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**AUGUST 2016**

2016.4



# REPORT OF THE PRESIDENT

Mike Wahlquist



## Weingarten Rights

Many years ago I was informed that a Letter Carrier had written a confession, and that he was being removed from the Postal Service because of what he had confessed to. When I talked to the Carrier, I asked him why he would have written such a confession. He replied the Postal Inspectors had written it for him and then they had asked him to sign it. He told me that when the Postal Inspectors had arrived, they took him aside and told him that they were on his side. They told him that they were there to help him. They told him that if he cooperated with them, they were going to make sure that nothing bad was going to happen to him, and that they were going to make sure that he would not lose his job. They lied to him in order to get a confession.

It is never a good idea to go through an investigative interview without the representation of a Shop Steward. Your rights (to have a Shop Steward assist you and be present during an investigation) are known collectively as your “Weingarten” rights. But beware: management is under no obligation to inform you of these rights. That is why I am writing this article. Your Weingarten rights also apply to investigations that are performed by Postal Inspectors and the Office of the Inspector General (OIG). If management informs you that they are conducting an investigation, and you ask for a Steward, then the Postal Service should provide you with one before they continue.

When do you have the right to request a Steward? Section (8)a of the National Relations Act says that Weingarten rights apply when the employee’s request for representation is based on a “reasonable belief”, in light of all circumstances, that discipline may ensue. Arbitrators have held that a “reasonable belief” must be measured by objective standards, or in other words, would a reasonable person conclude that discipline could result from whatever it is management is doing or saying. A good way to figure this out is to ask management “Could this lead to discipline?” If the answer is no, then management would not be able to successfully discipline you later, at least in theory. If the answer is yes, then you should always invoke your Weingarten rights. Either way, if you have a “reasonable belief” that discipline could result, you should ask for a Steward. If no Steward is provided, you may opt to continue without a Steward, or you can answer every question

with the statement: “I will be happy to answer this question when a Steward is provided.” If management orders you to answer anyway, you may say “I am answering. My answer is: that I will be happy to answer this question when a Steward is provided. That is my answer.” And you can continue to provide that answer until a Shop Steward is provided. But remember, you may not leave the work area without permission, even if management is failing to provide you with a Steward.

Once a Steward has been provided, and after management has informed you of the nature of the investigatory interview (which your Steward will request to know when he or she arrives), management must allow you time to consult with your Steward prior to the investigation starting. The amount of time for this consultation may not be predetermined by management, and you may take a reasonable amount of time to have this consultation. My advice is to follow everything that your Shop Steward advises during your consultation. A few things to remember about requesting a Steward is that you don’t get to pick which Steward represents you. Management must provide a Steward, and the contract covers how Stewards and Alternate Stewards are assigned. However, your representative must be appointed, not just another Letter Carrier. And Stewards are not required to play a “dual-role” by representing themselves when they are being investigated. Also, there is no contractual right to have more than one Steward present during an investigation, even though there may be more than one management official in the room.

Some interviews will be conducted by Postal Inspectors (PIs) or by persons from the Office of the Inspector General (OIG agents). If this takes place, our experience is that they will usually begin by giving Letter Carriers a Garrity Warning or a Kalkines Warning. Garrity Warnings are similar to the following:

*You are being asked to provide information as part of an internal and/or administrative investigation. This is a voluntary interview and you do not have to answer questions if your answers would tend to implicate you in a crime. No disciplinary action will be taken against you solely for refusing to answer questions. However, the evidentiary value of your silence may be considered in administrative proceedings as part of the facts surrounding your case. Any statement you do choose to provide may be used as evidence in criminal and/or administrative proceedings.*

The thing to remember about Garrity Warnings is that they are non-custodial, and therefore, you can leave at any time. The right time to leave is immediately. Just remember that Garrity means “go”. Of course your

Of course your Steward will tell you all of this after you have properly invoked your Weingarten rights.

If it is a Kalkines Warning, you must participate in the investigation, because failure to participate can result in removal from the Post Office. A typical Kalkines Warning reads:

*You are being questioned as part of an internal and/or administrative investigation. You will be asked a number of specific questions concerning your official duties, and you must answer these questions to the best of your ability. Failure to answer completely and truthfully may result in disciplinary action, including dismissal. Your answers and any information derived from them may be used against you in administrative proceedings. However, neither your answers nor any information derived from them may be used against you in criminal proceedings, except if you knowingly and willfully make false statements.*

Even though the above warning sounds scary, none of it can be used in court (unless you lie), and in reality, it is no different than any other investigation, because it can only result in administrative action (otherwise known as discipline) at work.

If an officer informs you of your Miranda Rights, then you are in a legal proceeding, and you need to get a lawyer immediately.

One thing to remember is that it is not against the law for Postal Inspectors and OIG agents to lie to you, which seems strange when you consider that you may be fired for saying anything less than the absolute truth. And all of this leads us right back to our Weingarten rights, which are the only rights we have for our protection during an investigation. Our Steward will take notes, protecting us against false accusations in the future. Our Steward may object to confusing questions, compound questions, questions that presume guilt, or questions that have nothing to do with work, allowing us to actually tell our side of the story. Our Steward will advise us and counsel us before the investigation starts as to the best course of action. We should never settle for anything less. Always, Always, ask for your Shop Steward during an investigation.

Mike Wahlquist  
Branch President

## NOTIFICATIONS:

- ⇒ SEPTEMBER 8, 2016– NOMINATIONS FOR STATE CONVENTION DELEGATES
- ⇒ OCTOBER 13, 2016– ELECTION FOR STATE CONVENTION DELEGATES
- ⇒ OCTOBER 12, 2017– NOMINATIONS FOR BRANCH OFFICERS
- ⇒ DECEMBER 2017– ELECTION FOR BRANCH OFFICERS

*In Memory Of:*

*Leif Syversen*

*"To live in hearts we leave behind, is not to die."*

*Thomas Campbell*

## VICE PRESIDENT REPORT

Lance Henrie



### Life in the Postal Tide Pool

I am in Oregon as I write this, we spent most of yesterday staring into coastal tide pools. The experience reminded me of my child-

hood staring at worms and other interesting bugs in puddles. These tide pools brimming with life are fascinating and looking at them, as opposed to puddles, is accepted adult behavior. Watching two little crabs in mortal combat to determine which would rule the 1 by 3 foot 8 inch deep pool, I wondered what reigning over that pool represents. Is that the whole world as they understand it? Or are they aware of the vast ocean that washes over at high tide? Later while driving I made a sudden U-turn to look at Elk just off the road. A man in a silver Toyota did not agree with my chosen method of wildlife observation and showed me his middle finger. Again, I wondered is that section of highway the whole world to that man? (To be fair he had been behind me for several miles.) Sometimes the workroom floor becomes a tide pool of sorts, with different organisms floating about and some locked in heated battle over control in a given situation. Some enjoying the view to the frustration of others. The point is nothing that happens in the tide pool is important enough to really matter. If your boss thinks you are an idiot or you think that of the boss is of no consequence. The earth continues to circle the sun regardless of these things. Too many in the Postal Service live with a constant low grade level of stress while others pride themselves as the creator of stress in fellow employees. My advise, and I know you didn't ask for advice, is remove yourself from petty struggles, see the big picture, and focus on what is important outside of the tide pool. Pay attention to those who deserve your attention, ignore those who don't. And last but not least enjoy the show.

Lance Henrie

## STEAK FRY

**When: August 27,  
2016**

**Time: 6:00 pm**

**Where: Murray  
Park Pavilion #5**

**Cost: \$10/person**

**(self and  
significant other)**

**\*\*\*See your steward for  
tickets. Please pay by  
check to NALC Branch**

**111\*\*\***

## Proposed bylaw change

Old Language:

### ARTICLE 3 MEMBERS

Section 1. The dues of this branch shall be 1 hour per pay period at city letter carrier grade 2 step O. Any member not on dues check off shall maintain their dues (1) year in advance.

New Language:

### ARTICLE 3 MEMBERS

Section 1. The dues of this branch shall be 1 hour per pay period at city letter carrier grade 2 step ***H***,  
Any member not on dues check off shall maintain their dues (1) year in advance.



Nobody knows your body better than you do. With temperatures in the 90's and above you should drink more water to stay hydrated. In the NALC bulletin it says drink 8 ounces of water every 20 minutes. "Prevent is important." Here are some other symptoms to watch for and take action. Find cool shady areas and use them. Try to stay out of direct sunlight. Usually impossible, but have sunscreen SPF 50 or higher applied. A hat with ventilation and a large rim to cover your ears, face and nose. Please be careful and take care of yourself and your needs.

Please be EXTRA CAREFUL and watch for children. They are so unpredictable and they move fast. Stay alert and attentive at all times.

What to do when a dog attacks you? First, be sure to have your satchel and dog spray with you. This way you can put the satchel between you and the dog. Stand tall and give your alpha/ big voice and say NO!! GO HOME!!

Your manager needs to sign the repair tag form 4565 before it's official.

Please continue to help our CCA's.

Rick  
Safety and Health

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pon at time of order.**

# Director of Retirees Report

This year marks my 16<sup>th</sup> year as Director of Retirees for Branch 111 NALC.

My job as Director of Retirees gives me the opportunity and enjoyment to serve the seniors of the branch and their families.

With 50 years of Union membership, a retired member qualifies for a Gold Card which means they no longer have to pay monthly dues. If you think you are eligible, please contact Branch Secretary Kim Mortensen.

The ***Annual Retirees Dinner*** will be held the **15<sup>th</sup> of September 2016**, at the “Golden Corral” restaurant in West Valley City (3399 W 3500 S, West Valley City, UT 84119). There will be a reminder posted in a later edition of the Pavement Pounder for RSVP.

The Branch has a progressive door prize the night of Union Meeting. Please come out and see if you can win.

Last but not least, the Branch will be taking nominations for “Retired Carrier of the Year” awards. Any member in good standing, or their families, or active members may nominate someone. You may use another paper as long as it includes the information in the form below. Nominations need to arrive at the Branch no later than August 6<sup>th</sup>, 2016. Please put “ATTN Retired Carrier of The Year Award Committee” on the outside of the envelope. The nominations should be addressed to:

ATTN: **Retired Carrier of the Year Award Committee**

BRANCH 111 NALC

2261 So. Redwood Road

Suite 14

Salt Lake City, UT 84119-1330

Yours Fraternally, Joe Zabriskie

## **Retired Carrier of the Year Award - Nomination Form**

Name of nominee: \_\_\_\_\_

Number of Years as a Letter Carrier: \_\_\_\_\_, Number of years as a Union Member: \_\_\_\_\_.

Reason nominated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

## NALC Branch 111

### Minutes of the regular Union Meeting

July 14, 2016

**Convened** at 6:38

**Pledge of Allegiance** by Jeff Marath (for Phillip Rodriguez excused)

**Minutes** of the June meeting have been prepared, distributed and posted filed for future reference-called by the chair

**Reading of the Correspondence** by Kimberly Mortensen, filed for future reference

**Application for Membership** by Mike Wahlquist

Jasmin Fejzic, Candice Dennison, Christopher Cahenzli, John Cody, Andrey Pedraza, Jerahmia Yeates, Alex Degraw, Daniel Colvell, Darren Estoue, Cheri Owen, Christopher Pearce, Kathleen Henson Alejandro Coronel, Jared Cavanaugh, Sam Norrison, Amy Higginson, Destiney Carrillo, Sofala Maiava, Richard Pimentel, Ariel Berman, Marc LeMaster, Chantel Martinez, Daurice Molielle-Louana, Tracie Hauser, Karla Bennett, John Peterson, Jordan Hawkins, Christopher Patterson, Michael Alforque, Jim Hoang, Goran Muckazev, Todd Murray, Slade Sterling, Karl Raymond, Yahaya Erzoah, Tyler Henderson, Peter Slotosch, Joshua Polamalu, Donald Pinson

**Safety and Health** by Rick Watson (out of order)

4565; vehicle repair tag, manager must sign and return a copy to carrier. Safety in the summer heat, heat abatement program was discussed.

**Special Committee tasked with reporting on Auxiliary 8 then reported**, as assigned at the last meeting. The Auxiliary's mission is to support and promote the objectives, political activities and the charities of the NALC, it's vision is to first actively influence legislation that will be friendly to letter carriers, second, endorse charitable support, and third promote the image of the letter carrier. The Auxiliary is a nonprofit organization, with powers to make its own laws, provided such laws adhere to and uphold the policies and directives of the NALC. Auxiliary 8 has not paid per capita to their National since 2012, even though dues were collected from auxiliary 8 members. The role of Auxiliary 8 was not to fundraise with raffles, union meeting meals or selling meals at the labor day picnic. The \$1,000 dollars from Branch 111 was the result of a bylaw proposal by then Branch Vice President Mike Miller, passed in December 2002, Auxiliary 8 nonprofit was revoked in 2013, for not reporting properly to the IRS. Auxiliary 8 offered the Branch \$1,000, the Branch declined and formed a committee to investigate at the June Branch meeting. The committee asked the following to be interviewed: Kathleen Warner, Vickie Payne, Michael and Janet Miller, Susan McNees, Rick Watson, Keith Warner, Liesel Polichette, Sheri Porter, and LaRae Larsen. Those responding and participating were: Rick Watson, Keith Warner, Janet Miller, Liesel Polichette, Sheri Porter, Kathleen Warner and Vickie Payne. The committee determined that at least 2

\$1000 checks provided by the Branch (10/2014 & 1/2015) were cashed and never deposited into Auxiliary 8 accounts. No receipts were kept, cash was distributed without records. Bank records were provided and spreadsheets are available showing Auxiliary 8 deposits and expenditures. The ending bank balance for April was \$2877.51, May \$2536.84 the account was closed on May 27, 2016 \$2178.19 was withdrawn. Cash back with purchases in April and May totaled \$300. The committee has been in contact with the appropriate agencies/authorities. The committee will meet with the Consumer Protection Agency on Friday July 15, 2016. The committee thanked everyone for their support.

**The yearbook committee** chair; Christopher Zambos reported that they are looking at data and seeking a union printer, will report next month.

**Food Drive** by LoEne Simpson no report

**LCPF** Monte Jones excused

**Organizer** by Jay Reupena

Is honored to have been selected as organizer, discussed his love and passion for the union, the times are changing.

**MDA** by Cassandra Last



**Legislative** by Chad Mortensen excused

**Trustees** no report

**Health Benefits** by Jimmy Kerekes

Retirees can carry the NALC health plan in retirement, to continue NALC membership, an 1189 must be completed.

**Retirees** by Joe Zabriskie

New retirees, Gary Nichols, Randy Larsen, Marv Graham, and Rick Logan received their watches, Joe added their names to the list of retirees. The dinner is September 15.

**Treasurer** by Mike Madsen excused

**Vice President** by Lance Henrie, excused

**President** by Michael Wahlquist

- We are at 715 grievances for the year.
- Thanked the committee for reporting the facts.
- The training room, downstairs belongs to us, the AFT donated some tables for that training room.
- Jay Reupena was selected as organizer because of his drive and charisma, currently we are 84.2% organized, highest since we merged with Orem.
- Discussed the possibility of LMOU negotiations once the contract has been finalized.
- The Utah State Association would like to cosponsor a hole at the Karen Mayne Golf event, total cost \$500 the Branch to pay half.
- It has been a difficult month for heat, the dangers of heat stroke were discussed. Take care of your health.
- There are three step 4 decisions in regards to DOIS, it cannot be the sole basis for discipline, you cannot be disciplined for time.
- The new stewards have an excellent understanding of the contract and are doing a great job.

**Special Orders**

- Proposed bylaw change Current Language: **ARTICLE 10 AMMENDMENTS** Section 1 Changes to Branch By-Laws must be made by a motion at a regular Branch meeting. Notice of such changes must be posted at least 14 days prior to the next meeting, at which time voting will take place. Proposed Change: Changes to Branch By-Laws must be made by a motion at a regular Branch meeting. Notice of such changes must be posted at least ~~14~~ **10** days prior to the next meeting, at which time voting will take place. **Changes to Branch By-Laws must be submitted in writing to the Branch Secretary at least one month prior to the meeting in which they are submitted.** Motion carries with voice vote.

**Unfinished Business** none

**New Business**

- Kimberly Mortensen moved to donate \$250 to cosponsor a hole in the Karen Mayne golf tournament with the Utah State Association of letter carriers. Motion carries with a voice vote.
- Ryan Astin asked that for a more communication and more involvement in the grievance process, since the changes to how Branch 111 processes grievances, there has been little communication. Mike Wahlquist will give a report at the next meeting.
- The following bylaw change was read: Bylaw Change Proposal Old Language ARTICLE 3 MEMBERS Section 1. The dues of this branch shall be 1 hour per pay period at city letter carrier grade 2 step O Any member not on dues check off shall maintain their dues (1) year in advance. New Language: ARTICLE 3 MEMBERS Section 1 The dues of this branch shall be 1 hour per pay period at city letter carrier grade 2 step **H**, table 1. Any member not on dues check off shall maintain their dues (1) year in advance.
- It was moved and seconded to form a committee for the Labor Day Picnic, as follows: LoEne Simpson, chair, Cassandra Last, Terry Ehlers, Chad Mortensen, Joe Horsley, Rachel Burton, & Jay Reupena. Terry Ehlers then moved to set a budget for the Branch to front, and to be repaid after the picnic, with the remaining proceeds to go to MDA. Motion carries with a voice vote.

## Good of the Association

Joan Larsen; was late to the meeting, did not hear the committee's report on Auxiliary 8, was not at last meeting, moved not to report the discrepancies in Auxiliary 8 finances to the authorities/agencies to investigate, out of order, called by the chair.

## The Improvement of the Service none

Adjourned called by the chair

## Drawing Winners

- \$25 door prizes LoEne Simpson & Eldon Butters
  - Retirees \$150 Richard Casper (not present)
  - Progressive A Union Meeting \$275 Peter Stransky(not present) next month \$300
- Progressive B Union Meeting \$175 Jared Tunstill (not present) \$200



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5120-Full Lower Denture \$320	\$982	\$585	\$292
6010,6056,6066 Implant <sup>1</sup>	\$1,071	\$590	\$295
5120-Full Lower Denture	\$1,226	\$785	Depends on Insurance Coverage level, prices quoted at office
7210,9241,9242 Surgical extraction of Wisdom Teeth <sup>2</sup>	\$1,715	\$1,367	Depends on Insurance Coverage level, prices quoted at office

\*Source: 2014 Fair Health Data. 1. Does not include bone grafting and sinus lifts that the patient may need. 2. Valid for non-impacted wisdom teeth.

Have questions?  
Contact your Union Account Representative,  
Jodi Miller | [jodi.miller@smilebrands.com](mailto:jodi.miller@smilebrands.com) | 303.590.4369

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