, 2008; \$8.60 on May 1, 2008; and \$9.25 per hour on May 1, 2009. The minimum call-out pay, which is three times the level of the minimum wage, will also increase accordingly.

Candid Camera



(L-R) **Sheri L. King** (FMCS, Gatineau); **Barney J. Dobbin** (FMCS, Halifax); and **Jackie McVeigh** (Ontario)

(MICHIGAN—MERC—Continued from page 10)

He has appellate court experience before the Michigan Court of Appeals, the Michigan Supreme Court, and the U.S. Sixth and Eighth Circuit Courts of Appeal. He was admitted to practice before the United States Supreme Court.

Commissioner Green’s appointment is for a three-year term, expiring on June 30, 2010.

Awards...

Labor Hall of Fame

Secretary of Labor, Elaine Chao announced the induction of **Adolphus Busch** and **William B. Wilson** into the **Labor Hall of Fame** during its 19th annual ceremony on November 13, 2007.

Mr. Busch founded the Anheuser-Busch Brewing Company, and Mr. Wilson was the first Secretary of Labor and former secretary-treasurer of the United Mine Workers of America.

The Labor Hall of Fame, established in 1989 by the Friends of the Department of Labor and administered since 2000 by the DOL, honors posthumously those Americans who have contributed to the field of labor, including union and industry leaders, public officials and other individuals who have advanced the cause of the American worker.



(L-R) August A. Busch IV (President and CEO of Anheuser-Busch Company, Inc. and Great, Great-Grandson of Adolphus Busch) Secretary of Labor Elaine L. Chao; Robert Wilson, Great-Grandson of William B. Wilson; and Cecil Roberts (Right), President of United Mine Workers of America at the 19th Labor Hall of Fame Induction Ceremony. (DOL photo/Shawn Moore)

Vincent L. Ready First Recipient of W.P. Kelly Award

The **W.P. Kelly Award for Lifetime Achievement** as a Labour Mediator was created in September 2005, to honour the founder of the Canadian Federal Mediation and Conciliation Service, William Patrick Kelly. The Award is presented biennially to a mediator who embodies the qualities that Mr. Kelly demonstrated during his career as “Canada's Chief Mediator”.

Bill Kelly was born in Toronto in 1924 into a railway family. After serving as a pilot in the Royal Canadian Air Force during the Second World War, he joined the Canadian Pacific Railway, where he worked as a brakeman and conductor before moving on to positions within the Brotherhood of Railway Trainmen, which later became the United Transportation Union. He was recruited into the federal public service after he led a nation-wide railway strike and so impressed the Labour Minister of the day, John Nicholson, that the latter determined it would be in his own best interest to recruit Bill into the mediation service.

At the time, the service was known as the “Conciliation and Arbitration” branch of the Department of Labour. Bill rose rapidly through the ranks, resolving many difficult and high profile labour

disputes over the course of his twenty-three year career with the government. Working with Labour Minister Bryce Mackasey, Bill established the profession of mediation as one worthy of recognition and in 1968, they created the Federal Mediation and Conciliation Service within the department then known as Labour Canada.

Bill retired from the position of Associate Deputy Minister of Labour in 1989, but remained available to generously provide his sage advice to politicians and to his successors alike. After a brief illness, Bill passed away on Friday, September 16, 2005, but not before issuing instructions as to who was to be the first recipient of “his” award – he was quite unequivocal that his choice, from among a long list of candidates, was **Vince Ready**.



Photographer Unknown

The award was presented to Mr. Ready at a ceremony held in Ottawa on September 13, 2007. In presenting the award, FMCS Director General, Elizabeth MacPherson, said: “While being a mediator is a job that has many special rewards, I don’t think many would say that it’s one that usually attracts a high public profile. It is unfortunate, but most people never get to see the hard work and skill that go into

doing a mediator’s job: the long days and nights at the negotiating table; the unending patience and creativity that the job requires; or the exceptional listening and speaking skills that these professionals possess.

We’re here today to celebrate the very best of those qualities—reflected in Mr. Ready’s outstanding record of achievement.

We do so not just to pay tribute to Mr. Ready’s achievements, but also because it is representative of the work and dedication to excellence that is a hallmark of the practice and the art of labour mediation. Mr. Kelly set a standard of excellence for others to follow. His presence and influence are still deeply felt in this profession. That’s why we of the FMCS are so pleased to present this Award to its first ever recipient, our colleague and friend, Vincent L. Ready.”

Mr. Ready commenced his career in labour relations in 1965, as a representative and organizer for the International Union of Mine, Mill and Smelter Workers. In 1978, he joined the Federal Mediation and Conciliation Service as a mediation/conciliation officer in the Mountain Region. He later joined the Government of British Columbia’s mediation service, before establishing his own private arbitration and mediation practice. Today, Vince is active in every province and territory of Canada. In addition to his considerable

(Continued on page 19)

Awards...

(Continued from page 18)

success in his dispute resolution activities, Vince also serves as guest lecturer on mediation, arbitration and alternative dispute resolution at conferences and training seminars for unions, employers, and educational

institutions. He is a founding director of "Partners in the Horn of Africa", a BC based charity that sponsors aid projects, including the building of schools, in Ethiopia.

In total, Vince has arbitrated or mediated countless labour and

commercial disputes in Canada, and his name appears as arbitrator/mediator in over 600 collective agreements.

Charlie Weir Jr. Twice-Honoured

Charlie Weir Jr., a conciliator with the Labour Services Division of Nova Scotia's Department of Environment and Labour, was twice-honoured this spring for his outstanding public service.

On June 12, Charlie was one of only six public servants/teams to receive the **Premier's Award of Excellence** at a formal reception. Two weeks earlier, on May 31, he received the **Minister's Award of Excellence**.

The Premier's Award of Excellence recognizes the exceptional work of individual public servants and teams. The Selection Committee seeks out the best examples of leadership excellence, innovation and creativity, outstanding client service and creative relationship building.

Nominations are submitted by co-workers and must be substantiated by letters of support affirming the achievements of the nominees.

Charlie's contributions, over the 30 plus years that he has been involved in labour relations, have been significant and too numerous to list. The letters of support from Employer and Union representatives and

Arbitrators were a tribute to the respect that he has earned among his colleagues and his clients.

The Minister's Award of Excellence recognizes outstanding contributions to Nova Scotia Environment and Labour's mission to protect and promote employment rights. Charlie was honoured for his exceptional service and accomplishments in this regard during the past year and for the way he works for others, with others, and for the organization. It was further acknowledged that his dedication to public service illustrates the Department's commitment of "helping each other succeed".

Everyone who knows Charlie agrees the double honour was well-deserved. Congratulations Charlie!



Breckenridge photo

Investigative Reports...

A TOUGH BREAK for LIZ?

To ensure Canada-US relations remain "well-balanced", ALRA President, Liz MacPherson, during a tennis foursome in September, attempted to "match" the bad break Dan Nielson had last winter.

Shown here at a recent ALRA meeting, Liz's cast sported protruding metal rods that secured the bones of her shattered wrist.

Fortunately the break was not with her President-waving right hand.



Breckenridge photo



Breckenridge photo

DAN NIELSON READY for CHORUS LINE?

Completely recovered from his bad ankle break last winter, Dan revealed his "great legs" (amid wolf whistles) and performed some nimble foot moves at the Toronto conference. Another amazing "feet" for Mr. Nielson!

Toronto 2007 - July 29



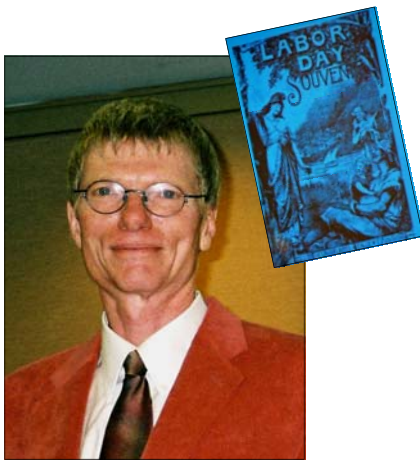
Boehmer photo

WELCOME

Marilyn Glenn Sayan
ALRA President and
Chairperson
Washington Public Employment
Relations Commission



Boehmer photo



Breckenridge photo

Craig Heron

HARD HATS AND WHITE COLLARS: A LOOK BACK at WORK in TORONTO

*Historical reflections on the experience of working
people in Canada's largest city.*

Speaker **Craig Heron**
Professor, Department of History, York University
Introduced by
Sheri King, Associate Director, Dispute Resolution,
Federal Mediation and Conciliation Service, Canada.



Boehmer photo

Sheri King



Boehmer photo

John E. Higgins Jr.

NEUTRALITY COMMITTEE REPORT

Moderated by
John E. Higgins Jr., Chair, Neutrality Project
and Deputy General Counsel, NLRB

ROUNDTABLES



Boehmer photos



Advocate's Day - July 30

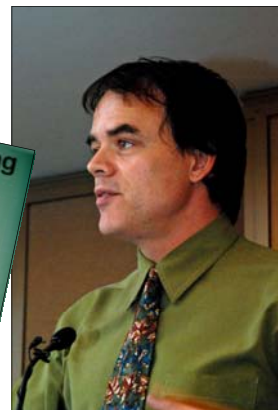
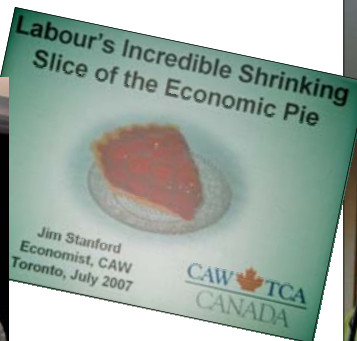
THE CANADIAN ECONOMIC OUTLOOK

Keynote Speaker

Jim Stanford, Economist, CAW



(L-R) **Jim Stanford**; **Marilyn Glenn Sayan**; and **Sue Bauman**



Jim Stanford

Introduced by

Pierre Hamel, Executive Director & General Counsel, Canada Public Service Labour Relations Board



Pierre Hamel

NEW MEDIA



Introduced and moderated by

Elizabeth MacPherson, FMCS-Canada
Panelists

John Barrack, National VP and Counsel, Canadian Film & Television Production Association

Steve Waddell, Executive Director, ACTRA



(L-R) **Steve Waddell**; **Liz MacPherson**; and **John Barrack**

Photos by Boehmer

LABOUR PROTESTORS APPEAR AT ALRA CONFERENCE

Tom Tangie with (L-R) **Dora Robinson**, Local 376, **Ann Ledwidge**, OPSEU, Local President L377-Oshawa and **Susan Lawenson-Powell**, Steward, Local 377



Photos by Breckenridge



Placard left by visitors to the conference.

Advocate's Day - July 30 (continued)



The Honourable
Bob Rae



LUNCH SPEAKER

The Honourable **Bob Rae**, 21st Premier of Ontario, candidate for Liberal Party in next federal election. Recognized mediator, negotiator, arbitrator and consultant on issues of public policy.

Introduced by
Reg Pearson, Director
Labour Management
Services, Ontario Ministry
of Labour



Reg Pearson



Jim Sinclair



Doug Alley

LEGISLATIVE RESTRICTIONS on REPLACEMENT WORKERS

Panelists

Jim Sinclair, President, British Columbia Federation of Labour

Doug Alley, Vice-President, Human Resources, Business Council of British Columbia

Moderator

Kevin Whitaker, Chair, Ontario Labour Relations Board



Kevin Whitaker

BANKRUPTCY and COLLECTIVE BARGAINING

Panelists

Gary Fane, Executive Director, Negotiations and Strategic Development, BC Nurses Union

Kevin Howlett, Senior Vice-President, Employee Relations, Air Canada

Moderator

Warren Edmondson, Chairperson, Canada Industrial Relations Board



(L-R) Gary Fane; Warren Edmondson; and Kevin Howlett

Photos by Boehmer

Toronto 2007 - July 31

Boehmer photo



ONTARIO CONSTRUCTION SECRETARIAT

The Ontario Construction Secretariat has been dealing with such issues as attracting young people to skilled trades, the underground economy and challenges to being competitive as a union sector.

Panelists

Bill Nichols, Secretary-Treasurer, International Painters and Allied Trades

Paul Richer, Manager Counterparty Risk and Labour Relations, PCL Constructors of Canada

Geoff Smith, President & CEO, EllisDon Corporation

Pat Dillon, Business Manager and Secretary Treasurer, Provincial Building and Construction Trades Council of Ontario

Moderator

Reg Pearson, Ontario Ministry of Labour

Breckenridge photo



(L-R) **Professor Marty Malin** and **John E. Higgins Jr.**

NEUTRALITY PROJECT DISCUSSION

Moderated by

John E. Higgins, Jr., Chair, Neutrality Project and Deputy General Council, NLRB

Professor Marty Malin, Chicago-Kent College of Law

Breckenridge photo



Geoff Giudice

LEGISLATIVE DIRECTION—FUTURE CHALLENGES?

A description of the labor relations legislative structure in Australia and the experiences of Australian Industrial Relations Commission regarding these legislative charges.

Presenter

Geoff Giudice, President, Australian Industrial Relations Commission

Introduced by

Jaye Bailey, General Counsel, Connecticut State Board of Labor Relations



Jaye Bailey

Boehmer photo

Toronto 2007 - August 1



ETHICS—ASK THE WIZARDS!

Back by popular demand!

Dan Nielsen, Staff Attorney, Wisconsin Employment Relations Commission
Les Heltzer, Executive Secretary, National Labor Relations Board



Breckenridge photo



Breckenridge photo

(L-R) **Scot Beckenbaugh**; **Pierre Flageole**; and **Arnie Powers**

PREPARING for LABOR CONSEQUENCES of ORGANIZATIONAL CHANGES

Moderator

Scot Beckenbaugh, Deputy Director, Federal Mediation and Conciliation Service-U.S

Presenters

Pierre Flageole, Vice-Chair, Quebec Labour Relations Board
Arnie Powers, Ontario Regional Director, FMCS-Canada



Breckenridge photo

(L-R) **Akivah Starkman**; **Larry Gibbons**; and **Kevin Whitaker**

A FINE BALANCE: A DISCUSSION on HOW to BALANCE the LEGAL and MEDIATION INTERESTS of the AGENCY'S MISSION

Moderator

Akivah Starkman, Executive Director, Canada Industrial Relations Board

Panelists

Larry Gibbons, Director, Office of Mediation Services, U.S. National Mediation Board

Kevin Whitaker, Chair, Ontario Labour Relations Board



Boehmer photo

Arnie Powers



Boehmer photo

Larry Gibbons

“SOFT SKILLS” of MEDIATION

Soft Skills—The Road to Success. An interactive workshop exploring the soft skills of mediation.

Facilitators

Arnie Powers, Regional Director Ontario, FMCS-Canada

Larry Gibbons, Director, Office of Mediation Services, National Mediation Board

Toronto 2007 - August 1



(L-R) Douglas Ruck; Jaye Bailey; and Robert Cook

DeFACTO “DISCOVERY” and the ADJUDICATION PROCESS

A discussion on the growing trend of parties to file charges, motions, or take other legal steps in the adjudication process apparently as a means of engaging in de facto discovery.

Presenters

Douglas Ruck, Vice-Chair, Canada Industrial Relations Board

Jaye Bailey, General Counsel,
Connecticut State Board of Labor Relations

Robert Cook, General Counsel, Canada Industrial Relations Board

Thank You – Toronto 2007

PROGRAM COMMITTEE

Co-Chairs



Reg Pearson and Sue Bauman

Reg Pearson, Ontario Ministry of Labour, Co-Chair

Susan Bauman, Wisconsin Employment Relations Commission, Co-Chair

Scot Beckenbaugh, Federal Mediation and Conciliation Service - U.S.

Pamela Bradburn, Washington PERC

Rob Cook, Canada Industrial Relations Board

Norman Graber, National Mediation Board

Pierre Hamel, Canada Public Service Labour Relations Board

Phil Hanley, Phoenix Employment Relations Board

Sheri King, FMCS - Canada

Abby Simms, National Labor Relations Board

Pat Sims, National Mediation Board

Erica Snipes, Maryland Higher Education LRB

Peter Suchanek, Canada Industrial Relations Board

Blanca Torres, District of Columbia PERB

Pilar Vaile, New Mexico Public Employee Labor Relations Board

Kelly Waddingham, Ontario Labour Relations Board

Ed Zuccaro, Vermont LRB

ARRANGEMENTS COMMITTEE



John Mather (Ontario) with wife, Marg.

John Mather, Ontario Ministry of Labour, Chair

Cristina Bonaca, National Mediation Board

Bernadette Carian, New Mexico PELRB

Jim Conlon, New York SERB

Mary Beth Furanna, Ontario Ministry of Labour

Bruce Janisse, Ontario Ministry of Labour

Mary Johnson, National Mediation Board

Starr Knutson, Washington State PERC

Tim Noonan, Vermont LRB

Denise Small, Ontario Ministry of Labour

Thank You - Toronto 2007

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Jaye Bailey, Connecticut State Board of Labor Relations

Jim Breckenridge, Ontario Ministry of Labour

Mary Cappadona, Massachusetts Labor Relations Commission

Julio Castillo, District of Columbia PERB

Kate Dowling, National Mediation Board

Josée Dubois, Public Service Staffing Tribunal—Canada

Larry Gibbons, National Mediation Board

Wayne Gold, NLRB Region 5

Dean Leith, Jr., New York SERB

Jim Mastriani, NYINJ Port Authority Employment Relations Panel

Juan Montoya, New Mexico PELRB

Arnie Powers, FMCS-Canada

Linda Puchala, National Mediation Board

Deborah Sabin, New York State PERB

Akivah Starkman, Canada Industrial Relations Board David Washington, District of Columbia PERB

John Zampieri, Vermont Labor Relations Board

Chairman



Les Heltzer

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SPECIAL THANKS and acknowledgement to the following members of Labour Management Services, Ontario Ministry of Labour, for their assistance and contributions to this conference:

Marjorie Ah Yew Ip Yam; Rhonda Kurahashi; Kathie Waterhouse; Norrie Laloo; Noemia Stasiak; Mana Tellis; Marie Noelle Wong; Cheryl Beale, Ben Daravongsa, Lee Roberts, Elizabeth Mangaoang, Emerita delos Reyes; Ursula Hardman; Ron Goss; Lyndsay Fulton; and Paul Chang.

Also thanks to those who staffed Labour Management Services during the conference week.

ALRA Academy 2007



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(Back Row, left to right)—ALRA Mentors

Pierre Hamel, Jaye Bailey, Marilyn Glenn Sayan, Les Heltzer, Jackie Zimmerman, John E. Higgins, Jr., and Akivah Starkman

(Front Row, left to right)—ALRA Students

Karine Spencer (Director of Representation, New York City Office of Collective Bargaining); **Amy Matthews** (Director of Research, Indiana Education Employment Relations Board); **Mary Ellen Kierans** (Vice-Chair, Canadian Artists and Producers Professional Relations Tribunal); and **Peter Annis** (Chair, Canadian Artists and Producers Professional Relations Tribunal).

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President

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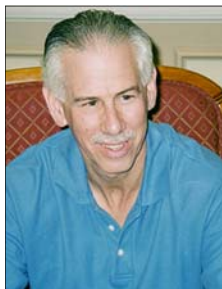
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Immediate Past-President

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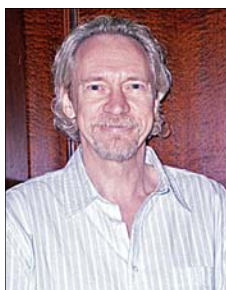
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[TERM ENDS JULY 2008]



Sue Bauman



Akivah Starkman



Marlene Gold



Josée Dubois



Pierre Hamel

Join us in beautiful Vermont !
ALRA Conference
July 19 to 23, 2008

*Sheraton Burlington Hotel
& Conference Center
Burlington, Vermont*



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(L-R) 2008 Conference Organizers: **John Zampieri**, **Ed Zuccaro** (Co-Chair), and **Tim Noonan** (Vermont Labour Relations Board), pictured here with **Liz MacPherson**

Conference Registration

The Program and Professional Development Committees are developing a four-day program for the 2008 conference designed to address crucial and timely topics impacting public and private sector labor relations in the United States and Canada. Registration for the conference is available only to ALRA member agencies.

The conference registration will include all conference sessions and materials, a Saturday evening reception, a Sunday brunch, lunch and an evening reception on Monday, and lunch and a closing banquet on Wednesday.

Conference Host

Vermont Labor Relations Board
Conference Coordinator – Tim Noonan (802) 828-2700 tim.noonan@state.vt.us

Advocates Day - July 21, 2008

ALRA will present *Advocates Day*, a day-long CLE-accredited program, on Monday, July 21.

The conference will feature prominent speakers from the United States and Canada addressing timely topics impacting public and private sector labor relations.

In addition to the ALRA delegates attending the ALRA conference, *Advocates Day* is open to union representatives and members, management representatives, labor relations neutrals and all others with an interest in labor relations.



Hope to see you in Vermont !

2008 Conference Co-Chair,
Jacques Lessard (FMCS-Montreal)