



The Dallas/Fort Worth MUSICIAN

Vol. 18, No. 4

The Dallas/Fort Worth Professional Musicians Association • www.musiciansdfw.org

Nov. - Dec. 2009

\$110 Annual Dues for 2010

2010 DUES REMINDER ANNUAL DUES

\$110 if paid in January
\$115 if paid in February
\$120 if paid in March

SEMI-ANNUAL DUES

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\$62.00 if paid in February
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Local 72-147's annual membership dues are \$110 for 2010, if paid in January. Semi-annual membership dues are \$57 if paid in January and July. Payments may be made online through Paypal at www.musiciansdfw.org.

Annual membership dues become delinquent if they remain unpaid after January. Semi-annual membership dues become delinquent if they remain unpaid after January or July. A \$5 tardy fee is assessed for each delinquent month in which membership dues remain unpaid.

Collins Fund benefited bassoonist, bassist

Charlie Hall is a bassoonist who is a member of the East Texas, Lewisville Lake and Wichita Falls Symphony Orchestras. He was on his way to a Lake Cities Ballet rehearsal of the Nutcracker in Lewisville in November when he suffered an attack of hypertension. Realizing that his blood pressure was out of control and had risen to a dangerous level, he drove himself to a hospital emergency room for medical treatment, foregoing the evening rehearsal. He spent the night in the hospital where doctors were able to stabilize his condition and gradually reduce the pressure. Charlie missed his Nutcracker gigs with the LLSO. Like many free-lance musicians, he has no medical insurance.

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Ricky Rigby is a popular electric bassist who has performed and recorded with smooth jazz artist Joe McBride, and performs regularly with numerous DFW jazz R&B groups, including the Buster Brown Band. Ricky suffered a debilitating stroke in September after checking into a Dallas hospital with heart irregularities. The stroke left him unable to speak or accept engagements. During his lengthy hospital stay, a blood clot in Ricky's neck was discovered and eventually dissolved. He is resting comfortably at home, recuperating and looking forward to many more gigs. The cost of Ricky's ongoing medical care is staggering.

• • •

Charlie and Ricky are two of our talented members who have received assistance from the Bill Collins Benefit Fund. Please make a donation to the
(See COLLINS FUND on page 9)

Members, media drove Nutcracker protests

Scores of musicians with picket signs, posters, leaflets and an inflatable rat balloon greeted patrons who attended Texas Ballet Theater's debut of Tchaikovsky's *Nutcracker*, presented with canned music November 27 through December 6 in the Winspear Opera House located in the new \$350 million AT&T Performing Arts Center in Dallas' Arts District.

The concerted activity drew extensive coverage by major television and radio news outlets and prompted online news articles and opinion blogs in the *Dallas Morning News*, the *Dallas Observer*, and *Pegasus News*.

Classical music critic Scott Cantrell ripped the quality of the recorded sound in his December 4 *Dallas Morning News* online review. "The

violins sounded like dentist drills. Bring back the orchestra. The Winspear looked maybe 1/3rd full Thursday."

(See NUTCRACKER PROTESTS on page 4)



RAY HAIR and KAREN SCHNACKENBERG
with the giant inflatable rat at the Nutcracker protests in Dallas. Photo by Forest Aten

THE PRESIDENT'S MESSAGE

We resisted canned music, the patrons noticed and cared

I am writing this column from the cab of my Super Duty 350 pickup truck, parked at the intersection of Leonard and Flora in Dallas – directly across from the main entrance of the new \$350 million AT&T Performing Arts Center – ground zero and the staging area for our demonstrations against the *Canned Nutcracker* presentations of Texas Ballet Theater.

It is 4:00pm Saturday, December 5, 2009. We're into the second weekend of demonstrations and at the halfway point between the two shows we are protesting today. I am using the down time to memorialize a thought or two about our campaign of resistance to the acts of unfairness and indignity toward professional musicians by the Center and the ballet company.

This series of demonstrations has been very successful, judging by the media attention we've received and the unusually slow trickle of patrons crossing our picket lines. One Dallas news writer was moved to comment, "the protests are finally beginning to make a dent."

If we are making a dent (and we believe we are), it is because of good member participation and unprecedented press coverage, due in large part to our extensive preparations prior to the opening of the protests. It began with a well-written letter by Karen Schnackenberg published in the *Dallas Morning News* that blasted the AT&T Center for permitting Texas Ballet Theater to debut and present canned classical ballet in the Winspear Opera House.

Almost immediately, the *News* published the ballet company's self-serving reply, claiming that musicians had to be eliminated because we cost too much. The letter was posted in the newspaper's online opinion blog section and was quickly flooded with candid colorful comments from every direction.

From there, we issued a series of press releases to all major broadcast, print and web media contacts detailing the who, what, where, when and why of the protests. A "Call to Action" page was established at our website and forwarded to members and AFM locals Federation-wide where activists could click in and trigger an online message in opposition to canned music.

Hundreds of protest emails blanketed the Center, Bass Hall and the ballet company. Several AFM locals and three local online news outlets, including the *Dallas Morning News*, facilitated our effort by linking to our email campaign from their websites.

The press run-up accelerated the morning after Thanksgiving, on November 27 – Black Friday, the opening day the demonstrations – when KRLD news radio reached me by cell and asked for a live on-air interview. I reached into

the backseat, pulled out one of our leaflets, and pretty much kept to the text as I answered Mike Roger's questions. After two minutes of free play against the Center and the ballet company, I ended the interview with "Patrons paid for live music but they won't get it. They'll get plenty of ballet karaoke instead."

The KRLD interview was clipped into several sound bites and the story ran two or three times an hour throughout the day and into the evening. It prompted other media outlets to pick up the story.

When I eventually arrived at the Center, packed to the gills with picket signs, leaflets, and with the deflated rat balloon and electric generator in my truck bed, I was thrilled that the perfect parking spot for my truck (and the rat) was vacant. I pulled in and waited for our members to come and help set the stage for the protests.

About 11:45, my cell rang and a voice asked if we were "out there at the Winspear." It was a Channel 11 reporter, and I answered that we were getting started. "Come on down, it's a great day for a protest," I said.

Guitarist Richard Aulenbacher was the first to arrive. I donned a picket sign, handed one to Richard and then I grabbed a handful of

leaflets and walked around the perimeter toward valet parking. Two men hustled out of the Center's front entrance and confronted me on the sidewalk.

"Are you Ray?" one of the men asked. He and the other man wore AT&T Center ID badges. After I identified myself, both men began talking to me at once. "Have the police talked to you? You aren't allowed here. You can protest in a designated area over there. You need to get off our property now, or we'll call the police and let them deal with you" The men pointed toward a construction area down Flora street two blocks away.

I answered, "We aren't going anywhere. We're staying right here. Hurry up and call the police." I handed the two men a leaflet, and opened it to the inside left panel that depicted AT&T Center CEO Mark Nerenhausen holding up a giant can of tuna fish with a label that had been airbrushed to

(See *PRESIDENT'S MESSAGE* on Page 4)



Ray Hair



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NOTES FROM KEN . . .

(Part Two)

When is Moderation a Bad Thing?

In my previous column I wrote about a hypothetical scenario in which a non-unionized orchestra was in near total agreement that it was time for a more fair and equitable contract with management. However, the orchestra quickly split when it came time to organize and actually do something about it.

Ironically, the greatest lack of support for collective action (i.e. union activity) came from the so called moderates of the group. The moderate view was that to take any kind of direct action would either make things worse or would somehow be unfair, as if moderation was automatically afforded the moral high ground.

But, it begs the question, is the moderate point of view always the best and most



KEN KRAUSE

productive means of achieving justice and fair play in the work place of professional musicians? Or, can moderation be a bad thing? Is it possible that the moderate course of action is in itself an injustice?

The late, great Dr. Martin Luther King, Jr. encountered the very same phenomenon as he sought justice and fair play for African Americans during the civil rights era of the 1950's and '60's. King was not only reviled as an extremist by those who would have preferred the second class citizenship of an entire race of people, but he was criticized or ignored altogether by an even greater number of so-called moderates. These same moderates often claimed to be in support of the justice King sought, but were deeply critical of the many public protests he lead and the many orations that he delivered. At the very least this vast moderate majority, who had the power to do so much, was unwilling to get directly involved. The criticisms usually went along the notion that the marches and accompanying words of public protest being led by Dr. King were too much too fast. Often he was urged to slow down and give it time.

Amazingly Dr. King was frequently targeted for criticism

(See *NOTES FROM KEN* on page 8)

NOTES FROM THE LINE . . .

Picketing not comfortable for some

By Karen Schnackenberg, VP

Picketing is not a comfortable activity for a lot of people. Some feel self-conscious or shy, some feel vulnerable and exposed, some feel afraid or apologetic. But others are empowered by taking this kind of action and find themselves using a voice they didn't know they had or didn't think they had the right to use. Some have fun, and some are eager to make their anger and outrage at unfairness in the workplace heard and seen.

Then there are those witnessing the action. Their reactions run the gamut from surprise and curiosity, to avoidance and averting their attention, to understanding and support, to anger and acting out. When people question whether or not this type of concerted action is effective, I remind them of the reactions. One woman this past weekend in front of the Winspear yelled from her SUV (every time she came to the ballet, so obviously someone very involved) "NOBODY CARES!!" Well, if she didn't care, she wouldn't be yelling.

We got all kinds of advice and caution from every corner before we went out to protest the Texas Ballet Theater's "performances" of *The Nutcracker* with pre-recorded sound at the Winspear Opera House. Comments like "You know, the people in Dallas just don't like this kind of thing." Or, "That's

'60s style, it doesn't work anymore." Or, "We shouldn't upset the management or patrons." I understand that is the fear talking, and want to point out the expressions of fear are the same in *any* city, any circumstance like this. There are people who will always try to tamp down dissent for whatever reason. Some are well-meaning and just don't understand why it is necessary or that it's effective.

I am here to tell you it is necessary and it works. What is the first thing that happens when The People are upset about something that they cannot individually change? They hit the streets en masse, sometimes in even the most oppressive societies and at great risk, to let their feelings be known collectively. It's how we got labor laws, 40-hour work weeks, women's right to vote, and basic workplace safety protections.... just for starters.

I was walking one afternoon in front of the WOH with a stage hand who came out to support The Dallas Opera Orchestra. He made a very apt observation: picketing isn't

(See *NOTES FROM THE LINE* on Page 7)



Karen Schnackenberg

PRESIDENT'S MESSAGE — (Continued from Page 2)

read *Nutcracker Ballet*.

"Take this leaflet to Nerenhausen and tell him that he is the only Center representative I will deal with," I said. "If you people want to communicate with us, Nerenhausen can come down out of his ivory tower and deal with me himself."

By this time, Channel 11 was on the scene, along with two other TV news crews. "They called the cops on us. They're trying to run us off," I said. The cameramen clipped wireless microphones under my picket sign and began to interview me. If the protest was to be busted, they wanted an interview before we were dispersed, they said.

As the TV interviews progressed, a parade of police vehicles – at least six police interceptors, a three-wheeler, several bike police and finally a paddy wagon converged together at the Center's front entrance. Before I made my way over to the armada of Dallas' finest, I picked at the microphones to return them to the news crews. "Keep the mics on. We'll take an audio feed while you're talking to the police and we'll roll tape from a distance," the channel 11 reporter said.

Surrounded by the heat and sweating it, it took just a few seconds to realize that the purpose of the meeting with the police was not to make us vamoose, as the high and

mighty had hoped, but to establish the rules of engagement between the Union, the Center and the ballet company during the protest.

Lt. Williams, the police commander, was clear, concise, firm but friendly. We were entitled to protest peacefully along the sidewalks, wear our signs and offer leaflets to patrons. Any patron refusing to accept a leaflet should be left alone. Do not interfere with patrons entering or exiting the building. No littering. If a patron drops a leaflet, pick it up and dispose of it. No mechanical audio devices.

"Like the bullhorn in my truck? What if we have a preacher who wants to do a prayer before the protest – can we do that?" I asked. The officer shook his head and smiled.

The instructions continued. Don't go down by the front doors, elevator or escalator. Don't go in the garages. Don't go out into the street and stop traffic. Do not attempt to enter the

(See PRESIDENT'S MESSAGE on page 5)

NUTCRACKER PROTESTS —

(Continued from Page 1)

Links to *Canned Nutcracker* media coverage are posted online at www.musiciansdfw.org.

Approximately 200 Local 72-147 members attended the series of protests, which ran November 27 – 30, and December 3 – 6 prior to each matinee and evening ballet performances.

Members of the Dallas Symphony Orchestra, performing next door at the Meyerson Symphony Center, were well represented at the demonstrations, as were members of the Dallas Opera Orchestra, who had traditionally performed the *Nutcracker* for Texas Ballet Theater in Dallas. Many musicians came to one protest session and returned to participate again.

Free-lance casual-club date musicians also came to lend their support in the Union's campaign against canned music. New member David Kundysek, a drummer, was the first to arrive at the matinee session on Saturday, December 6.

Mike Sizer of the *N'awlins Gumbo Kings* attended the evening protest on Thursday, November 27, the first day of protests. "The ballet cheapened itself and hurt musicians by going canned. I was glad to be there and I wish I could've been there more," he said.

Local 72-147's protest against Texas Ballet Theater's canned music policy will continue February 12-14 at Bass Hall in Fort Worth and March 12-14 at the AT&T Center in Dallas for performances of *Canned Romeo* and *Juliet*.

Solidarity from Boston – petitions, cash help campaign

In an overwhelming show of support from Boston AFM Local 9-535, hundreds of musicians from the Boston Symphony, Pops and Ballet Orchestras as well as from the Boston Philharmonic, Lyric Opera and the Portland (Maine) Symphony signed and forwarded crisply worded petitions condemning the use of pre-recorded music at AT&T Center by Texas Ballet Theater.

"We stand in solidarity with the Dallas-Fort Worth Professional Musicians Association, AFM Local 72-147 in protesting the flawed policy of the AT&T Performing Arts Center and the Texas Ballet Theater that will subject their patrons to CANNED MUSIC in the upcoming *Nutcracker* performances. The omission of live music is fatal to the ballet art form and the music profession as we know it," the petitions read.

The Executive Board of Local 9-535 voted unanimously to send a \$500 donation to Local 72-147 to help fund the cost of concerted activity against the ballet company and its presenters.

In forwarding the orchestra petitions and donation, Local 9-535 President Pat Hollenbeck commented, "As we all know, using recorded music as a substitute for live musicians is like kissing a picture of Marilyn Monroe. It simply isn't the same," he said.

PRESIDENT'S MESSAGE — (Continued from Page 4)

buildings. You're okay here on the sidewalks. There will be an intelligence officer keeping an eye on the situation. Do you have any questions? I responded in the negative.

"But you'll have to move your cars out of here. We will be issuing citations," one bike officer said, who was identified as a parking enforcement cop. He pointed at my truck and the cars parked up the street.

"That's my truck over there," I confessed. "Are you going to tow us or just issue citations?"

No tow trucks, the officer said, just citations.

"I'll take the citation and pay it later." I had to have that parking place. The effectiveness of the demonstrations depended on having that particular spot to park my truck. And then there was the rat.

Lt. Williams said, "You have parked your truck in the only place in the area that is exempt from parking restrictions. You will be just fine right where you are."

"Well as long as we're talking, I've got this inflatable rat that we want to blow up out here to attract attention. We power the blower with a generator and it sits up in the truck bed."

"Is it like the rat the Communication Workers had over at the AT&T rally?" one officer asked.

"It's the same rat. The CWA borrowed it from us," I answered.

"We won't be interfering with anything that you have in your truck bed as long as it doesn't pose a threat to public safety," the police commander said.

Wow, I've hit a grand slam, I thought. If we stay away from the escalators and the entrances and keep to the sidewalks, the truck can stay front and center, I can blow up the rat and we can picket and leaflet until the cows come home.

The police officers and I shook hands and I broke the good news to our growing party of protesters. "We're fine. Lets go," I said. With that, we were off into the first of our series of Canned Nutcracker protests that spanned ten shows over ten days.

In a few minutes, there were more than a dozen sign-toting protesters enjoying the good weather. One policeman came to chat with Chris Rewolinski, and inquired whether she knew a good violin teacher for his daughter. The officer related that he had been a frustrated French horn player in high school. Sensing an opportune moment, I pulled opera orchestra hornist Chris Dulin over to the conversation.

Later, when an officer asked how many more protesters I expected to see, I replied that we might have another dozen or so coming to this service, and about the same for the evening service. Realizing that the angry lynch mobs of musicians envisioned by the Center would not materialize, the cop said, "I need to let some of my men go to on other assignments."

As the protests settled into a harmonic rhythm, the paddy wagon drove off, the fleet of police cars diminished, the rat went up on cue, the bike cops wrote parking tickets up the street by Ross Avenue and then went away, until by Saturday night on the 28th, there were no cops attending the demonstration at all.

After all, we were just musicians. We make people happy. We weren't causing any problems for anyone other than the people running the ballet company and the Center, who had

hoped that no one would notice and that no one would care about their nasty canned music. We were playing by the rules. The cops liked us.

One of our members suggested that we tie picket signs to the chrome barrier posts that dotted the border between the streets and the sidewalks around the Center. Patrons approaching the Center by foot and onlookers passing in their cars could not miss our messages.

WFAA-TV Channel 8's Monika Diaz reported that the colorful signs "stopped couples and families heading to the performance." Her interviews with patrons confirmed that concertgoers felt they deserved "the whole enchilada," not half a show. The ballet company refused to go on camera. By default, the story was totally ours.

The Channel 8 story, broadcast live at 10:00pm Saturday night the 28th, was rebroadcast again during the night and throughout the Sunday morning news. The story was picked up regionally and fed to Channel 8 in Austin and Channel 5 in San Antonio. We were now featured on three network-affiliated local television newscasts, we were being fed into two other Texas markets and we had dominated DFW's leading news radio broadcasts on Black Friday. On Sunday the 29th, other TV and radio outlets across North Texas picked up the news clip.

Media-wise, we had torn the roof off the sucker. On Monday the 30th, the ballet company was forced to issue a hand-wringing press release that was ignored by broadcast media, carried by several online news outlets but did little to curry public sympathy. By Thursday December 3rd, the Canned Nutcracker crowds had become smaller.

At one point during the first weekend, some young female patrons exited the Winspear, came to us and asked if they could distribute our leaflets to patrons inside. We handed them stacks of leaflets and told them we would love that. It happened again during the second weekend. The vast majority of patrons understood our point and wanted to help us.

Today, DSO Tubist and Local 72-147 Executive Board Member Matt Good and I were standing out front with our signs and leaflets when a brand new Jaguar XKR coupe – a \$100K car – pulled up to the walkway. Matt and I went over to hand a leaflet to the patron as he exited the car, and as we did so, I realized that the person was none other than ballet company dance head Ben Stevenson.

"Nice car the ballet bought for you, Ben," I yelled. "When you are thinking about the tempos and the dynamics of the music and how they interact with the dancing, do you go have a conversation with the CD player?" I had borrowed a lick from opera orchestra clarinetist Forest Aten.

"We want to have an orchestra but we don't have the money," Stevenson whined. "The dancers don't understand why you are picketing them. They think you are destroying the company."

"We aren't picketing the dancers. We're picketing you. You and your board are doing a good job of destroying the company. Full price – half a show!" Matt and I screamed back.

From DSO violist Tom Demer we heard the story about the

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PICTURES OF A DEMONSTRATION –

Out of the orchestra pit and onto the sidewalk



ABOVE: Demonstrators gather for a group photo in front of the Winspear Opera House. Shown (left to right): Ray Hair, IATSE Local 127 stagehand Brad Breithaupt, Susan Ager, Tom Demer, Vilma Miranda, Kareen Britt, Amanda Britt, Matt Good, Karen Schnackeberg and Scott Uhrig. Photo by Forest Aten



LEFT: Dallas Opera Orchestra clarinetist Forest Aten, (second from left), is shown with a group of four unidentified patrons. Most patrons were unaware that the orchestra had been replaced with canned music and appreciated the informational activity. Photo by David Kundysek



RIGHT: Jazz saxophonist John Murphy, (center), carried a large homemade sign in one hand, a Nutcracker toy soldier in the other hand, and wore signs front and back during the protests. Shown with him, (left to right), are Richard Aulenbacher, Karen Schnackenberg, Greg White, Murphy, Peter Grenier and IATSE Local 127 stagehand Brad Breithaupt.

Photo by Wayne Burak





ABOVE LEFT: *Ray Hair hands leaflets to patrons.* ABOVE RIGHT: *Matt Good discusses protest issues and leaflet contents with patrons.*
 Photo by Davis Kundyssek

NOTES FROM THE LINE — *Continued from Page 3)*

supposed to be comfortable. Most people don't really want to do it, and of course the people who are adamantly opposed are going to be upset about it. But isn't that kind of the whole point? To make others aware of the problem, you sometimes have to get really blunt about it. And sometimes it's the low-tech hand-painted signs and old-fashioned in-person, one-on-one conversations – repeated thousands of times – that make the most impact. Change doesn't happen when people are quiet about something. Change happens because people make noise.

We want the TBT and the ATPAC to “change their tune” and put the orchestra back in the pit.

We walked out there for the matinees and nighttime shows, in cold and rain and wind, so we could interact with as many people as possible. We handed out about 3,000 leaflets and talked to thousands of people. Since it wasn't mentioned anywhere on the TBT website that there would be a tape, and since the PAC's website actually showed a *picture of an orchestra next to the ballet's dates*, most people had no idea there wasn't going to be an orchestra. Many were quite upset about it. I heard over and over “If I had known there wouldn't be an orchestra, I wouldn't have bought a ticket!” and “How can you do live ballet without a live orchestra?!” By far, the audience members were supportive of our efforts. Less than 1 in 100 people was negative to us, and when they were, they were usually quite rude. As opposed to our polite, peaceful and friendly approach.

It was gratifying to get the support of so many for our efforts on behalf of live music. One family drove from Houston – three generations – and the patriarch had purchased tickets for everyone to come to this event at the Winspear. He was incensed when he found out there was no orchestra. One woman dropped off her mother and then came back to talk to us; she wanted to know what the problem was, was there not

a pit in the new building? When we explained the situation, she was dumbfounded. Some people simply couldn't fathom ballet without orchestra, since, by definition, ballet = dancers + musicians. Many people said as they walked past “We support you! We want the orchestra back!”

Let's face it. It WAS shocking to see members of The Dallas Opera Orchestra, The Fort Worth Symphony, The Dallas Symphony, IATSE, and other concerned musicians,

(See NOTES FROM THE LINE on Page 8)



An unidentified Dallas police officer, one of many called to the Nutcracker protests by the ballet company, asks Chris Rewolinski to recommend a violin teacher for his daughter.

Photo by Ray Hair

NOTES FROM KEN — *(Continued from Page 3)*

from people who were within his ranks, both white and black, even though they shared his same sense of injustice being perpetrated against African Americans. While serving a prison sentence in a Birmingham, Alabama jail, King wrote a letter to some of his fellow clergymen that expressed his frustration with the good people who occupied this moral high ground of moderation.

“We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have never yet engaged in a direct action movement that was ‘well-timed,’ ... For years now I have heard the word ‘Wait!’ This ‘Wait’ has almost always meant ‘Never.’”

Later, in the same letter, King addressed the notion being bandied about by some that his actions were too extremist in nature, and thus would do more harm than good.

“First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro’s great stumbling block in the stride toward freedom is not the White Citizens Counciler or the Ku Klux Klanner, but the white moderate who is more devoted to ‘order’ than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says, ‘I agree with you in the goal you seek, but I can’t agree with your methods of direct action’; ... who lives by the myth of time... Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.”

Today we celebrate the efforts and the vision of this extremist and winner of the Nobel Peace Prize, Dr. Martin Luther King, Jr., with a national holiday. That is most definitely something few could have foreseen during King’s lifetime. Today, who would dare to argue that King’s extreme actions

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man who came back to the picket line from inside, who related that he had approached the box office and offered to buy tickets to the Nutcracker, but would not pay full price because of the canned music. The box office refused to discount the tickets, so the man and his family turned around and left.

For the better part of ten days, scores of Local 72-147 members have gathered outside the new \$350 million AT&T Performing Arts Center to demonstrate their displeasure with being barred from the debut of its resident ballet company. We showed the people who run Dallas’ Arts District that we will not roll over and play dead while they use professional musicians as doormats to recapitalize and plug up the excesses and failures of their arts organizations.

We have shown that we will resist. We took it to the street. We were newsworthy. The patrons noticed that we were missing from the Winspear orchestra pit. We noticed that the patrons care.

did not constitute the moral high ground, and that the moderate view point of his day was in fact totally wrong?

There are potentially negative consequences when we take action to confront injustice, most especially when it is institutionalized injustice. Martin Luther King and countless scores of other African Americans paid the ultimate price with their lives. Lest we forget so have some unionists for some of the rights we enjoy that seem so obviously fair in today’s world. It is not my intent to be melodramatic, for it is doubtful we in the Musicians Union will ever be confronted with consequences nearly so grave. But when is it worth taking that next step toward justice in the work place of professional musicians?

Are we guilty of extremism when we seek justice, just because that justice lies at the other end of the spectrum? Are we more devoted to a “negative peace”, even at the expense of justice? It is certainly easier and less confrontational. Is it enough to simply sympathize with someone who has suffered an injustice, or do we owe them the support of overt action on our part – I’m talking about action that is both peaceful and within our system of justice and contractual agreements? Is the avoidance of confrontation always the better tactic? Or, do we need to reevaluate what constitutes that moral high ground that some refer to as moderation?

NOTES FROM THE LINE

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often dressed in concert attire, carrying signs in front of the brand new red opera house. Of COURSE the ballet company and the hall didn’t want us to do that. Because it shines an unfavorable light on the priorities and decision-making of the company. The audience cannot help but walk into that hall after seeing us and reading our pamphlet, and then listen to the taped Overture with new ears.

And it worked. The press picked up our message, the blogs went crazy, the attendance wasn’t very good, the police were supportive of our plight and protest, and I am certain the Texas Ballet Theater and the AT&T Center for the Performing Arts have taken some real heat for this very bad business decision. They have, of course, tried to portray themselves as victims to greedy musicians who are puppeteered by Ray Hair and the Union. But as our story got out about the TBT’s mishandled money and skewed priorities and \$5,000 tutus and, above all, that tape made in China last year, the reaction got stronger and more pointed from the company. More accusations that we are protesting the dancers (which everyone knows is an outright falsehood), more lashing out at the union (which is beside the point), more claims that they “just can’t afford an orchestra” despite all the bad financial decisions.

How much wiser it would have been for the company to hire an orchestra, at the very least for a month of *Nutcracker* performances. They would have saved themselves lots of money and trouble in the long run. Instead, they have thoroughly helped to expose their own folly and perhaps brought about their own demise.

The Hazards of Doing Nothing

by - Judith McCormack

To grieve or not to grieve; that is the question that union representatives are faced with almost daily.

Sometimes the answer is simple. A member's rights have clearly been violated, and he or she is enthusiastic about grieving. In other cases, though, the situation is more complicated. Some workers are reluctant to file grievances out of worry that the employer will be angry, or they may not be used to standing up for themselves. Then there are cases where no worker has actually been affected, even though a clause in the collective bargaining agreement has been violated.

So what's the problem? You might think that *not* filing a grievance is one of the safer things to do. After all, most union representatives are busy people, and no one is interested in creating unnecessary work or disputes.

Consequences of Inaction

Unfortunately, arbitrators have found in a number of cases that not filing grievances where a contract has been violated can have serious consequences. Sometimes, it's a matter of use it or lose it.

Let's take an example where an employer fails to post several jobs. According to the collective bargaining agreement these jobs should have been posted so that workers could apply for them. The first jobs are low level and no current workers want them, so no grievances are filed. But then along comes a job that everyone wants, one that has fascinating work, good hours and an intelligent supervisor. The employer decides not to post this job either, and this time the union responds by filing a grievance. The case ends up going to arbitration.

At the arbitration, the employer may argue two things. First, that the collective agreement is unclear, and that the arbitrator should look at *past practice* to figure out what the contract means. "Past practice" is essentially what it sounds like: what the union and the employer have done in the past in similar situations. The union's failure to grieve when the previous jobs were not posted

might be used to interpret the collective bargaining agreement against the union.

Second, the employer may argue that even if the job should have been posted according to the agreement, the union is *estopped* from relying on its legal rights. "Estopped" is the kind of archaic legal word that lawyers adore, but what it really means is that the union cannot rely or insist on its strict legal rights.

Establishing a Pattern

Why not? Because by doing nothing when the first few jobs weren't posted, the union led the employer to believe that postings for other jobs wouldn't be required either. As a result, the argument goes, the union shouldn't be able to turn around and insist on this particular job being posted.

Of course, there are a number of limitations on when these arguments can be used successfully. But, they illustrate some of the dangers of not grieving. What can the union do?

Depending on the contract, you may be able to file a grievance on behalf of the union as a whole, even if a particular worker does not want to grieve. If it's not possible to file a grievance, it may be wise to at least notify the employer in writing that the union objects to its conduct, and that you are reserving your right to take action in the future. Similarly, it may be a good idea in some cases to notify the employer that not filing a grievance is "non-precedental" or "without prejudice" to the union's rights. These are handy phrases which in plain English mean "you can't hold it against us later." This is definitely not foolproof, but it may be better than doing nothing. The problem is that if you let sleeping dogs lie, they can sometimes wake up down the road and bite you.

— *Judith McCormack. The writer is the former Chair of the Ontario Labour Relations Board. At the time this was written, she was a labour lawyer with the Toronto firm of Sack Goldblatt Mitchell.*

COLLINS FUND — (Continued from Page 1)

Fund to enable Local 72-147 help members in crisis. The Fund was established by Bill Collins III in memory of his Dad, member Bill Collins, Jr, to aid sick, injured and disabled Union members in financial distress. The Fund's ability to provide assistance depends solely on the generosity of our members. Send your check to the Union office today, payable in any amount to the Bill Collins Benefit Fund. Help us help your colleagues in a meaningful way. We'll publish your name in the next edition of the Dallas Fort Worth Musicians with our thanks.

We extend thanks to the following members for their Bill Collins Benefit Fund contributions:

Susie Ager	Ray Hair	Cleo Raymond
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OFFICIAL BUSINESS

NEW AND/OR REINSTATED MEMBERS [CLIP AND SAVE FOR FUTURE REFERENCE] AND THEIR PRINCIPAL INSTRUMENTS

Bass, Acoustic Melton, Jimmie 817-237-5724	Hendrickson, Hunter 214-205-1967	Schubert, Mark A. 808-282-5119
Bass, Electric DeShazo, David 214-215-5424	Piano Guymon, Courtney 214-402-6620	Viola Tyler-Butts, Jennifer 806-282-9504
Drum Set Caldwell, Glenn 817-868-1035 Trevino, Richard 917-569-9440	Saxophone Brown, Douglas 817-615-8717 Reza, Christopher 214-616-9459	Violin John, Shinahe Grace 214-642-7254 Schubert, Amanda 808-292-6042 Topper, Matson 469-229-0095
Fiddle Whitelock, Susan 702-353-3632	Trombone Adams, Michael 616-566-1985 Churchwell, William Bradley ... 731-415-1630	Vocalist Gillham, Katelyn Sweet 817-266-5190 Hackett, Kathryn 972-442-0130
Guitar Brown, Dan 817-444-5978	Trumpet	

Expelled for non-payment of 2009 annual dues

Allen, Ellen Elaine Auerbach, Jennifer Sadoff Ausfahl, Todd R. Bacon, John Baker, Kirk G. Ballarini, Jr., Nick R. Bassett, Ira P. Bast, Johann Beall, Jonathan Bishop, Linda Bishop, James "Marty" Blackerby, Lauren Borin, Christopher K. Bowens, Roderick Brown, Ryan Browne, Steven D. Brymer, Mark Bubeck, Aden Buchanan, Mary Margaret Burgess, Mike Burkett, Angelique Cagigal, Frank Carmichael, William F. Carpenter, Phil Carter, Robert Carter, Sr., Tom Caruth, John Cates, Randall S. Champigny, John Church, Sara Atkinson Coates, Nathan G. Cochran III, Arvil Coffman, Janis M. Combest, Katherine Cone, King Conner, Jr., Otis L. Cord, John T. Davis, Barbara Bruton Davis, Joshua B.	Demirev, Vesselin N. Ding, Andrew Dobbins, Michael J. Druhan, Mary Alice Dunivan, Amy Eristavi, Irma Farrell, Jeffrey M. Fetter, Kenneth L. Fillingim, Frank Morgan Flickinger, Rob Foose, Daniel Foster, Karen Geary, Cheyenne Rose Gheen, Mark R. Glava, Victoria Godbey, Christopher Goyette, Lindsay Gray, Randy Gulley, Lumark Hailey, Frank L. Haley, Kelly Hare, Dwight D. Harris, Michael Lee Harrison, Tobias Hart, Shawn M. Hembreiker, Linda-Rose Henley, Donald Herndon, Bradley Hobbs, Tamara Holloway, Daniel Howe, Ashley Hughes, Scott M. Hummel, Glen A. Hunt, William E. Hunter, Eva Hunter, Bruce E. Impini, Jerry Issa, Imiroush Jenkins, Paul	Jennings, Jay Jiang, Lan Johnston, Ron Jones, Timothy J. Kaae, Kirsten Katkov-Trevino, Robert A. Keeter, Caleb Kim, Songyoung Kleiber, Katherine Knirk, Nicholas R. Lacey, Sharon L. Lassiter, James Phillip Lederer, Jean-Etienne Lehning, Mone Nicole Levinson, Gary Lowe, Charles W. Machado, Roy Martinez, James Massey, Jr., Jerry L. McBride, Joe McCampbell, Sr., Charles McCoy, Billy G. McLean, Matthew S. McManus, Sean P. Melville, Bruce E. Metzger, Paul Moore, James Moran, Christopher E. Morris, Marshall B. Moses, Coy Myers, Christy L. Neal, Laura E. Newton, Joseph Bret Pederson, Ross Pence, David M. Petersen, Dane E. Piazza, Dr. William R. Pickler, Shawn Pierce, Justin Reese	Pitts, Clarence Plant, Anthony Punch, Richmond Rahimian, Ali Reid, Richard A. Richards, Dave Richison, Jenifer Richmond, James Ringleb, Walter A. Rodriguez, Lou Rodriguez, Charles M. Rosengaft, David Ross, Daniel J. Russell, Jessica Russell, Katherine Schmorr, Keith H. Schuck, Irina Sheldon, Scott Sheridan, Daniel Shouha, Laura Sia, Daniel Skains, U.E. Smith, David M. Stange, Greg	Stanmyre, Richard Stilley, Kristin Stitzel, Richard M. Stockton, Amanda Strong, Clint Sunga, Patrick Swicegood, Christopher Sykes, Tonda Thomas, Louis C. Tracey, Christopher Tunnell, James Uehira, Hiroki Upton, Johnny Urness, Michael Edward Valdez, Ryan J. Valenzuela, Isaac Varnadore, Mark Vongkoth, Tihda Weiss, Evan Wiest, Steve Wolfe, Ross Allen Wood, Tara Yandell, Jackson
Suspended for non-payment of 2009 semi-annual dues				
Bradley, Philip D. Cornish, Bill W. Garcia, Richard Glenn, Logan Hart, Rosalyn F. Hart, Heather Henderson, Manuel C. Hinojosa, Enrique M. Janssen, Tido			Karlsson, Stefan Konstantin, Dave Lour Blanc, Vincent Mullins, Melissa Neal, Randy A. Smith, Sr., Tyrone Whitehead, Charles Winters, Steve	

LIFE LINES

DEATHS

Willie "Big Bo" Thomas, 83, of heart disease October 1 in Cedar Hill. Willie was an African-American saxophonist, band leader, record producer, promoter and nightclub owner who performed with and employed many famous artists at his Dallas venues from the late 1940's to the early 1970's. Willie was a native of Forney, Texas. He enlisted in the US Army during World War II and was honorably discharged. After the war he established himself as a prominent bandleader in the Deep Ellum – east Dallas Hall Street neighborhoods with his band, *The Arrows*. He started his own record label and released many recordings including *Big Bo's Twist*, and *Hully Gully*. As a club owner and promoter, he was instrumental in bringing now famous music artists such as James Brown, Wilson Pickett, Gladys Knight and Ike and Tina Turner to perform at his Dallas nightclubs. He was a life member of Local 72-147.

• • •

Nick Klaras, 80, of leukemia October 4 in Waco. Nick was a drummer and restaurateur. His Greek restaurant, *Nick's*, became the standard for fine dining in Waco. As a restaurant owner, Nick followed in the footsteps of his father, Pete, a native of Greece who operated a café in Downtown Waco for decades. In 1959 Nick opened a little eatery in the old Westview bowling lanes on West Waco Drive and eventually became a favorite of Waco residents with its fine food and tuxedo-clad waiters. Nick played drums with several Waco jazz groups, most notably with the Joe Johnson Orchestra, named after the judge who once presided over Waco's 170th State District Court. The band entertained throughout Central Texas in the 1940's and 1950's and appeared regularly in such nightclubs as Casablanca, Scenic Wonderland, Terrace Club and Arnold's Supper Club. Nick graduated from Waco High School in 1947 and from Baylor University in 1952. He was a life member of Local 72-147.

• • •

Tom Merriman, 85, of heart disease November 11 in Dallas. Tom was a pianist, composer and arranger who in 1955 created the first production company specializing in radio station jingles. He wrote and recorded the first radio jingle - for radio station KLIF in Dallas. He wrote countless commercials in the early days of the

business that are still recognizable and remembered, today, including recording the voice on his classic, "I'm Otto, the Orkin Man". A little known fact is that he was one of the original owners of KVIL radio. Legendary Dallas DJ Ron Chapman described Tom as the guy who, "writes musical arrangements like Lincoln did the Gettysburg Address. . . on the back of an envelope . . . and they are equally historic!". According to Chapman, "My first recollection of being with Tom was on a session for a jingle I had written for KVIL in its Glory Days. The song was called *Thank You for Making Us What we Are* and I wanted the finale' to sound like the last chorus of "Hello Dolly", where the waiters come down the stairs carrying trays of Champagne. Tom NAILED it and even added a chorus of tap dancers - for a RADIO jingle! It was love at first playback. Later, we produced an entire album together, *The Vocal Majority with Strings*." In 1952, Tom

was tapped by Gordon McLendon to be the music arranger for his Liberty Network band. Dick Cole, a trombonist and President Emeritus of Dallas AFM Local 147, recalls that he met Merriman "on his very first day in Dallas". Cole was a member of the band and wasn't at all surprised when Merriman was soon promoted to bandleader, much to the chagrin of the existing leader, a friend and former classmate of Merriman's. A graduate of Indiana University, renowned for its music department, Merriman was a student of the Julliard School of Music and established his musical credentials with an impressive list of clients. Over the years, he wrote and produced music for Louis Armstrong, Duke Ellington and Cab Calloway, as well as corporate and film clients – winning a Cannes Film Festival Award and an award from the Academy of Motion Picture Arts and Sciences. Merriman's hit arrangement of Louie Armstrong's "Do You Know What It Means to Miss New Orleans?" is, even now, playing on You Tube. Over the years, Merriman mentored young musicians and writers, some of whom followed in his jingle/radio ID footsteps, like Local 72-147 members Gerald

Stockton and Phil Kelly. Kelly, now living in Bellingham, WA, says that "working with Tom over a period of thirty plus years was always [like] continuing post graduate instruction in how to write all kinds of commercial music. I'm definitely a far better writer, directly due to watching, listening, learning and, often, stealing from him." Merriman was a staff writer for various production houses, an independent producer, the owner of CRC (Commercial Recording Corporation), where he wrote and recorded a custom jingle for the Dallas



Tom Merriman

Morning News: "Start the day with the world on your doorstep, with the Dallas Morning News". All the while, he kept his "day job" as the Music Director at The Hockaday School – until the success of his company, TM Productions, far exceeded his wildest dreams. Merriman's companies grew to include not only radio IDs and commercial jingles, but also radio programming, automated radio formats, and music libraries, which surpassed

anything else in the marketplace. Merriman continued to support countless young musicians by hiring recent graduates of the newly formed (at that time) NTSU Jazz "Lab" Band." Music industry experts acknowledge that TM was the biggest and best of its kind in the world, winning awards and shaping the sound of commercial recording for over 40 years, evolving through changes in ownership and management, including its sale to Disney. In a true test of time, 40 years after Merriman wrote a catchy little number, called "Dance the Slurp" which was released as a vinyl 45 to promote 7-Eleven's slurpee drinks in the late 60's, it became a huge dance hit on the DJ circuit. San Francisco Bay area DJs *Cut Chemist* and *Shadow* featured Merriman's song as the centerpiece of their "Brain-Freeze" mix CD. Because of legal problems with 7-Eleven, the "Brain-Freeze" funk mix has gone underground, selling for up to \$100 and a single copy of the original 45 "Dance the Slurp" is considered a bargain at \$35. Tom Merriman joined Dallas Local 147 in 1951 and was a life member of Local 72-147.



Arbitrator reinstates RSO violinist

A federal arbitrator in November has reversed the May 8 firing of a Richardson Symphony Orchestra musician and has awarded expeditious reinstatement, back pay for all services missed and choice of seating assignment to the aggrieved musician.

In an unusual move, the arbitrator retained jurisdiction over the case to resolve disputes over the decision and to discourage any retaliation against the musician. If the RSO fails to comply with the arbitrator's decision, the Union is free to call a strike against the company.

Tenured RSO violinist Jennifer Garner, an attorney who is also a member of Local 72-147's Executive Board and a member of the RSO Orchestra Committee, had held a meeting prior to a rehearsal service to discuss players' workplace problems and was fired after she complained to an RSO staffer that contract provisions were being violated.

Local 72-147 has filed numerous grievances this year against RSO for delinquent wage and pension payments, workplace discrimination, wrongful termination and for violations of artistic standards.

RSO still owes musicians for work performed in September of this year, but musicians may now seek remedy under state law when RSO avoids or fails to make timely wage payments.

A Local 72-147 initiative through the Texas Workforce Commission (TWC) has resulted in a determination that the RSO is an employer under TWC rules, paving the way for payday claims against RSO

under the Texas Payday Law. An RSO attempt to appeal the determination was rejected.

Texas and US law provide for stiff civil

and criminal penalties against employers who borrow workers' paychecks, pension money and union dues to finance company operations.

DTC inks CBA for Wyly shows

The Dallas Theater Center (DTC) has entered into a Local 72-147 collective bargaining agreement covering the services of musicians for *Give It Up*, a new musical that will open at the Wyly Theater in the AT&T Performing Arts Center in January.

For more than 50 years, DTC has been a major regional theater company in Dallas, producing classical and contemporary plays. The company was based in the Kalita Humphreys Theater, a building designed by famous American architect Frank Lloyd Wright, from 1959 to 2009. In September, DTC moved to the 500 seat Dee and Charles Wyly Theater at the AT&T Performing Arts Center in the Dallas Arts District.

DTC will now offer at least two theatrical musical productions to its patrons each season. *Give It Up* is a world premiere by playwright Douglas Carter Beane, composer/lyricist Lewis Flynn and director/choreographer Dan Knechtges. The show will run four weeks, from January 15, through February 14, 2010.

Wage rates and pension contributions for DTC services are comparable with those at Casa Manana in Fort Worth.

The company will follow up with another musical production, *It's a Bird, It's a Plane, It's Superman* in June 2010.



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