
Subject: FW: GUILD BARGAINING BULLETIN: A battle over 'management rights'
Attachments: management-rights-proposal.pdf

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Subject: GUILD BARGAINING BULLETIN: A battle over 'management rights'

To: Guild Bargaining Committee

- The final battle over management rights looms
- Marathon session produces some language on freelancing, etc.
- T-shirt day on Tuesday!

Colleagues:

After a 12-hour bargaining session yesterday, we are now gearing up for a showdown over so-called “management rights.” It’s an arcane piece of language, but it will determine management’s power to make major changes to our newsroom mid-contract without bargaining with us first.

Yesterday the bulk of the discussion centered on guardrails we want around the use of freelancers so the company can’t replace us with a battalion of lower-paid non-staffers. It was a productive conversation (it helps to have the masthead at the table), and we believe we’re close to a reasonable compromise.

But management rights remain a major sticking point.

We bargain again on Tuesday and Wednesday, and we will stay *as late as it takes*.

WHAT’S AT STAKE

A management rights clause is a list of ways that management could change the terms and conditions of our employment without bargaining, as it would ordinarily be obligated to do.

For each issue that’s listed as a management right in our contract, it means we waive the right to bargain over that issue in the future.

Management will tell you that’s not the case, because the company is still required to bargain over the *effects* of implementing each right, just not the decision to implement.

AN EXAMPLE OF HOW IT WORKS

Last summer, we engaged in effects bargaining over our move to El Segundo. We presented proposals that included moving stipends, commute subsidies and a more flexible work-from-home policy. The company declined them all and we moved anyway, getting nothing to ease the impact.

Basically, all that effects bargaining does is obligate management to listen to our concerns, but it gives us very little leverage to ensure that those concerns are actually addressed.

WHAT WE DON’T WANT

We’ve asked management to come to the table with specific proposals concerning anything they’d like to have the power to do over the life of our contract so that we can negotiate reasonable ways to safeguard our rights in each instance.

Instead, the company wants us to agree to broad waivers of our bargaining rights over some issues that we haven't discussed at the table, and that the company would ordinarily be required to bargain over, and other waivers that could conflict with terms we've bargained elsewhere in the contract.

Our legal counsel has advised us that giving management the broad right to do some of these things could undermine our protections under the law, as well as those we've already negotiated.

Here are examples from the company's most recent proposal:

WHAT IT SAYS MANAGEMENT CAN DO	WHAT IT COULD MEAN
"To determine what work will be performed by employees covered by this Agreement and the number of employees needed to perform such work; to determine the qualifications and responsibilities of employees"	Management could change employees' job descriptions without bargaining over the decision.
"To develop and implement performance evaluation and merit pay programs ... to set performance standards, goals or objectives for employees"	Management could set quotas — requiring reporters to file a minimum number of stories per day, for example, or to obtain a certain number of conversions — without bargaining. Managers would not rule out this possibility at the bargaining table.
"To subcontract work"	We are currently negotiating guardrails around subcontracting work in another area of our contract. This could permit management to circumvent those guardrails without bargaining over the decision.

You get the idea.

THE INDUSTRY STANDARD

The language proposed by the company goes beyond what's in many other Guild contracts.

For example, this is the management rights clause in the New York Times contract:

"All rights and discretion which ordinarily vest in management, and except those specifically modified herein, shall be the same as under the CBA."

Wall Street Journal contract:

"The Company reserves all rights customarily exercised by management except insofar as any such right may be specifically surrendered or abridged by express provision of this contract."

The L.A. Times' proposal is, by contrast, 500 words long. (Dying to read it? It's attached to this email.)

T-SHIRT DAY + MORE!!

Next week's sessions will be critical. The lawyers and management have indicated they are willing to stay late. And we're willing to stay *even later*.

Please show your support by wearing your banana shirts on Tuesday. It'd be great if the newsroom is a sea of yellow. Plus, the Campaign Committee will be in touch about other actions that will show the company that we are going to outlast them in this marathon.

Thank you all, as always, for all that you do.

Sincerely,
The Bargaining Committee