The McCroskey Advisor

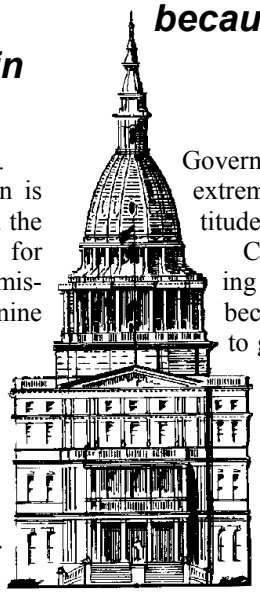
Published for the clients and friends of the law firm of McCroskey, Feldman, Cochrane, & Brock, P.C.

Serving the injured and the worker since

Volume 8, Number 1 January 2000

Fewer delays for workers compensation appeals

The bad news is courts' caseloads are lighter because workers comp cases have become so hard to win



If your workers compensation case is currently on appeal, you would be interested to know the Workers Compensation Appellate Commission has issued a memorandum regarding the status of cases on appeal.

The typical turn-around time between submitting a case for appeal and receiving a decision from the Appellate Commission, has been approximately two to two and a half years.

Under the direction the Commission's newly appointed Chairman, Jurgen Skoppek, this time frame is going to be drastically reduced.

Commission officials say they believe that by early spring, 2000, the file backlog should be nearly eliminated.

This means that once a decision is rendered at the magistrate level and the case is appealed, the time frame for obtaining an opinion from the Commission could be as little as six to nine months.

A recent decline in the number of cases being appealed has helped the Commission gain ground on the stacks of cases lined up in their filing cabinets.

The bad news is appeals are down in large measure because of the political climate in which the Appellate Commission operates.

All Commissioners are appointed by Governor Engler and share his extreme, pro-big business attitude.

Cases are simply not being appealed by plaintiffs because it is very unlikely to get a better result from the Commission, and anyone appealing their case risks having the Commission reduce whatever award the magistrate may have given them.

This is hardly good news, and this anti-worker attitude is likely to persist until a Democratic governor is elected, or the conservative majority in the Michigan Supreme Court is thrown out by voters.

The silver lining to this ugly situation is the shortened period of time it now takes to get a decision from the Appellate Commission. If you are awaiting a decision from the Commission, it looks like your waiting time should be substantially reduced in the near future.

Asbestos plague persists

by J. Walter Brock

The danger posed by asbestos has been known for years, yet workers continue to develop asbestos-related diseases from on-the-job exposure.

It is questionable whether the asbestos problem will end during your lifetime. Although asbestos products have been removed from the market place, many old buildings are replete with asbestos insulation. This takes many forms from pipe wrap to insulation blown into the walls, hung on the walls, and cast into cement construction forms and blocks.

The danger arises when the old insulation is disturbed. In the past the solution to the problem of asbestos insulation was containment, i.e., if the pipe

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Absenteeism and stress increasing as employees work longer hours

Absenteeism eased in 1999 by 7% from 1998, when it rose by 25% to a seven-year high.

Experts estimate that absenteeism costs employers an average of $757 per employee, including the costs of sick leave, other workers' overtime, and temporary help.

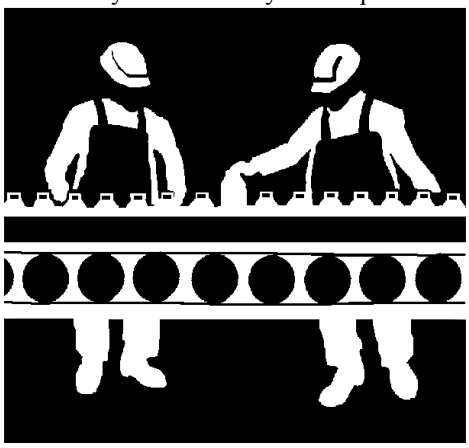
Absenteeism does not result primarily from employees' illnesses. Rather, 26% missed work due to family-related issues.

Personal illness accounted for 22%, personal needs for 20%, and stress 16%. About 16% also said they missed work because they felt they were "entitled" to a day off after working so many hours.

In 1995 only 6% of employees said stress was the cause of their absence, compared to 45% who claimed they were absent because of illness.

A recent report by the International Labor Organization indicates American workers are now working significantly more hours than their counterparts in other industrial countries.

Studies that indicate when employees who are suffering from stress are at work they're less likely to be productive.



CCH analyst Nancy Kaylor says stress manifests itself in a number of unhealthy and unproductive ways.

"The company itself may be causing or compounding employee stress, for example, by asking fewer workers to do more, having ineffective work processes or inadequately trained supervisors." she says.

"While companies are continuing to make some progress with family-friendly policies, it's apparent that more attention will have to be given to programs that help address employee stress."

Long hours on the job are also a significant cause of workplace anger.

According to the Bureau of Labor Statistics, a study of worker attitudes from 1996 to 1998 reveals that 9% of employees say their tight deadlines, heavy workload, and employers' production demands, were to blame for feelings of anger.

The largest group of respondents, 11%, said the actions of their supervisors and managers were the major cause of workplace hostility.

Workers still getting lung ailments asbestos exposure

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wrappings were painted or the wall insulation was covered and not exposed to the air there was little hazard. But at present many of our old buildings are being extensively remodeled, old heating systems are being replaced and concrete construction is being broken up and removed. These activities release asbestos fibers into the workplace.

Many times workers are not advised that they are being exposed to asbestos fibers. If you see this type of work being done, consult your union leaders and ask them to determine if there is asbestos being released by the remodeling and repair activities.

If you see large plastic sheets being hung over areas where work is being done on heating machinery, or where insulation is being removed, there could very well be an asbestos abatement project underway.

If you have any symptoms of shortness of breath with exertion, chest pain, or a persistent dry cough, and you suspect that you have been exposed to asbestos, check with your doctor right away. Be sure to tell the doctor you may have been exposed to asbestos.

You should not be unduly alarmed by this article. All of us have had some asbestos exposure at some time. It is rare for a person to develop asbestosis or lung cancer as a result of incidental, minor exposure. But a heavier exposure is a cause for concern, particularly for smokers.

The interaction of pension rights, workers compensation rights, Social Security rights and your rights against the manufacturer of asbestos are extremely complicated. If you have an asbestos-related disease you definitely need to consult an attorney.

Attorney J. Walter Brock specializes in workers compensation, asbestos litigation, Social Security, personal injury and machine injury accidents.

Workplace deaths increase but employers pay little

Michigan's pro-business workers compensation system and ineffective safety enforcement allow employers to escape liability

The number of Michigan residents dying of injuries suffered on the job increased by 20 percent from 1995 through 1998, state officials say.

The number of workplace injuries remained roughly the same in 1997 and 1998, despite the increase in deaths.

Nationally, on-the-job deaths decreased by 3 percent from 1997 to 1998.

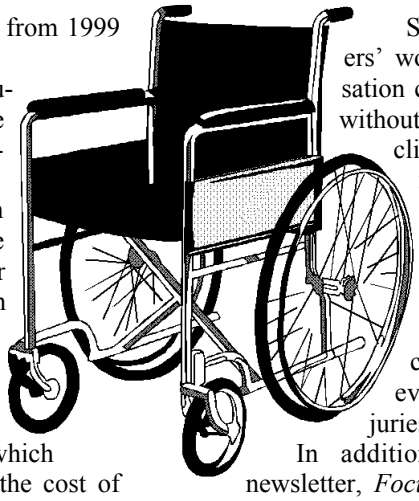
Two recent reports suggest that employers have a diminishing financial incentive to improve safety in the workplace.

In October, 1999, the Michigan Workers Comp Reporter revealed that the average workers compensation insurance premium charged to employers will decrease by 2.7 percent from 1999 to 2000.

This is the sixth consecutive year premium rates have declined, continuing a long-term trend.

The average Michigan employer paid an insurance premium rate of $1.34 per hundred dollars of payroll in 1998, less than half the $2.75 premium charged in 1975.

These figures have not been adjusted for inflation, which means the real decrease in the cost of premiums is even more significant over this period of time.



Even though the amount of money entering the workers comp system is decreasing, and injury rates are about the same, insurance companies are doing fine, and have apparently experienced no loss of profits.

Insurance companies can thrive on lower premiums because Governor Engler has packed the Workers Compensation Appellate Commission and the Michigan Supreme Court with anti-worker judges, and the Republican legislature has steadily eroded the workers compensation statute.

As a result, fewer workers compensation claims are being paid, and those that are paid are providing less compensation to injured workers. Higher premiums are not needed when workers aren't getting paid.

Since employers' workers compensation costs are down, without a similar decline in accident rates, employers have less incentive to make their workplaces safer, which can result in even more injuries.

In addition, the online newsletter, *Focus on the Corporation*, reports the average penalty imposed on employers by the Occupational Health and Safety Administration (OSHA) for a serious safety violation is $709.

Any employer which breaks government health and safety rules, creating a substantial probability of death or serious injury to workers is guilty of a "serious" violation.

Unless a death or serious injury results from the employer's violation, there is a very good chance it will not be reported to OSHA, and the employer will escape without paying any penalty.

Since the penalty is so small, and the chances of getting caught are so slim, unscrupulous employers have no reason to improve safety in the workplace.

In terms of money paid out in penalties and workers compensation costs, it is sometimes cheaper for an employer to continue a dangerous practice, even if it kills an employee, than to pay for changes that would make the workplace safer.

Economy booming but wages stagnant

The median income for households rose in 1998 by 3.5%, adjusted for inflation, the fastest pace in three years, to an all-time high of $38,885, the Census Bureau reported. The percentage of Americans living under the poverty line dropped to 12.7% last year from 13.3% in 1997, the lowest since 1979.

Not all is good news, however. Overall, wages have barely moved for the last decade. Workers' pay rose 28%, but, adjusted for inflation, that translates into 5.5%, or an average yearly raise of 0.3%, about $111.22.

By contrast, CEO pay rose by 481% over the same period.

The latest data available suggest the fruits of prosperity in the 1990s have been even more heavily skewed toward the rich than in prior booms.

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Workers comp rehabilitation is a double-edged sword

Rehabilitation can help the injured return to work, but it can also be used to harass workers with legitimate limitations

by Christopher J. Rabideau

Under the Workers Disability Compensation Act, an injured worker has the right to vocational rehabilitation services. These include reasonable and necessary retraining and job placement. The underlying goal is to return an injured worker to gainful employment after a work injury.

Workers compensation insurance carriers often hire rehabilitation specialists to work with injured workers. These specialists are supposed to provide unbiased and comprehensive evaluations of the workers' needs.

Unfortunately, employees' rights to vocational rehabilitation are sometimes used against them by unscrupulous insurance companies. Instead of allowing the injured employees to seek retraining in fields that interest the workers, the specialists are instructed by the insurance companies to work toward immediate job placement regardless of the workers' interests or needs.

The specialists will push the injured workers to return to work anywhere regardless of physical requirements of the work, the location, shift availability, or the workers' personal interests.

For example, an injured, single mother may be asked to take a job on third shift even though she does not have child care for those hours. Or a factory worker with a severe low back injury who lives in Muskegon may be pushed to take a light, sit-down job in Grand Rapids, despite the fact that the long commute will certainly cause a great deal of back pain.

Often, the rehabilitation specialists will instruct the injured workers not to mention the fact that they have injuries and need work restrictions during interviews with potential employers. Many times younger workers with injuries wish to go to school to retrain for a new trade, but the vocational specialists will instead push them into taking minimum wage jobs.

Even though retraining or schooling would be in the best interests of the workers, it is rarely considered a "Reasonable and necessary" course of vocational rehabilitation by workers compensation insurance companies.

Many times workers refuse to comply with the unreasonable requests made by the vocational rehabilitation specialists hired by the insurance companies. As soon as a worker refuses to comply, however, the insurance company stops paying workers compensation benefits because the individual "failed to cooperate" with rehabilitation, resulting in financial devastation for the worker and his or her family.

The vocational rehabilitation specialists' responsibilities are to help injured workers in efforts to return them to appropriate, gainful employment. Even though the insurance companies are paying for the rehabilitation services, the specialists are ethically obligated to be independent and objective when making recommendations and providing assistance.

When this does not happen, the worker should seek assistance from an attorney. A good attorney will attend meetings between the specialist and the worker to ensure the needs and interests of the worker are given due consideration. If a worker's benefits are cut off because the worker refuses a specialist's unreasonable request, an attorney can file a workers compensation claim to make sure benefits are reinstated.

If you are injured and have questions about your right to vocational rehabilitation under the Workers Compensation Disability Act, call McCroskey Law Offices. A knowledgeable attorney will be available to answer your questions.

Attorney Christopher J. Rabideau specializes in workers' compensation, social security disability, and unemployment compensation.

Controversy as High Court election gets underway

The Michigan Supreme Court promises to be one of the major battlegrounds in the 2000 election.

Michigan chooses its Supreme Court justices by popular election. Justices run on a non-partisan ballot, but they must be nominated by political parties.

The Court currently consists of five Republican justices and two Democratic justices. But three of the Republican justices are up for reelection in 2000.

The 2000 elections should be the hardest ever fought, because electoral districts will be redrawn based on the 2000 census.

By law, the legislature draws the districts for all state representatives. If, as frequently happens, the state legislature deadlocks on a redistricting plan, the task will be given to the Supreme Court.

Observers expect the Republican-dominated Court would select a plan favorable to the Republicans. The plan will remain in place for years and could place Democratic candidates at a substantial disadvantage for decades.

Governor Engler minces no words when he talks about Republican goals in the election.

"We'll have an opportunity with the year 2000, if we're successful, to redraw the legislative boundaries." said the Governor at a recent Chamber of Commerce fundraiser in Grand Rapids.

The three Justices who face reelection in 2000, Justices Taylor, Young, and Markman, attended the fundraiser with the Governor.

According to a spokeswoman for the Chamber, it is important the "business community not only seek to elect pro-business legislators, but also to elect pro-business Judicial officials as well."

One recent newsletter from the Michigan Manufacturers Association bragged that its 1998 campaign spending "swayed the Supreme Court election to a conservative viewpoint, ensuring a pro-manufacturing agenda and helping to promote a healthy economic environment for businesses."

From the other side of the political spectrum, a rising chorus of criticism questions the Court's impartiality and its fidelity to the law.

Detroit labor attorney Mary Ellen Gurewitz says "No union member in this state and no Michigan citizen who believes in the fair administration of justice, should be unaware of the Court's record and of the danger presented to progressive politics if Justices Taylor, Young, and Markman are not replaced."

At a recent judicial conference in Grand Rapids, U.S. Court of Appeals Judge James L. Ryan, a former Michigan Supreme Court Justice appointed to the federal bench by President Reagan, stated that the Court's Republican majority had abdicated its constitutional authority, when it ruled in the case of *McDougall v. Schantz* that the legislature could impose restrictive rules on courtroom procedure. To Judge Ryan, this is a clear violation of the Constitution.

The ruling was praised by hospitals and insurance companies, who want to make it harder for individuals to file malpractice lawsuits.

Even some Justices have voiced concern. In his highly unusual dissent in *Cooper v. Wade*, Justice Cavanaugh said the Republican majority has abandoned judicial principles, and is simply overruling or ignoring earlier cases it does not like.

Since January 1, 1999, said Justice Cavanaugh, the Court has overruled at least ten prior cases, and is now inviting challenges to three more prior cases going back some twenty-three years.

Justice Cavanaugh said the Court's majority, which claims to be on the side of moderation, has actually become "activist" and is attacking old laws and cases at will.

In the first seven months of 1999, the Supreme Court ruled in favor of corporations against individuals in 19 of 20 cases, held against employees in 10 of 11 cases, and rejected all 13 civil suits against the government.

Justices Taylor, Young, and Corrigan have denied the allegations of bias, attributing them to partisan politics.

Taylor and Young argue looking at the results of their decisions proves nothing, although they acknowledge there is a "philosophical split" on the high court.

Taylor says the anti-court criticism can be traced to "the political long knives of the left", an apparent reference to "The Night of the Long Knives", June 30, 1934, when Nazi leader Adolf Hitler ordered the assassination of the chief of his "brownshirt" stormtroopers.

New OSHA regs proposed on repetitive and strenuous work

The Occupational Safety and Health Administration published new regulations in November 1999 compelling employers to correct injury-causing workplace conditions that require repetitive motion, overexertion, or awkward posture.

The proposed rules cannot become final until 2000 at the earliest, after a comment period that includes public hearings.

Copies of the regulations and opportunities to comment on them are available at OSHA's website, <http://www.osha.gov/>.

Business groups are already threatening to file lawsuits to block the regulations, saying there is insufficient evidence that the work activities can cause injury.

Union leaders, however, applauded the move. "It confirms what workers have known for years--that these injuries are caused by workplace hazards and can be prevented," said AFL-CIO President John Sweeney.

The Labor Department estimates the new rules could prevent injury to about 300,000 workers yearly, and save employers $9 billion.

OSHA estimates employers will spend an average of $150 per year per work station to comply with the regula-

Wages stagnant

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The top 5% of households last year—those making $132,199 or more—had 21.4% of all income, well above 17.5% earned by the top 5% in 1967.

Many workers in America have been dogged by the continuing labor market instability that has helped keep overall wage gains low. The 4.2% unemployment rate means work is plentiful, but too few jobs are secure or full-time.

Wages for many low-paid workers have been rising in recent years, but they still aren't high enough to lift significant numbers out of poverty. Even though the unemployment rate was higher in the earlier 1970s than it is today, poverty was less widespread then.

The census report says living standards are up, but so are the hours many families have to work to earn their income.

Working hours for the average family rose by about 2% from 1989 to 1998, reaching 3,149 last year, according to the Economic Policy Institute.

For more information...

If you would like more information about anything in this newsletter, or if you have a question about any legal problem, call the law offices of McCroskey, Feldman, Cochrane, and Brock, P.C., for a free consultation.

The McCroskey law firm specializes in many kinds of law, including:

- automobile accidents
- serious personal injury
- workers' compensation
- social security
- employment law
- labor relations
- defective products
- environmental law

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Additional copies of this newsletter may be obtained free of charge by contacting the McCroskey law firm.

Law requires employers share info with unions

by Thomas B. Cochrane

Unions are legally entitled to receive information from employers if the information is needed to carry out their duties as employees' representatives.

The National Labor Relations Act requires an employer to furnish information requested by a union "if there is a probability that the information is relevant and necessary to the union in carrying out its statutory duties and responsibilities as the employees' bargaining representative."

Those duties and responsibilities include contract negotiations, and the filing and processing of grievances.

The employer does not have to supply information that is not relevant to the union's representational duties, but the standard for assessing relevance is very broad.

According to the National Labor Relations Board, information relating to the terms and conditions of employment, or the merits of a grievance or potential grievance is clearly relevant, and must be provided.

The information, however, does not need to be so relevant that it would resolve the grievance. The Board says the union is entitled to information even if it is only investigating to see if a grievance should be filed.

When the union requests information about matters occurring outside the bargaining unit, the standard is somewhat narrower.

Subcontracting, for example, is an "outside" issue. In such cases, says the Board, the union should be prepared to offer a "more precise" explanation as to why it needs the requested information.

Where the information is plainly irrelevant to any dispute, the employer is not required to provide it.

If an employer refuses to comply with a request for information, the union can file unfair labor practice charges with the NLRB.

A union should not expect to compel an employer to release information through the arbitration process.

There is one important exception to the rule that a union may obtain relevant information. A union is not entitled to "witness statements" taken by the employer.

The NLRB tends to interpret "witness statements" narrowly, however, so this exception has limited effect.

In any case, when investigating a event in the workplace, a union is is free to collect witness statements on its own.

Attorney Thomas B. Cochrane specializes in labor relations law.

How to request information

When making an information request, ask yourself what you want to know, and why. When you have this clearly in mind, ask yourself what documents or materials would tell you what you want to know.

Write out a description of the materials. Be as specific as you can, and have a union brother or sister read your description and ask if they understand it.

When you are satisfied with your draft, write your request on official union letterhead. Make a simple statement that the union needs certain information.

For example, you may say "The Union requests the Company provide it with the following information:" Insert the draft you prepared at this point.

Conclude the request with a statement like: "The Union needs this information to carry out its statutory duties as collective bargaining representative. Please respond in writing as soon as possible."

The request is being made on behalf of the union, so make sure the statement is signed by a union officer. Individual union members do not have the right to request information from the Company in this way.

If you have any questions about filing an information request, contact McCroskey Law Offices.

Older workers have edge over the young

The conventional wisdom in our modern, high-tech economy is that older workers are less desirable than younger workers. A February 1999 cover story in *Fortune*, for example, declared that workers are "finished at 40."

Recent research, however, says older workers are not undesirable at all.

Experience counts more than youth in most supervisory fields, according to a new study conducted by the Cranfield School of Management in the United Kingdom.

Younger managers are sometimes more energetic and dynamic, but older managers are generally better in businesses which depend on repeat customers and high employee morale.

Another problem is that younger managers may not be as committed to the employer as older workers, who may be more inclined to take into consideration the long-term health of the employer. Younger workers have the option of leaving a failing company and looking for employment elsewhere.

According to a 1998 study conducted by the American Association of Retired Persons, employers realize older workers have many desirable skills such as sound judgment and a solid work ethic. They also excel in people skills and are better able to work in a team environment.

Employers also feel older workers are more reliable and more committed to their jobs.

America's tight labor market may also be a factor leading to increased reliance on older workers. The AARP study, for example, says employers generally feel older workers are also less flexible than younger workers, less accepting of change, and less comfortable with computers.

Reported on National Public Radio, Morning Edition, March 10, 1999.

New ADA guidance released on reasonable accommodation

The EEOC recently released a detailed policy guidance on reasonable accommodation and undue hardship under the Americans with Disabilities Act.

The guidance sets out the EEOC's position on what employers have to do to accommodate the needs of disabled employees and job applicants.

It presents a wide range of common concerns and examples in a question-and-answer format and provides suggestions and instructions on how employees or their representatives, including labor unions, can seek accommodation at work.

EEOC guidances do not have the force of law, but are given deference by the courts.

Accommodation must be provided to qualified employees "regardless of whether they work part-time or full-time, or are considered probationary," the EEOC said.

The guidance gives the EEOC's interpretation on a wide range of "possible reasonable accommodations that an employer may have to provide," making existing facilities accessible, modifying or restructuring a job, or changing policies on reassignment to a vacant job.

The EEOC noted that employers are not necessarily required to provide the accommodation the individual wants.

"The employer may choose among reasonable accommodations as long as the chosen accommodation is effective," the EEOC said.

Thus, the employer can offer alternative suggestions for reasonable accommodations and discuss their effectiveness in assisting the individual with a disability.

If there are two possible reasonable accommodations, and one costs more or is more burdensome than the other, the employer may choose the less expensive or burdensome accommodation as long as it is effective, the EEOC explained.

Individual employees can discuss potential accommodations with their employer on their own, or they may be assisted by their labor union.

The only limitation to the employer's obligation is if accommodation would cause an "undue hardship" on the employer.

Determinations of whether an accommodation will impose an undue hardship on an employer will be made on a case-by-case basis.

Contact McCroskey Law offices if you have any questions about the ADA.

Copies of the guidance on reasonable accommodation are available at the EEOC's website, http://www.access.gpo.gov/eeoc/docs.accommodation.html

Supreme Court forbids male-on-male sexual harassment

Case expands the reach of Title VII anti-discrimination laws

By Thomas B. Cochrane

The United States Supreme Court recently decided *Oncale v. Sundowner Offshore Services*, which expands the reach of existing sexual discrimination laws, while at same time signaling the Court's concern that discrimination must be judged by the context in which it occurs.

The Plaintiff in the case, Joseph Oncale, filed a complaint against his employer, Sundowner Offshore, claiming he was sexually harassed by male coworkers in his workplace.

The only question decided by the Court was whether Title VII of the Civil Rights Act of 1964 prohibits same-sex harassment claims.

Title VII is the main federal law prohibiting sexual discrimination, and the Courts have long-held that the law prohibits discrimination against a woman by a man, and discrimination by a man against a man to benefit a women.

In *Oncale* the Court unanimously held that same-sex harassment is prohibited by Title VII just like other forms of sexual harassment.

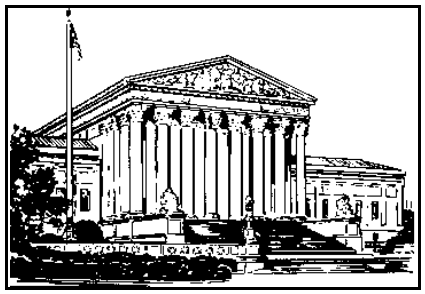
This decision is an expansion of existing law and can be viewed as being favorable to employees. Mr. Oncale now has the right to take action against his employer, whereas without this decision some courts would have dismissed his suit.

What the Court gives with one hand, however, it takes away with the other. The Court's opinion was drafted by Associate Justice Antonin Scalia, nearly the most conservative member of the court.

Portions of Justice Scalia's opinion provide a glimpse into the mind of the Court, indicating how it may rule in future cases.

The Court said sexual harassment depends on the context in which it occurs.

Justice Scalia wrote that "workplace harassment, even harassment between men and women, is not automatically discrimination merely because the words used have sexual content or connotations. The critical issue is whether



members of one sex are exposed to disadvantageous terms or conditions of employment to which members of the other sex are not exposed."

"Harassing conduct," he wrote, "need not be motivated by sexual desire to support an inference of discrimination on the basis of sex."

In any discrimination suit, the plaintiff must show "the conduct at issue was not merely tinged with offensive sexual connotations, but actually constituted discrimination *because of* sex."

Title VII, said Justice Scalia, does not outlaw sexuality in the workplace, such as male-on-male horseplay or intersexual flirtation.

There is a difference between "innocuous" interaction between people of the same sex and of different sexes, and prohibited sexual discrimination.

The law prohibits only behavior so objectively offensive as to alter the conditions of the victim's employment. Conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment as judged by a reasonable person is not illegal.

Justice Scalia added that the "social context" must be taken into consideration. For example, a football player's working environment is not severely abusive if the coach smacks him on the buttocks as he heads onto the field -- even if the same smack delivered by the coach on his secretary's buttocks back at the office would be abusive.

"Common sense," he says, "and an appropriate sensitivity to social context, will enable [us] to distinguish between simple teasing or roughhousing between people, and conduct which a reasonable person would find severely hostile or abusive."

The language of the opinion may indicate the Court is going to be less sympathetic in the future to claims of harassment, and it is unclear for the moment how the law may develop.

McCroskey Law Offices advises unions and individuals to err on the side of caution when considering what conduct may be permissible under Title VII.

Until the Court clarifies the law more, rely on the old maxim "better to be safe than sorry." If the conduct in question could plausibly be viewed as sexual harassment, take it seriously, and treat it as if is illegal harassment, at least until you can get legal advice.

Attorney Thomas B. Cochrane practices employment law, labor relations and workers compensation.

Who really runs the economy?

Not the President. Not Congress. The most important decisions are made by "The Fed"

In the 2000 election year, we can expect to hear a lot of campaign rhetoric on who gets credit for the growing economy, and what party's policies are most likely to keep the good times rolling.

One of the most important players in the U.S. economy is rarely mentioned, however. Economists say the prosperity of the 1990s is primarily the result of the policies of the Federal Reserve bank.

"The Fed" has an enormous impact on the lives of all Americans It is in charge of the nation's monetary policy, which tries to make sure that dollars are plentiful enough so consumers and businesses can buy all of the goods and services produced by the economy.

That in turn affects how many people will have a job, whether prices will be stable and how many goods and services will be produced an sold.

The Fed does not work directly on consumers or businesses but accomplishes its policy through banks. It manipulates the amount of funds that banks have available to lend, using the interest rate on funds that banks lend to each other as a guide.

When money is hard to obtain, loans become expensive and individuals and businesses don't spend. Businesses than produce fewer goods and services than they are capable of producing. They lay off workers and slow investments.

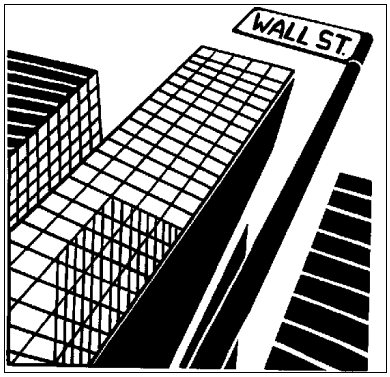
If production declines for many months, in a recession, many people can lose jobs.

Other times, money is easy to obtain, businesses spend freely, and lots of people have jobs.

If businesses are near the limit of their production capacity, however, any increase in the money supply means consumers will spend more dollars on the same amount of goods and services, driving up their cost. There are too many dollars available and too few goods to buy, and inflation results.

Monetary policy seeks to guide the economy between these extremes.

The Fed is alert for signs of recession or inflation, and sets monetary policy aimed at preventing both.



Policy is set by the Federal Open Market Committee. The committee is made up of officials from the nation's regional Federal Reserve banks. The FOMC is chaired by Alan Greenspan.

All chairman are appointed by the President.

Even though FOMC members are vast amounts of economic information available, policy decisions are often influenced by members' biases.

Many critics believe the Fed invariably errs on the side of fighting inflation, to the detriment of workers.

The Fed has made many errors. Fed policy was a major reason for the Great Depression of the 1930s and the intense inflation of the 1970s.

The Fed's power to make changes in the economy is limited. Monetary policy affects the environment in which peoples' economic decisions are made, but it cannot force anyone to respond. The money supply can be increased, but people still may not spend more. Credit can be made more expensive, but people may spend money freely anyway.

While it is far from all-powerful, the Fed is perhaps the nation's most important economic policy-making body, affecting the lives of every single American every day of their lives.

Mandatory urine tests can violate the ADA

The Second Circuit Court of Appeals ruled recently that an employer violated the Americans with Disabilities Act when it discharged employees who could not participate in a urine screen drug test because of bladder problems.

The company did not fire any employees with healthy bladders who were able to give a urine sample.

The employer's testing policy treats employees with bladder problems who are also recovering drug addicts differently from employees who have bladder problems but are not recovering addicts.

The employer required recovering addicts to take a drug test once a month, but only required employees without a record of addiction to take a test once every five years.

This is disciminatory because recovering addicts who cannot provide a urine sample will be discharged after one month, whereas any other employee unable to provide a sample would only be fired after five years.

Buckley v. Consolidated Edison Co. of N.Y., 7 Am. Disabilities Cas. (BNA) 794 (2d Cir. 10/8/87). *Reported in* 156 L.R.R.M. (BNA) 322.

Include statement that Spanish language service is available.

Also a cut-out form for ordering newsletter, and announcement of FMLA pocket guide.

Videotaping union rally is an unfair labor practice says Labor Board

In a recent case, the National Labor Relations Board ruled the employer violated the National Labor Relations Act by videotaping union activity.

The employer and union had a long-running dispute and the employer unilaterally implemented its final offer. The union responded by holding a number of rallies in front of one of the employer's gates.

The employer had security cameras on its property, but mounted a new video camera atop a nearby building to tape the rallies. It also gave its employee relations director a camera to use from a nearby guard shack.

The NLRB ordered the employer to cease using (or pretending to use) a video camera to monitor protected activities, and the Court of Appeals for the District of Columbia enforced the order.

The Board said the employer's actions could intimidate employees. The employer's normal security cameras already covered the gate, so the added security provided by the new camera was minimal compared to the coercive effect it could have on the employees.

In addition, the employer lacked a reasonable and objective expectation that employee misconduct at the rallies was likely. The videotaping continued long after the employer concluded that "nothing was going on" at the rallies.

National Steel & Shipbuilding v. NLRB, 159 LRRM 2387, (DC Cir 1998).

Corporate income tax

rose about 13% in 1994 to $135.5 billion according to the IRS. Total corporate taxes account for only 12.5% of the total amount of taxes taken in by the federal government. In the 1960s corporate taxes accounted for more than 20%.

Chainsaw Al's luck runs out

Albert J. Dunlap, also known as "Chainsaw Al," eliminated thousands of jobs from the company's he's worked for, and earned himself a reputation as one of the countys meanest executives.

In 1998, however, he found himself on the receiving end of a pink slip, when Sunbeam Corp. fired him.

Dunlap said being fired left him "personally, financially and professionally devastated."

"I believed in Sunbeam." he added. "I belived passionately in the company."

Dunlap was angry about the way he was let go. He said Sunbeam didn't give him a reason.

"My major goal in life right now is to restore my good name and integrity," he explained. "I think I've been horribly impugned."

Reported by the Wall Street Journal.

GOP's Lamar Alexander says unions too powerful

According to Republican Presidential hopeful Lamar Alexander, "Clinton Democrats have quietly made it easier for union leaders and harder for small businesses trying to grow new jobs.

"First," says Alexander, "the Hatch Act was amended to give government employee unions enormous new power like teacher's unions.

"Second they are working hard to make it illegal to hire replacements for workers who strike illegally.

"Third, they want to repeal section 14B of the Taft-Hartley Act, which allows states to pass right-to-work laws."

According to Alexander, this will result in "no new jobs and no growth in the standard of living for American workers."

Reported in Lamar Alexander: On the Issues <http://www.newstown.com/AmeryNet/polysnet/polyforms/chp2.htm#chp.two>

Woman are joining unions faster than men

According to a 1998 AFL-CIO study, women are now more likely than men to join labor unions.

The poll of 2,036 nonunion workers shows that 49% of women would like to join a union. The poll found that only 40% of men would like to join.

I'd rather have a hot poker in my eye than have an airport named after him.

—Randy Swartz of the National Air Traffic Controllers Association on the renaming of Washington D.C.'s National Airport to Ronald Reagan Washington National Airport.

Reported by Newsweek.