



News you can use from the Contract Enforcement Department

Account Clerks Win \$10,000 Back Pay

Treasurer-Tax Collector refused to settle grievance with members

Work Without Pay

When Account Clerks at the Monterey County Treasurer-Tax Collector's Office complained they were being required to work without pay before the start of their shifts, county managers did not try to hide it. In fact, they admitted the requirement had been in place for at least four years!

521 Contract Enforcement Takes Action

Our Contract Enforcement Department immediately filed a group grievance. When we met with Treasurer-Tax Collector Mary Zeeb, she argued that the few minutes employees must work before their shifts is offset by other time they spend on non-work activities during the day, such as using the restroom. Zeeb therefore refused to pay any retroactive wages to settle our grievance.

Workers Should Be Paid for Prep Time

The Fair Labor Standards Act (FLSA) is the federal law that sets forth overtime requirements. Court decisions in recent years have supported the fact that time spent by employees performing preliminary tasks necessary to perform their jobs is compensable under the law. For example, if employees turn on computers at the beginning of the workday, and then spend time getting coffee or visiting with co-workers while the computers boot up, the FLSA requires that employees be compensated for that time.

Workers Take Their Case to the Department of Labor

The Department of Labor (DOL) is the federal agency that enforces the FLSA. Last September, SEIU took a caravan of workers to the DOL office in San Jose to file a formal complaint against Monterey County. SEIU and the County agreed to postpone arbitrating our grievance until the DOL completed its investigation. **The DOL ultimately ordered Zeeb to pay \$10,345 in back wages to 12 employees who were unlawfully required to work without pay.**



"This is why it's important that members are aware of their rights, so they are not taken advantage of."

-Gregg McWilliams, Shop Steward for the Monterey County Treasurer-Tax Collector's Office

KNOW YOUR RIGHTS

Our Contract Enforcement Department can file grievances for unpaid wages through our contracts with employers. However, the period of time that we can grieve a violation is usually very short. The Department of Labor (DOL), however, has a two-year statute of limitations in the recovery of back pay, and a three-year statute of limitations for willful violations. The Fair Labor Standards Act applies to individuals and, generally, SEIU cannot represent you in a Department of Labor claim. The closest DOL office is in San Jose, and their number is (408) 291-7730.

NEW LAW PROVIDES WORKERS SOCIAL MEDIA PROTECTIONS



Governor Brown signed into law Assembly Bill ("AB") 1844, which offers new social media protections to employees. The new law prohibits three actions by employers. An employer may not require or even request an employee to: 1) Disclose a username or password for the purpose of accessing personal social media, 2) Access personal social media in the presence of the employer; or 3) Reveal any personal social media. These protections also apply to applicants for employment.

In addition, AB 1844 prohibits employers from retaliating against employees who refuse to comply with an employer's request that is illegal under AB 1844.

The new law, however, permits employers to "request" an employee to turn over "personal social media" the employer reasonably believes to be relevant to an investigation of employee misconduct. Arguably, AB 1844 does not permit an employer to demand the passwords to an employee's "personal social media."

Although employees should remember that their social media is not fully protected from the employer, especially when the employer is investigating workplace misconduct, AB 1844 should eliminate many odious employer social-social media practices, such as demanding applicants to disclose their Facebook account passwords.

Sheriff's Office Worker Wins Favorable Settlement

Monterey County challenges our right to binding arbitration

Member Wins Settlement, Back Wages

After a year-and-a-half-long battle with Monterey County over being wrongfully terminated from the Sheriff's Office, a 521 member has won a favorable settlement, but an ongoing fight over binding arbitration is not over.

Evello Fernando worked as a Cook at the Monterey County Jail for 10 years, until a sheriff's deputy made false allegations of misconduct against him. Sheriff Scott Miller concluded that Evello should be fired for, among other things, being rude to the deputy. Miller based his conclusions on hearsay statements of management personnel, and ignored Evello's explanations at the *Skelly* hearing. An information request by SEIU also revealed the Sheriff's Office lacked any written protocols to support the violations that Evello had allegedly committed.

Monterey County Denies Binding Arbitration

Our Contract Enforcement Department appealed Evello's termination. As we began the process of selecting an arbitrator, Monterey County suddenly took a position that disciplinary arbitration is no longer final and binding. Therefore, according to county attorneys, if an arbitrator ordered the sheriff to reinstate Evello, the sheriff could simply ignore the order. The County took this position after having lost a number of disciplinary appeals in recent years.

521 Contract Enforcement Takes Action

We immediately filed an unfair practice charge with the State of California. Last December, the State issued a complaint against Monterey County alleging that our right to binding arbitration was unilaterally eliminated from our MOU.

Congratulations, Evello!

Evello accepted a settlement that admits no fault by the County, but it restores the majority of wages he lost after he was terminated. Now Evello can retire comfortably with this dispute behind him.

"I'm very happy to have all this behind me. Thank you to my steward, Tammy Young. I could not have resolved this without my union. Having a union contract is a very powerful thing."

-Evello Fernando



Due to overwhelming evidence that the County has not, until now, contested the final and binding effect of disciplinary arbitration, county attorneys have finally backed down from their position, and, on May 29, they informed us the County will sign a Settlement Agreement to avoid a hearing before the Public Employment Relations Board. Finally, after 12 months, we have won the fight to preserve what is arguably the most important part of our contract: binding arbitration.

WORKER WINS FAIR SETTLEMENT WITH SUPERIOR COURT

A 22-year veteran courtroom clerk won a fair settlement after a contentious dispute with Santa Cruz County Superior Court over what we maintain was a wrongful termination.

Renee Rodriguez received a termination notice from the Court Executive Officer on New Year's Eve. For four months, Renee struggled to make ends meet for her and her young children. The Court even contested her unemployment claim, but Renee prevailed.

"The Court said I had engaged in serious misconduct warranting termination, and they did not want to follow progressive discipline," Renee said.

Our SEIU contract with the Court contains progressive discipline standards. Although an employer can immediately terminate in cases of very serious misconduct, a progressive disciplinary pattern generally starts with a warning for a first offense, a reprimand for a second offense, and suspensions for repeat offenses before finally resulting in termination. Our 521 Contract Enforcement Department is responsible for enforcing these standards.

In Renee's case, our union maintained the Court had not met the standards to justify terminating her employment, especially given her long tenure and excellent work record. Our Contract Enforcement Department filed an appeal of the termination. But rather than wait for a neutral arbitrator to decide, the Court wanted to negotiate, and Renee agreed to accept a fair settlement. Details of the settlement are confidential, but it avoids further conflict with the Court and allows Renee to get a fresh start.

Congratulations to Renee for standing up for her rights and winning a fair settlement!



"I enjoyed my working relationships with the judges and my co-workers at the Court, and I am grateful for having a strong union to support us. It's really important that we always stand up for our rights."

-Renee Rodriguez