

LAWYERS ARE NOT SUPERHEROES



“We need a lawyer.”

How many times have you heard a member say that when your local is dealing with the latest case of bad behavior by the employer? Thanks to movies, TV, and advertising by lawyers themselves, Americans have an inflated view of what lawyers can and will do for workers. The reality is that the laws of our country were mostly written by and for employers and heavily tilted against working people, and lawyers can't perform miracles. What workers need is not more lawyers, but strong unions.

UE has always defined itself as a rank-and-file union — an organization built by workers and operating on the idea that workers themselves, through collective action, can fight and win battles to improve their conditions of work. The national union exists to coordinate those struggles, share information, and give members

the tools they need — including training and other assistance — to succeed.

Consistent with our philosophy of rank-and-file unionism, UE relies less on lawyers than do many other unions. UE has never used lawyers to negotiate our contracts. Bargaining is done by elected local union leaders with assistance from the UE field staff who service the locals, on the basis of contract proposals that come from the members, and with membership involvement during negotiations to keep the heat on management.

No lawyer has ever become a national officer of UE, as they have in a number of other unions, and we don't have lawyers determining our workplace strategies and tactics. A few months after the successful 2008 plant occupation at Republic Windows and Doors, *Labor Notes* Editor Jane Slaughter said that UE is the only union in the U.S. that would have allowed its members to do such a thing.

Occupying a factory is illegal, and as former UE General President John Hovis said, that's why we didn't ask the lawyers if it was OK.

FIGHTING FOR OURSELVES

In UE we train shop stewards and local union officers to handle grievances, and we try to resolve grievances close to the source — in the workplace where the problem arose, and whenever possible by mobilizing workers to put pressure on their supervisors. In general, the further a grievance is removed from the work site, the less power the union has to solve it. We try to avoid going to arbitration, but when we must, we've found it's best for the union to be represented by the UE staff person who services the local, with help from the local union officers. Together they know the workplace, the workers, the issues, the bargaining history and past practices. These are advantages that an outside lawyer does not have. UE field staff are trained in arbitration procedures and they consult with UE's legal staff, and UE's record in winning grievance arbitrations is as good or better than those of other unions.

The same is true of interest arbitration and fact finding, where public sector locals in some states are required to go before arbitrators to resolve their contracts. The UE organizers who work year-round with our public sector locals learn how to effectively present the union's case

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Victory must be achieved by the people themselves, through their own organizational strength and activity.

—Arthur Kinoy, UE attorney and civil rights lawyer

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in these proceedings, and they get assistance from UE's legal staff and research department. But they also know the workers, the work they perform, and the local's bargaining history. Such hands-on knowledge is not taught in law schools.

UE field staff can and do successfully handle, in consultation with UE's legal staff, most cases with the National Labor Relations Board (NLRB) and state labor boards, including many unfair labor practice charges against employers, charges filed against the union, and representation cases. In complex cases UE's legal staff get directly involved. In some situations, including legal cases in state courts, the union sometimes hires outside attorneys to represent the local in consultation with the UE's legal staff.

Sometimes people think that because the employer is using a lawyer in negotiations or arbitration, we're at a disadvantage if we don't bring a lawyer too. UE's 87-year history refutes that notion. Our union has successfully negotiated hundreds of contracts, and won hundreds of arbitrations and labor board cases, in which the employer used a lawyer but the union was represented by a UE field representative and elected local leaders. In many cases we've faced a team of two or more lawyers, and the union still came out on top.

UE has always strongly advised locals against hiring outside lawyers on their own, without discussing it first with the UE national officers and legal staff. Lawyers often charge exorbitant fees and a local can soon find itself in financial trouble if it allows a lawyer to run up legal bills. Lawyers who are not labor law specialists may be worthless in dealing with union issues. In many cases, a non-labor lawyer knows less about labor law and interpretation of the collective bargaining agreement than experienced UE local officers and veteran stewards. Despite these handicaps, some unqualified lawyers will gladly take your money.

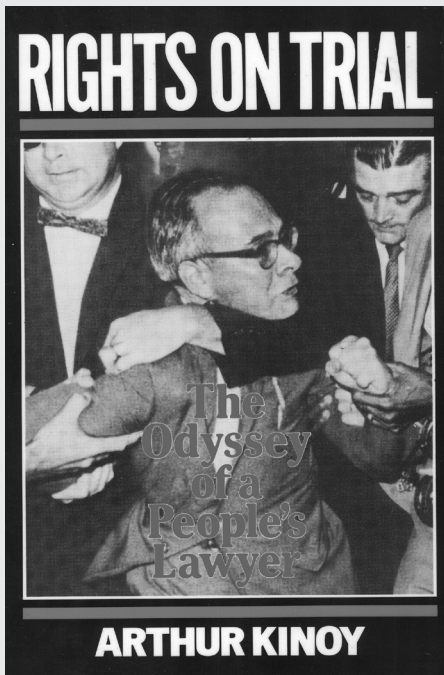
“A PEOPLE’S LAWYER”

Because UE is a rank-and-file union, we guard against the tendency of some lawyers to play the role of the hero whose brilliant legal skills are all that's needed to save their clients. Over-reliance on lawyers can undermine the union's most basic strength, membership involvement, if members begin to see the union as something external to which they just passively pay a fee to receive a service. It can also undercut the elected union leadership, with the members and with management, if it appears that the union leaders can't act or make decisions without first asking a lawyer. And most bosses would much rather deal with an outside professional than deal with the workers' elected committee.

The late Arthur Kinoy was a UE lawyer in the 1950s and later a distinguished civil rights and civil liberties attorney, aiding the Civil Rights Movement in the South in the 1960s and defending constitutional rights against the 1950s red scare, and later against the Nixon administration's abuses. In his 1983 autobiography *Rights on Trial: The Odyssey of a People's Lawyer*, Kinoy repeatedly credits his experiences in UE for teaching him how to be a lawyer for a grass-roots movement. Kinoy wrote that as a young attorney, after just a few months of working for UE:

“Increasingly I realized that people's lawyers must never forget their underlying purpose: to utilize their skills in order to assist people already in motion to carry forward their own struggles. What was becoming clear was that the lawyer's activity is rarely, if ever, the primary means of winning the struggle. Victory must be achieved by the people themselves, through their own organizational strength and activity...”

UE local leaders should regularly communicate with the UE staff representative about grievances and other issues the local is dealing with. If a problem your local is facing might require help from the UE legal department, your staff rep will raise the issue with the UE national officers to get you the assistance that's needed.



Arthur Kinoy's book *Rights on Trial: The Odyssey of a People's Lawyer* was published in 1983 and has been out of print for years. But it's not hard to purchase a copy online, at a very low price (in the range of \$5-10.) Go to amazon.com or abebooks.com and do a search.

In the book he recounts his career representing UE members when the union was under severe attack in the 1950s; representing other activists targeted by the “red scare” political hysteria of that era; working on major legal cases to assist the Civil Rights Movement in the 1960s, and battling “wiretapping and Watergate” in the Nixon era. Throughout the book he keeps returning to the lessons he learned from UE officers and members: that the job of a “people's lawyer” is to help people fight their own battles. It's a book full of lessons, from UE history and from American history of the past 70 years, on the proper role of lawyers and legal strategies in the fight for justice and democracy.