

Long Island Chapter

Labor and Employment Relations Association

Newsletter

SHAPING THE WORKPLACE OF THE *FUTURE*



bug

September 2009

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PRESIDENT'S PERSPECTIVE:

THE PAST, THE PRESENT AND THE FUTURE

As the summer quickly becomes a memory I pause to acknowledge the passing of Doris Shaffer, a founding member and past president of our chapter. As Ellen Schuler Mark aptly stated in our letter to the Shaffer



family, the chapter acknowledges her life-long commitment to civil liberties and the rights of workers to organize. Our organization was better for her active participation and commitment. (See p. 4 for obituary)

This past year the Chapter Program Committee hosted presentations by the owner of the Hauppauge Shoprite, the Nassau County Consumer Affairs Commissioner and the Commissioner of the Nassau County Office of Emergency Management. All were informative and entertaining. In May, our chapter hosted 116 conferees at the annual Spring Conference and awarded two scholarships to local students of labor relations. Some of the highlights of the conference are presented in this issue.

Our September meeting will include a program that will carry one hour of CLE credit. It is entitled "Disparate Treatment and Disparate Impact Discrimination Under Title VII of the Civil Rights Act After Ricci v. DeStefano," (the New Haven firefighters case) presented by Tom Lilly, Jr. and Thomas B. Wassel. The December 2 meeting at the Nassau County Bar Association, chaired by Peter Bee, will be dedicated to a celebration of the 30th anniversary of our Chapter. You will not want to miss this affair.

Do you have any requests for future programming? Send to me for referral to our Chapter Program Committee. Submit announcements to the editor, Jerry Grayson.

Upcoming Chapter Meetings **Please Add These To Your Calendar**

Mon, Sept. 14, 2009, CLE Program
Black Forest Brew Haus

Wed., Dec. 2, 2009,
30th Anniversary Celebration
Nassau County Bar Assoc.-Mineola

Wed., Mar 10, 2010, Black Forest
Brew Haus-Farmingdale

Fri., May 7, 2010, Annual
Spring Conference-NYIT

SPRING CONFERENCE FEATURES PANEL **ON THE EMPLOYEE FREE CHOICE ACT**

by Jerry Grayson

Our annual spring conference was an overwhelming success. The attendance, at 116, was one of the largest we have had since the conferences began. Of course, we can partially attribute it to the efforts of the conference committee, made up of A. Barker, R. Roth, T. Lilly, Jr., I. Libby and the extraordinary efforts of our newly elected president, Beverly Harrison. The program, alone, was an incentive to attend.

The title of the first panel was "The Employee Free Choice Act and the Future of Labor in America," moderated by Al Blyer, director of NLRB region 29. It pitted our long-time member Maz Jimmy against a worthy adversary, John Diviney of Portnoy, Messinger, Pearl and Assoc. In his opening remarks, Mr. Blyer, informed us that even under the current law, which requires 30% card check signatures, there are rarely allegations of coercion or taint. The changes, which would technically be an amendment to the NLRA, as were the Taft-Hartley changes of 1947, would overturn "H.K. Porter" (must bargain).

Among the changes proposed are: 1) If an employee

Continued on Page 2

is fined for union activity, the NLRB could assess three times back pay. The NLRB can currently use section 10J which takes time because it must go to the Board. The proposed change would allow the regional director to use section 10J and go right to court. This would avoid chilling the campaign and allow it to go on. Also, there would be civil penalties assessed on workers at \$20,000 per violation.

In his opening remarks, Max Zimmy commented on the meager 7.4% of workers in the U.S. represented by unions. He attributed this partially to the discriminatory discharges, the captive audience speeches and the threats of reprisal, practices highlighted by Steven Greenhouse in an article in the *N.Y. Times* in April 2008. Mr. Zimmy concluded by noting that: 1) Using card checks is not new, it already exists; 2) If a contract can't be reached, the FMCS would first mediate then engage in interest arbitration, and; 3) this new procedure would enhance industrial democracy.

Mr. Diviney opened with a rhetorical question: Do unions really offer what workers really want? He said that for many workers, unionization is not on the radar screen. In his view, the best way to determine if there is real interest is to have a secret ballot election. He would accept allowing unions to have equal access to the plant for an amount of time equal to that used by management. Some of the areas he criticizes are the notion of imposing a contract on the parties; negotiating a contract in 90 days; and the damages would be overkill. There was very little agreement between the two presenters as to the potential benefits or consequences of the proposed legislative change.

Professor Ellen Schuler Mauk was the moderator of the second panel entitled, "The Proposed Property Tax Cap in NYS: How would it affect collective bargaining for public sector unions?" The position of the public sector unions was presented by Alan Lubin, Exec. V.P. of NYSUT. The position of those who favor a Tax Cap was presented by John Gross, an attorney whose firm (Ingerman, Smith, Greenberg, Gross, et.al) represents many school boards across LI.

Both panelists agreed that they oppose tax cuts and tax caps. Either would result in a diminution of local control. Mr. Gross spoke in favor of a "circuit breaker." However he emphasized that the real issues for his clients are the increments and fringe benefits that teachers receive. He is also in favor of amending the Triboro doctrine, which allows public sector contracts to continue after they have expired (precluding the possibility of a strike), to discontinue the payment of increments.



Left: Gross and Lubin, panelists on Tax Caps



Below: Schuler moderating panel

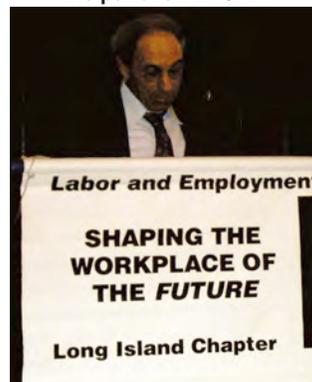


Right: Blyer and panelists Zimmy and Diviney



Al Blyer introducing the panel on EFCA.

Below: Scholarship winners Jessica Durkin and Stacey Baez (right) with Harrison and Ro...



.....RING CONFERENCE



Above and below: Conference attendees enjoying the opportunity to network.



ler Mauk
panel on Tax Caps



so (left) and
th.



Mr. Lubin emphasized that increments are payments for seniority and acquisition of additional education. He also pointed out that when health care reform is passed, that may relieve some of the expense that school districts have. Certain areas of expenditure, like prescription drug plans and purchasing of supplies and equipment could save districts money by consolidating. Mr. Lubin also noted that strengthening BOCES for similar purposes would also save money.

Both Mr. Gross and Mr. Lubin agreed that both the revenue and expense sides need to be examined to improve the fiscal health of school districts.

Our final presenter, with the keynote address was Jerome Lefkowitz, chairman of the New York State Public Employees Relations Board. Mr. Lefkowitz began with a comparison of the Taylor Act and the National Labor Relations Act. The NLRA, for private sector employees, uses terminology like unions, collective bargaining and unfair labor practices while the Taylor Act describes employee organizations, collective negotiations and improper practices. When the Taylor Act was passed, there were petitions presented challenging the state units that the governor proposed. They finally came up with five to six units. The assumption was that if there was a long standing interest, it would stand unless there was a conflict of interest. There was also a conflict between the CSEA, which wanted statewide units, and local unions in New York City and elsewhere, that did not.

Mr. Lefkowitz came to the conclusion that on the 40th anniversary of the Act, that it has worked well with public sector employees. About 95% of New York state employees are represented and in Mr. Lefkowitz's opinion, the unions have been very successful in representing their members.

Left and below: Jerome Lefkowitz, PERB chair, speaking (below) and receiving award from Pres. Harrison (left).



DORIS SHAFFER, FORMER LI LERA PRESIDENT AND PROF AT NCC DIES.

by Joie Tyrrell, Reprinted from *Newsday*, June 5, 2009.

Doris Shaffer, who taught history at Nassau Community College for 28 years and was president of the faculty union there from 1973 to 1987 as it won a reputation for gaining model contracts for public colleges, died Tuesday in Manhattan. She was 80.

The cause was cancer, said her husband, Donald.

She had lived in Great Neck for almost four decades before retiring to New York City.

Shaffer began teaching at Nassau Community College in 1960, shortly after it was founded, her family said. As the two-year college grew to become a major institution on Long Island, Shaffer became active in a faculty unionization drive.

The local union eventually became the Nassau Community College Federation of Teachers, which affiliated with the New York State United Teachers and the American Federation of Teachers, signing one of the first collective bargaining agreements in higher education.

“Her principles regarding faculty rights led her to participate in making really exemplary contracts,” said Philip Y. Nicholson, professor of history at Nassau Community College who served as vice president of the union while Shaffer was president and then also served as president.

Shaffer insisted, as chair of the NCCFT’s bargaining team, that the union work to maintain academic standards and protect academic freedom for both students and faculty, according to her family. Shaffer and the union fought for merit-based hiring and raised the proportion of college professors with advanced academic degrees, Nicholson said.

Shaffer adamantly defended members of the College’s health and physical education department for their course,

ANNOUNCEMENTS, NOTICES

Chapter seeks pictures and addresses of former members for December 09 30th Anniversary celebration, please remit to:

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“Family Life and Human Sexuality,” first offered in 1968, which attracted community criticism and even lawsuits.

Born Doris Freed in Brooklyn in 1929, Shaffer graduated from Midwood High School in 1945, attending Brooklyn College, where she majored in economics. She married Donald Shaffer, also a student activist at Brooklyn College, in June 1949.

The couple moved to Long Island, first to Merrick in 1955 and then in 1960 to Great Neck. Shaffer taught in the Bellmore-Merrick district, and then moved to the college. She received a master’s degree in history from New York University.

With her husband, Shaffer helped form the Great Neck Committee for Human Rights. She was also a founding member of the Nassau chapter of the American Civil Liberties Union. Doris was also an active member of the LI LERA chapter and served as president of the group.

She was elected to the board of the New York Civil Liberties Union in 1970 and served as a member for 35 years. Her key contribution to the NYCLU, according to her husband, was to develop local chapters, arguing that “members had more to give than just writing a check.”

In addition to her husband of nearly 60 years, Shaffer is survived by her three sons: Nathan, of Atlanta and Geneva; Robert, of Mechanicsburg, Pa., and David of Nashville. She is also survived by a brother, Jack, of Harrisburg, Pa., and by seven grandchildren.

<p>The Long Island LERA Newsletter is a quarterly publication of the Long Island Chapter of the Labor and Employment Relations Association.</p>		<p>LI LERA 43 Northcote Drive Melville, NY 11747</p>
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