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**The Fight for the Boss' Right to be  
Arbitrary and Capricious  
Solidarity America  
By John Funicello  
BlackCommentator.com Columnist**

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In the bad old days, employers across the board were able to hire and fire at will and the workers did not have a thing to say about it and there was no recourse to the wielding of this supreme power in the workplace.

Today, most employers still have the right to fire for any reason or for no reason, but the existence of a union contract has stopped that "right" cold. Until very recently, the union contract was a buffer between unionized workers and their bosses.

Two very important parts of a union contract are seniority and a grievance procedure that ends with a decision made by a disinterested arbitrator. Those two clauses in a union contract sharply curb the inclinations of the boss to act in an arbitrary and capricious manner.

It is, though, the policy of labor relations in the U.S. to give the employer all of the power, whenever possible. To this day, most workers go through the doors or gate to the office or factory (those few that are left) and they check their democratic rights at the door. Every one of them can be fired for any reason.

The curb on that employer right came during the wave of union organizing in the last century, when millions of workers joined unions and their time in service, experience, skills, and loyalty came to mean something.

Their contracts saw to it that they were rewarded for all of the listed characteristics, which provided the employer with profits and prestige. The contracts had seniority

clauses, which said that length of service counted and would be used for a system of orderly promotions and for many other things, including work assignments and even selection of vacation time.

Of course, there could be deviations from the strict language of the contract, but those changes had to be reached at the bargaining table, between two sides which were relatively equal.

In hard times such as today, the heart of union contracts is being hunted down all across the country. We've seen it in the auto industry, in particular, but it's happening everywhere else as well, wherever there is a contract.

It's not just money that the corporations are after. They want the heart and the veins and arteries of the contracts. And they're getting those vital parts, because workers have no place to go when the company says, "we're going to shut down in 60 days if you don't give us the concessions we want."

Seniority is on the block. If that goes, the company can lay off the most senior and most experienced - and, in most cases, the best-paid - workers, thus saving the company dollars that show up on the bottom line.

This week, the New York Times Company, owner of the *Boston Globe*, has threatened the unions at the Boston paper that, if they don't give the concessions that total millions of dollars that they will do just that - shut down the paper for good.

Hundreds of workers in several unions are willing to do whatever they can to save "their" newspaper, many of them because it's the only job they've had as adults. No one came out and said openly that the company wanted unions to give up seniority for the purpose of lay-offs, but it was right there, near the surface.

Perhaps the newspaper industry is not the best example of the demands of corporations in this time of economic meltdown, because other factors have come into play which are affecting their revenues. People who used to be loyal newspaper readers are getting much of their news from other sources. A new generation just doesn't get its news from newspapers and, possibly, don't get much news at all, on a regular basis.

Under these conditions, no matter what concessions the workers give, it can't be enough to save newspapers such as *The Globe*. Concessions can stretch out the dying process and add, perhaps, a couple of years to the life of a business like a newspaper.

In the auto industry, the union, United Auto Workers, is fighting for its life, as the domestic car industry goes the way of so many other domestic industries, with its government bailouts, loans, restructuring, mergers (or partial mergers and cooperative agreements), and bankruptcies.

The UAW president told a reporter a few days ago that the union is in "lock step" with the companies in trying to save the domestic industry and hundreds of thousands of well-paying jobs. The union also is fighting for the welfare of its retired members - retirement income and benefits, which are always threatened by the possibility that an auto company will disappear.

Employers around the country are going to their workers for relief from their burden of pay and benefits. Non-union workers don't have much of choice, but unionized workers are cooperating in the hope that they can save their jobs, their life's work, their families' well-being, and their communities.

There's a degree of cynicism among employers, however, because they can push a little harder in difficult times and possibly eliminate some elements of unionization that stick in their craw, like seniority and a grievance procedure that results in arbitration.

In these cases, it's not about money or saving the company. It's about diminishing the power of workers and their unions. It's why there is such a manic effort by capital to crush the Employee Free Choice Act, because the act, if passed into law, would make it a little easier to organize a union.

The damage being done to all American workers by this economic downturn or collapse (if you prefer) will last for a long time. Even with passage of the EFCA, without another surge of union organizing like the 1930s, in its wake, American workers will be left to compete with workers in the developing world, and the bosses will have the right to act in an arbitrary and capricious manner in all manner of circumstances.

What will stand in the way of rampant capital will be a unified union movement within a unified labor movement in America. Union officialdom has its work cut out for it.

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
**BlackCommentator.com** Columnist, John Funciello, is a labor organizer and former union organizer. His union work started when he became a local president of The Newspaper Guild in the early 1970s. He was a reporter for 14 years for newspapers in New York State. In addition to labor work, he is organizing family farmers as they struggle to stay on the land under enormous pressure from factory food producers and land developers. Click [here](#) to contact Mr. Funciello.

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