WHO FILES SUITS AND WHY: AN EMPIRICAL PORTRAIT OF THE LITIGIOUS WORKER

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If you don't like the way things are going wherever you are, the chances are that you have two options open to you. You can either use "exit" or "voice."

—Albert O. Hirschman[1]

I. INTRODUCTION

This article will explain why, in Hirschman's words, union members exercise "voice"—voice as in a suit or "charge" with the Equal Employment Opportunity Commission (EEOC) or the National Labor Relations Board (NLRB) against a labor organization or employer. Various factors which may predict whether the union member will "voice," or file a suit or charge, are examined in this article. Such factors as a member's education, age, sex, race, seniority, salary, political ideology, and his or her satisfaction with internal union processes, grievance handling, and contract bargaining, as well as his or her sense of efficacy, may be useful predictors of a propensity to file suit. This article will measure which of these factors is associated with a likelihood to file suit, discuss the implications of the findings, and make policy recommendations to assist labor unions, employers, and workers to resolve employment-related grievances without resorting to external government forums.

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1. Hirschman, *Exit, Voice and Loyalty, reprinted in* C. PETERS & M. NELSON, THE CULTURE OF BUREAUCRACY 209-17 (1979), *originally published in* A. HIRSCHMAN, EXIT, VOICE AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, STATES (1970).

II. EXIT, VOICE AND LOYALTY

A dissatisfied worker has two mutually exclusive alternatives—exit from the employment relationship or voice a complaint. The first alternative, exit, is comparatively neat. From a practical viewpoint, moreover, "voice" carries the threat of retaliation by the employer and, sometimes, by the labor organization. This threat is particularly real in nonunionized settings and in work settings in which the legal principle of "termination at will" is the generally accepted philosophy.[2] The principle of termination at will permits the termination or dismissal of an individual worker for any reason as long as the cause of dismissal is not unlawful.[3]

A. The Evolution of Employee-Employer Relations Law

Since the passage of the National Labor Relations Act (NLRA),[4] a

2. *See* H. WOOD, A TREATISE ON THE LAW OF MASTER AND SERVANT: COVERING THE RELATIONS, DUTIES AND LIABILITES OF EMPLOYERS AND EMPLOYEES (1886). According to Wood, "A hiring at so much a day, week, month or year, no time being specified, is an indefinite hiring, and no presumption attaches that it was for a day even . . . ." *Id. Cf.* D. GIBBONS, THE LAW OF CONTRACTS 48, 49 (1849), in which the author states the English rule that "absent a clear intention of the parties as to duration of the contract, a general hiring is presumed to be for one year. Domestic servants, however, may be terminated with a month's severance pay." *See also*, Feinman, *The Development of the Employment at Will Rule*, 20 AM. J. LEGAL HIST. 118 (1976). For cases citing WOOD, see Martin v. Ins. Co., 148 N.Y. 117, 42 N.E. 416 (1895); Booth v. National India-Rubber Co., 36 A. 714 (R.I. 1897); Savannah, F. & W. Ry. v. Willett, 43 Fla. 311, 31 So. 246 (1901). *See generally* C. LABATT, MASTER AND SERVANT 159 (1913); Annot., 11 A.L.R. 469 (1923).

3. Recently, the principle of termination at will has been challenged. *See* Holloway, *Fired Employees Challenging Terminable-at-Will Doctrine*, 1 NAT'L L.J. 22, 26 (1979); Vernon, *Termination at Will—The Employer's Right to Fire*, 6 EMPLOYEE REL. L.J. 25 (1980); Note, *Protecting at Will Employees Against Wrongful Discharge: The Duty to Terminate Only in Good Faith*, 93 HARV. L. REV. 1816 (1980); Summers, *Protecting All Employees Against Unjust Dismissal*, 58 HARV. BUS. REV. 132 (1980); Summers, *Individual Protection Against Unjust Dismissal: Time for A Statute*, 62 VA. L. REV. 481 (1976); Peck, *Unjust Discharges from Employment: A Necessary Change in the Law*, 40 OHIO ST. L.J. 1 (1979); Note, *Implied Contract Rights to Job Security*, 126 STAN. L. REV. 335 (1974); Comment, *Towards a Property Right in Employment*, 22 BUFFALO L. REV. 1081, 1083-84 (1973); Blades, *Employment at Will vs. Individual Freedom: On Limiting the Abusive Exercise of Employer Power*, 67 COLUM. L. REV. 1404 (1967); Blackburn, *Restricted Employer Discharge Rights: A Changing Concept of Employment at Will*, 117 AM. BUS. L.J. 467, 469 (1980); Act of July 5, 1935, Pub. L. No. 74-198 §§ 1-16, 49 Stat. 449, 29 U.S.C.A. §§ 151-167 (Supp. 1975), *amending* 29 U.S.C. §§ 151-167 (1970).

4. Although declared unconstitutional in Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935), the National Industrial Recovery Act did permit employees to join unions for the purpose of engaging in collective bargaining. Section 7(a) stated:

> Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) *That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection*; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates to pay, and other conditions of employment, approved or prescribed by the President.

Id. (emphasis added). National Industrial Recovery Act of 1933, Pub. L. No. 67, 48 Stat. 195, 196 (1933). Donald Richberg was the principal draftsman of § 7(a). The substance of this section

proliferation of industrial relations statutes, regulations, and executive orders[5] intended to protect the right of the dissatisfied worker to "voice" certain employment grievances have been enacted.[6] This new emphasis on the individual's rights in the workplace has brought about a shift in traditional notions of labor law. One commentator has described this shift in labor relations law as the evolution of "employee-employer relations law," as distinguished from traditional labor law which focuses on the relationship between employers and labor organizations.[7] Employee-employer relations law focuses on the legal relationship between the individual worker and the employer.[8] This shift in industrial relations law has developed simultaneously with the growing militance of the civil rights movement of the 1960's, the Vietnam era protests, and the feminist movement of the 1970's. Employee-employer relations law probably will serve as the vehicle for the employee rights movement of the 1980's. Furthermore, the change in industrial relations law has precipitated an increase in worker litigation. This more litigious worker, or "New Breed of Worker,"[9] is evident in three particular areas: labor arbitration law;[10] civil rights law, particularly

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came from his familiarity with the Railway Labor Act of 1926, the Norris-LaGuardia Act of 1932, and the 1933 amendments to the Federal Bankruptcy Act. *See* D. RICHBERG, THE RAINBOW ch. 3 (1936). The War Labor Board of World War I had advocated similar principles. In 1902 the Anthracite Coal Strike Commission had endorsed collective bargaining as a mechanism for resolving labor disputes in the mines. *See* D. BOWMAN, PUBLIC CONTROL OF LABOR RELATIONS 5-7 (1942). In 1915 the Commission on Industrial Relations recommended that in determining unfair methods of competition, the Federal Trade Commission be given authority to take into account an employer's refusal to permit employees to become members of labor organizations or to meet with the authorized representatives of employees. Fleming, *The Significance of the Wagner Act*, in M. DERBER & E. YOUNG, LABOR AND THE NEW DEAL 126 (1961).

5. Title VII of the Civil Rights Act of 1964, *as amended by* 42 U.S.C. § 2000e(1) to e(17) (1976); Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. § 206(d) (1976). Equal Pay Act of 1963 enacted as § 6(d) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 206(d) (1976). Vietnam Era Veterans Readjustment Act, 41 C.F.R. § 60-250.2 (1978); Vocational Rehabilitation Act of 1973, 29 U.S.C. §§ 701, 706, 793-794 (1976); Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (1976); Title III of the Consumer Credit Protection Act, 15 U.S.C. §§ 1601 to 1614 (1976), 18 U.S.C. §§ 891-896 (1976); Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1003 (1976); Welfare and Pension Plans Disclosure Act, 29 U.S.C. §§ 301-302 (1976), *as amended by* Welfare and Pension Plans Disclosure Act of 1962, 18 U.S.C. §§ 664, 1027, 1954 (1976); Labor Management Reporting and Disclosure Act of 1959, 29 U.S.C. §§ 153, 158-160, 164, 186, 187, 401-402 (1976); Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-652 (1976); Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), 30 Fed. Reg. 12,935 (1965), *as amended by* Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967); Exec. Order 11,478, 34 Fed. Reg. 12,985 (1969).

6. Hirschman would refer to this occurrence as a situation in which voice and exit can be successfully joined. *See* text accompanying note 1 *supra*.

7. Feller, *The Impact of External Law Upon Labor Arbitration*, in THE FUTURE OF LABOR ARBITRATION IN AMERICA 83 (J. Corrge ed. 1976) [hereinafter cited as Feller].

8. *Id.* at 85.

9. *See Big Crusades of the 80's: More Rights for Workers*, U.S. NEWS & WORLD REPORT, March 26, 1979, at 85-87. *See also* D. EWING, FREEDOM INSIDE THE ORGANIZATION: BRINGING CIVIL LIBERTIES TO THE WORKPLACE (1977); *New Breed of Workers*, U.S. NEWS & WORLD REPORT, Sept. 3, 1979, at 35-38.

10. *See, e.g., Alexander v. Gardner-Denver*, in which the Supreme Court, distinguishing a worker's contractual right and statutory rights under Title VII, permitted the individual worker to litigate the same discrimination issue in both the arbitral forum and the courts. Alexander v.

under Title VII of the Civil Rights Act of 1964;[11] and duty of fair representation suits and charges under the Labor Management Relations Act (LMRA).[12]

The rise of the new breed of worker, along with the courts' increased recognition of individual rights in the workplace, has prompted a number of commentators to assert that our traditional vehicles of industrial self-regulation and industrial jurisprudence are being eroded.[13] Indeed, one commentator states that there may be limits to "legal compulsion" and urges a return to an emphasis on bargaining and industrial self-regulation rather than on litigation.[14]

B. Who Is the Litigious Worker?

Although the individual's rights in the workplace have been the subject of much literature,[15] little attention has been paid to empirical

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Gardner-Denver Co., 415 U.S. 36 (1974), 7 LAB. REL. REP. (BNA) Fair Empl. Prac. Cas. 81. For a more thorough examination of this decision and the arbitration of discrimination grievances, see Stallworth, The Arbitration of Discrimination Grievances: An Examination Into the Treatment of Sex and Race-Based Discrimination Grievances by Arbitrators Since World War II (1980) (unpublished Ph.D. dissertation, New York State School of Industrial and Labor Relations, Cornell University, Ithaca, N.Y.).

11. Section 704(a) provides:

> It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42 U.S.C. §§ 2000-3(a) (Supp. III 1973).

12. A duty of fair representation charge may be brought under § 8(b)(1)(A) of the LMRA which provides that for a union "to restrain or coerce employees in the exercise of their rights under Section 7 (to join or assist a labor organization or refrain)" is an unfair labor practice. In addition, an individual may also sue for a breach of a union's duty of fair representation under § 301 of LMRA which reads in part:

> (a) Suits for violation of contracts betwen an employer and a labor organization representing employees in an industry affecting commerce as defined in this chapter, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

29 U.S.C. § 185 (1976).

13. Feller states:

> I believe that recent developments in the law of employment relations have already substantially diminished the role of the collective bargaining agreement (and hence of arbitration) and that the greatest danger that the system of arbitration faces in the future is the accelerating trend to remove more and more elements of the employer-employee relationship from the exclusive control of the collective bargaining agreement.

Feller, *supra* note 7, at 83-84.

14. *See, e.g.*, Dunlop, *The Limits of Legal Compulsion*, 27 LAB. L.J. 67 (1976); Taylor, *Collective Bargaining v. Government Regulation*, in GOVERNMENT REGULATION OF INDUSTRIAL RELATIONS (1948).

15. One of the foremost scholars in this area has been Clyde W. Summers. *See, e.g.*, Summers, *The Individual Employee's Rights Under the Collective Agreement: What Constitutes Fair Representation?*, 126 U. PA. L. REV. 251 (1977); Summers, *Individual Protection Against Unjust Dismissal: Time for a Statute*, 62 VA. L. REV. 481 (1976).

research explaining litigious behavior.[16] This article will seek to fill that gap by examining why certain union workers have a greater propensity to litigate claims.

Edward B. Miller, former Chairman of the NLRB, has suggested several factors which may predict whether an individual worker will file a suit. Miller suggests that education, age, and political ideology may be associated with employee militancy.[17] Greater education may lead to greater awareness of legal rights in the workplace, which consequently leads to the external redress of such rights.[18] Miller suggests, moreover, that the younger the worker, the greater the probability that the individual will go beyond the internal grievance settlement procedures to "voice" work-related grievances.[19] Finally, Miller suggests that these workers have a new ideology, spawned by the "Age of Aquarius," and thus subscribe more to the norms of "civil disobedience" than do older workers.[20] This suggests that the more politically liberal a worker, the more likely the worker will be to file a suit.

Race and sex also may be a predictor of who files lawsuits.[21] Given the historic distrust of unions and employers which has existed among racial minorities and women,[22] such workers may be more inclined than white male union members to "voice" their grievances to

16. There have been several studies examining the demographic characteristics of individuals who file grievances. *See, e.g.*, Ash, *The Parties to the Grievance*, 23 PERSONNEL PSYCH. 13 (1970); Eckerman, *An Analysis of Grievances and Aggrieved Employees in a Machine Shop and Foundry*, 32 J. APPLIED PSYCH. 255 (1948) [hereinafter cited as Eckerman]; Kissler, *Grievance Activity and Union Membership: A Study of Government Employees*, 62 J. APPLIED PSYCH. 459 (1977) [hereinafter cited as Kissler]; Dewire, Price, Nowack, Schenkel & Ronan, *Three Studies of Grievance*, 55 PERSONNEL J. 33 (1976); Ronan, *Work Group Attributes and Grievance Activity*, 47 J. APPLIED PSYCH. 38 (1963); Sulkin & Pranis, *Comparison of Grievants with Non-Grievants in a Heavy Machinery Company*, 20 PERSONNEL PSYCH. 111 (1967). *See also* R. QUINN & G. STAINES, THE 1977 QUALITY OF EMPLOYMENT SURVEY: RESEARCH REPORT SERIES (1979).

17. Address by Edward B. Miller, former Chairman of the National Labor Relations Board, before the Chicago Chapter of the Industrial Relations Research Association in Chicago, Ill. (Apr. 20, 1980).

18. For a study examining the relationship between a worker's educational level and grievance filing, see Kissler, *supra* note 16. *See also* Eckerman, *supra* note 16.

19. For a study examining the relationship between a worker's age and grievance filing level, see Eckerman, *supra* note 16; Kissler, *supra* note 16.

20. Miller suggests that the contemporary workers' experience and exposure to the civil rights movement in the 1960's, the Vietnam War protest era, and the feminist movement are manifestations of the more "civil disobedient" worker. One other prime example of this may be the workers' protest at the General Motors Lordstown Plant. *See, e.g.*, *New Breed Surfaces at Lordstown, Ohio*, 146 AUTOMOTIVE INDUS. 18 (1972); Williams & Wilson, *Lordstown Shootout: Cost-Cutters vs. New Labor*, 209 IRON AGE 38 (1972); *The Spreading Lordstown Syndrome*, BUS. WEEK, Mar. 4, 1972, at 69-70.

21. For a study examining the relationship between race and a worker's grievance filing level, see Ash, *The Parties to the Grievance*, 23 PERSONNEL PSYCH. 13 (1970); Kissler, *supra* note 16.

22. *See generally* D. BELL, RACE, RACISM AND AMERICAN LAW (1974); A. BLUMROSEN, BLACK EMPLOYMENT AND THE LAW (1974); W. GOULD, BLACK WORKERS IN WHITE UNIONS: JOB DISCRIMINATION IN THE UNITED STATES (1977); H. HILL, BLACK LABOR AND THE AMERICAN LEGAL SYSTEM (1977). *See also* B. BABCOCK, A. FREEDMAN & S. ROSS, SEX DISCRIMINATION AND THE LAW (1975); L. KANOWITZ, WOMEN AND LAW: THE UNFINISHED REVOLUTION (1974).

the EEOC or state anti-discrimination commissions. Race and sex, moreover, are two of the legal bases for filing a charge.[23] Consequently, nonwhite and female workers predictably will file more suits than white males.

Another personal characteristic which may influence the filing of a suit is the economic "stake" a person has in the industrial world. For instance, the number of single female heads of households is increasing.[24] These single parents are more likely to file suits, given the economic "stake" the worker has in retaining employment.

Although applied in a different context,[25] an individual's "stake" in a job may also indicate whether an individual will be more inclined to file a lawsuit. Assuming the degree of "stake" in one's employment situation can be objectively measured by the amount of salary and the amount of seniority one has, the greater one's salary and seniority,[26] the more eager one would be to protect his or her "stake" in the workplace. This would lead to a greater willingness to file a suit.

Jerome Rosow advances another explanation for the increased amount of litigation arising from workplace disputes. In explaining the evolution of the employee rights movement, Rosow puts forth a theory of "psychological entitlement."[27] This theory, according to Rosow, is the outgrowth of a generation of prosperity. Rosow suggests that "the new generation of workers and their children were conditioned by a boom economy. They have perceived these advantages as normal.

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23. The initial purpose of Title VII of the Civil Rights Act of 1964 was to prohibit race-based discrimination. The sex-based prohibition was first suggested as a ploy to bring about the defeat of the bill. *See* Hill, *The Equal Employment Opportunity Acts of 1964 and 1972: A Critical Analysis of the Legislative History and Administration of the Law*, 2 INDUS. REL. L.J. 1 (1977); Sape & Hart, *Title VII Reconsidered: The Equal Employment Opportunity Act of 1972*, 40 GEO. WASH. L. REV. 824 (1972); Vaas, *Title VII: Legislative History*, 7 B.C. INDUS. & COM. L. REV. 431 (1966). The sex amendment of Title VII has been described as an orphan, because neither the proponents nor the opponents of the Act seem to have felt any responsibility for its presence in the bill. *See* Berg, *Equal Employment Opportunity Under the Civil Rights Act of 1964*, 3 BROOKLYN L. REV. 62 (1964); Mansfield, *Sex Discrimination in Employment Under Title VII of the Civil Rights Act of 1964*, 21 VAND. L. REV. 484 (1968). This note also contains a good account of the interaction of the Equal Pay Act of 1963, 29 U.S.C. § 206(d) (1964) and Title VII.

24. *See, e.g.*, *Impact at Home When Mother Takes a Job*, U.S. NEWS & WORLD REP., Jan. 15, 1979, at 69-70. *See generally Working Women: Joys and Sorrows*, U.S. NEWS & WORLD REP., Jan. 15, 1979, at 64-74.

25. Researchers have asserted that the workers who are more highly skilled, more secure in their jobs, more ethnically oriented, and more satisfied with their jobs, relative to other workers will tend to participate more often in their unions. *See* Perline & Lorenz, *Factors Influencing Participation in Trade Union Activities*, 29 AM. J. ECON. & SOC. 425 (1970). *See also* Spinrad, *Correlates of Trade Union Participation: A Summary of the Literature*, 25 AM. SOC. REV. 237 (1960).

26. For studies examining the relationship between seniority and salary and a worker's grievance filing level, see Ash, *supra* note 16. Ronan, *supra* note 16. For studies concerning salary and grievance activity, see Eckerman, *supra* note 16; Sulkin & Pranis, *Comparison of Grievants and Non-Grievants in a Heavy Machinery Company*, 20 PERSONNEL PSYCH. 111 (1967).

27. *See* Kanter, *Work in New America*, in INDIVIDUAL RIGHTS IN THE CORPORATION (A. Westin & S. Salisbury eds. 1980). *See also New Breed of Workers*, U.S. NEWS & WORLD REP., Sept. 3, 1979, at 36.

Now these expectations have become entitlements."[28] This theory may explain why employee dissatisfaction is at an all time high,[29] as workers fail to make the adjustment from a boom economy to a no growth economy.

One practical implication of the "psychological entitlement" theory is that workers expect, if not demand, the collective bargaining process to yield handsome increases in wages and other benefits. An examination of contract rejection rates may be a manifestation of this theory.[30] Consequently, if workers are dissatisfied with contract bargaining outcomes they arguably will be more likely to file complaints outside of the internal dispute settlement procedures.

Similarly, workers have come not only to expect "good faith" and "adequate" handling of their individual grievances, but a favorable outcome as well. John Truesdale, a former NLRB member, has described this phenomenon as a worker's expectation of not only adequate representation but "effective" representation.[31] As a result, if workers are dissatisfied with the grievance process or more specifically with the outcome of the grievance process, they will be more likely to "voice" their dissatisfaction by filing suits.

A worker's perception of internal union democratic processes may also predict a worker's propensity to file suits. More specifically, where the individual worker perceives the internal union decisionmaking processes to be undemocratic, he or she may be more inclined to voice objections by filing a suit.[32] Furthermore, in instances in which the

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28. *See also Why Everybody Is Suing Everybody*, U.S. NEWS & WORLD REP., Dec. 4, 1978, at 50, in which Harvard sociologist David Riesman suggests that the success in the courts serves in turn to spur "people's feeling of entitlement." According to Riesman, "more people are going to court saying, 'others are getting it, why shouldn't I?' "

29. *See* QUINN & STAINES, *supra* note 16.

30. Burke & Rubin, *Is Contract Rejection a Major Collective Bargaining Problem?*, 26 INDUS. & LAB. REL. REV. 820 (1973); Odewahn & Krislov, *Contract Rejections: Testing the Explanatory Hypothesis*, 12 INDUS. REL. 289 (1973). *See also* C. SAPAKIE, BACKGROUND REVIEW ON INCREASE IN MEMBERSHIP REJECTIONS OF COLLECTIVE BARGAINING AGREEMENTS (1967); Barbash, *The Causes of Rank-and-File Unrest*, in TRADE UNION GOVERNMENT AND COLLECTIVE BARGAINING (J. Siedman ed. 1970); Kelly, *The Contract Rejection Problem: A Positive Labor Management Approach*, 20 LAB. L.J. 404 (1969); Lahne, *Contract Negotiation: Who Speaks for the Union?*, 20 LAB. L.J. 259 (1969); Odewahn & Krislov, *Is Contract Rejection a Major Collective Bargaining Problem: Comment*, 28 INDUS. & LAB. REL. REV. 439 (1975); Shair, *The Mythology of Labor Contract Rejections*, 21 LAB. L.J. 88 (1970); Simkin, *Refusals to Ratify Contracts*, 21 INDUS. & LAB. REL. REV. 548 (1968); Summers, *Ratification of Agreements*, in FRONTIERS OF COLLECTIVE BARGAINING (J. Dunlop & N. Chamberlain eds. 1967).

31. Truesdale, *The Duty of Fair Representation: Must It Be Effective to be Fair?*, 50 DAILY LAB. REP. F-1 to F-4, Mar. 13, 1979.

32. Although not included in the survey, an individual worker also has recourse under the Labor Management Reporting and Disclosure Act of 1959 (Landrum-Griffin Act), 29 U.S.C. §§ 401-531 (1976), 73 Stat. 519 (1959). *See* J. BELLACE & A. BERKOWITZ, THE LANDRUM-GRIFFIN ACT: TWENTY-YEARS OF FEDERAL PROTECTION OF UNION MEMBERS' RIGHTS: LABOR RELATIONS AND PUBLIC POLICY SERIES No. 19 (1979); H.W. BENSON, DEMOCRATIC RIGHTS FOR UNION MEMBERS: A GUIDE TO INTERNAL UNION DEMOCRACY (1979); D. MCLAUGHLIN & A. SCHOOMAKER, THE LANDRUM-GRIFFIN ACT AND UNION DEMOCRACY (1979); P. TAFT, RIGHTS OF UNION MEMBERS AND THE GOVERNMENT (1975).

individual worker *feels* as though he or she has little or no control over the internal decisionmaking processes of the union, he or she is more inclined to exercise "voice."

Related to the individual's perception of the degree of internal union democracy is the individual's efficacy. Thus, when an individual desires to hold an official union position but perceives the avenues to that position as blocked, the individual may "voice" frustration by filing a suit. When the worker does not perceive the access to positions as blocked, he or she is less likely to file a suit. This individual may feel more "efficacious" within the union and thus feel as though he or she can effectively resolve work-related grievances without voicing frustration externally.

The same rationale may apply to those individual workers who are active in their unions. Participation may range from serving in an official union capacity, to participating in various union sponsored activities. Because such workers would perceive themselves as possessing some direct or indirect ability to effect change in the union, they may find voicing a desire for change outside of the traditional union structure unnecessary.

A causal relationship arguably exists between an individual worker's satisfaction and his grievance level. Slichter, Healy, and Livernash, however, in a 1960 study, found that in many plants the satisfaction of individual workers had relatively little to do with the grievance rate.[33] According to these researchers, organizational and institutional conditions are the chief determinants of the grievance rate. In the intervening 20 years, a considerable, if not quantum change in the American industrial relations system has taken place. The primary changes are the evolution of employee-employer relations law, the rise of the litigious worker, and the existence of a judiciary "eager to fashion new rights out of citizen grievances."[34] In 1960, when Slichter, Healy, and Livernash published their work, Title VII of the Civil Rights Act of 1964[35] did not exist. Nor did courts liberally interpret

33. S. SLICHTER, J. HEALY & E.R. LIVERNASH, THE IMPACT OF COLLECTIVE BARGAINING ON MANAGEMENT 701-02 (1960).

34. *Why Everybody is Suing Everybody*, U.S. NEWS & WORLD REP., Dec. 4, 1978, at 50.

35. Although the Fair Employment Practices Committee and a number of state fair employment practices commissions were in existence prior to the enactment of Title VII, these commissions were relatively ineffective. *See generally* M. SOVERN, *State Fair Employment Practice Legislation*, in LEGAL RESTRAINTS ON RACIAL DISCRIMINATION IN EMPLOYMENT (1966); Hill, *Twenty Years of State Fair Employment Practices Commissions: A Critical Analysis with Recommendations*, 14 BUFFALO L. REV. 22 (1964). *See also* H. HILL, BLACK LABOR AND THE AMERICAN LEGAL SYSTEM 173-84 (1977); Sutin, *The Experience of State Fair Employment Commissions: A Comparative Study*, 18 VAND. L. REV. 965 (1965). Section 1981 of the Civil Rights Act of 1866 is another legal avenue by which a suit may be brought against racial discrimination. However, until recently, § 1981 was not used in this manner. *See* Civil Rights Act of 1866, 15 Stat. 27 (reenacted by Act of May 31, 1870, 16 Stat. 144, codified in Rev. Stat. of 1874, § 1977, now 42 U.S.C. § 1981). *See, e.g.*, Jones v. Mayer Co., 392 U.S. 409 (1968).

and apply the legal doctrine of the duty of fair representation.[36] Consequently, at the time of the study, the individual worker had primarily one forum within which to "voice" dissatisfaction, the contractual grievance and arbitration procedure. The courts endorsed the grievance arbitration procedure as the favored means for resolving industrial disputes.[37] The procedure was subject to limited court review,[38] and, most importantly, the procedure was unquestionably controlled by the employer and the union. The primacy of grievance arbitration has changed considerably since the Slichter, Healy, and Livernash study,[39] rendering the findings of that study questionable. In the final analysis, an individual who has a high grievance filing rate also may be more inclined to go outside the contractual grievance procedure and seek recourse in external forums.[40]

III. SUMMARY OF THE VARIABLES AND THE METHODOLOGY AND SOURCES

A. Variables

Thirteen independent variables (listed below) are considered in this study. The simple relationship of these variables to filers is reported in section IV of this article. The variables are:

Education	(High School, Some College or College, and Post College)
Age	(Under 35, 36-55, Over 56)

36. *See, e.g., Fair Representation Decisions Criticized*, 50 DAILY LAB. REP. 2-3 (1979); *NLRB Member Truesdale Questions Direction of Recent Fair Representation Duty Rulings*, 50 DAILY LAB. REP. 10-12 (1979); *Court Expands Fair Representation Duty*, 21 DAILY LAB REP. A-12, E-1 (1980). *See also* Smith v. Hussman Refrigerator Co., 21 DAILY LAB. REP. E-11 (8th Cir. 1980); *General Counsel Irving on Cases Involving a Union's Duty of Fair Representation* (Memo 79-55 dated July 9, 1979), 137 DAILY LAB. REP. D-1 to D-5 (1979). For an excellent review of the origins and contemporary problems in the duty of fair representation area, see THE DUTY OF FAIR REPRESENTATION: PAPERS FROM THE NATIONAL CONFERENCE ON THE DUTY OF FAIR REPRESENTATION (J. McKelvey ed. 1977). *See also Court Expands Fair Representation Duty*, 21 DAILY LAB. REP. A-12, E-1 to E-11 (1980); Coulson, *Will "Huffman" Decision Put Arbitration in Deep Freeze?*, N.Y.L.J. July 12, 1979, at 1.

37. United Steelworkers v. American Mfg., Co., 363 U.S. 564 (1960); United Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960); United Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960).

38. United Steelworkers v. American Mfg., Co., 363 U.S. 564, 568 (1960).

39. *See, e.g.*, Feller, *Arbitration: The Days of Its Glory are Numbered*, 2 INDUS. REL. L.J. 97 (1977); *The Coming End of Arbitration's Golden Age*, ARBITRATION—1976: PROCEEDINGS OF THE 29TH ANNUAL MEETING OF THE NATIONAL ACADEMY OF ARBITRATORS 97-151 (1976). However, for a different viewpoint, see Stark, *The Presidential Address: Theme and Adaptations*, in TRUTH, LIE DETECTORS AND OTHER PROCEDURES IN LABOR ARBITRATION, PROCEEDINGS OF THE 31ST ANNUAL MEETING OF THE NATIONAL ACADEMY OF ARBITRATORS 1-29 (J. Stern & B. Dennis eds. 1979).

40. In this study grievance filing is considered a form of union activity, rather than an indication of dissatisfaction. For a discussion of using the amount of control over the grievance and the bargaining process as a measure of union democracy, see Hochner, Koziara & Schmidt, *Thinking About Democracy and Participation in Unions*, THIRTY-SECOND ANNUAL MEETING, INDUSTRIAL RELATIONS RESEARCH ASSOCIATION (1979).

Sex	(Male, Female)
Race	(White, Nonwhite)
Seniority	(0-3, 4-6, 7-30 Years Seniority)
Salary	(Low, Medium, High)
Political Ideology	(Conservative, Liberal)
Efficacy	(Efficacious, Nonefficacious)
Activity in the Union	(High Activity, Low Activity)
Marital Status with Children	(Unmarried Parent, Nonparents, Married Parents)
Grievance Activity	(Number of Grievances Filed in the Last Three Years)
Satisfaction with the Grievance Process	(Very Dissatisfied, Dissatisfied, Neutral, Satisfied, and Very Satisfied)
Satisfaction with Contract Bargaining Process and Outcome	(Very Dissatisfied, Dissatisfied, Neutral, Satisfied, and Very Satisfied)

B. Methodology and Sources

The data collected for this article are based on a survey of a randomly selected sample of 2,000 union members employed by the same employer at different sites within the state of Illinois. All of the surveyed union members are members of one large public sector union located in Illinois. The response rate was 44.4%. Of the 888 completed questionnaires, twelve were eliminated because they were completed by employees who represent management.

The survey contained detailed questions concerning the individual worker's union activity; his perception of the union; various demographic characteristics, such as race, sex, political ideology, and efficacy; and the individual's filing activity under Title VII of the Civil Rights Act of 1964, and section 8(b)(1)(a) and section 301 of the Labor Management Relations Act. The latter question was posed in a series of questions specifically inquiring whether the individual had filed a grievance, an EEOC charge or suit against the employer or union, or a duty of fair representation suit or charge against the labor union.

The dependent variable is dichotomous and does not meet the assumption of normal distribution necessary for the use of multiple regression.[41] There are sixty-three filers out of 876 cases. The most appropriate statistical technique to use, therefore, was log linear analysis.[42] After an analysis of all variables on the simple level, they were

41. Goodman, *The Relationship Between Modified and Usual Multiple-Regression Approaches to the Analysis of Dichotomous Variables*, in SOCIOLOGICAL METHODOLOGY 83-111 (D. Heise ed. 1976).

42. *See* S. FEINBERG, THE ANALYSIS OF CROSS-CLASSIFIED CATEGORICAL DATA (1978).

collapsed from interval to ordinal level variables. For the simple relationships, a chi-square statistic and a Cramers V was used.[43] The tables and statistics for these are reported in Appendix A. The exact wording of the questions is reproduced in Appendix B.

1. Definition of Filer

In this study the act of filing is conceptualized as exercising "voice" within an organization as well as exercising one's statutory rights. As such, all filing activity represents the same concept, notwithstanding against whom or upon what basis the suit or charge is brought. The bases for filing included in the questionnaire are race and sex under Title VII[44] and the failure of a union's duty of fair representation under the LMRA. The parties against whom these suits or charges were filed included the employer and union under Title VII and the union in duty of fair representation cases.[45]

2. Rationale for Collapsing Filers

All types of filing are considered by this study to represent the same underlying concept. As explained in the previous sections, the function of filing represents going outside the usual organization channels. In addition to the conceptualization of filing as the same in all cases, methodological considerations govern the analysis. First, filing is an extremely rare event. Only sixty-three people filed suits (or charges) out of a sample of 876.[46] Ninety-one charges or suits were filed, because some people filed charges on two bases. Additionally, thirty-seven sex suits, thirty-five race suits, and nineteen duty of fair representation suits were filed. The extremely small number of each kind of charge, particularly the duty of fair representation charges, makes it impossible to perform any meaningful statistical analysis of why individuals file particular types of suits.

Before arriving at the decision to place all the filers into one category, a considerable amount of investigation was directed at discovering whether the individual workers who filed race charges differed substantially from those who filed sex charges or those who filed duty of fair representation charges.[47] The investigation revealed only a min-

43. Occasionally a Spearman's or Pearson's correlation is reported and it is labeled as such.

44. These are not the only protected categories under Title VII. The others include religion and national origin.

45. There are circumstances in which the employer can have liability if the case is brought under LMRA § 301, 29 U.S.C. § 185 (1970).

46. There are 876 cases in this sample. Sixty-three workers filed a total number of 91 charges on various bases. There were 22 charges filed on the basis of race and sex, 3 charges filed on race, sex, and duty of fair representation charges, and 5 charges filed on race and duty of fair representation charges. This may reflect the multiple litigation on the same complaint in two or more forums.

47. This was accomplished by examining all the important independent variables and then examining the simple relationship between each of these variables and the three different catego-

imal difference among the three groups.[48] Thus, an empirical basis was established for asserting that all three types of filing are similar or at least that the three kinds of filing do not have significantly different correlates.

A further comment about the quality of this data is that the absolute number of charges may understate the amount of actual filing activity. Because a number of these suits may be made on a class basis, considerably more filing activity may be present than the absolute number of charges suggests.

3. Description of the Sample

Technically, this study does not have external validity beyond the particular public sector union from which the sample was drawn. Because many studies of union members and their attitudes do not involve random sampling or a sample this large, however, this study may be useful if judiciously applied. The study, moreover, may differ from a sample of union members in a typical manufacturing setting. The individuals in this sample probably have a higher overall education level than average industrial workers because the sample was drawn from public sector employees. For instance, no individuals in the sample have less than seven years education. In fact, 44% of the sample have some college education.[49] Furthermore, union members were required to take an examination as a condition of employment. To the extent that this educational level is not typical of industry as a whole, the results may not be generally applicable.

The sample's age distribution, moreover, may slightly underrepresent young workers, compared to the overall industrial population. Only 8.2% of the sample are under 26 years of age and a full 45%

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ries of filers. These three categories were (1) those who either filed or did not file based on race; (2) those who either filed or did not file based on sex; and (3) those who either filed or did not file based on the duty of fair representation.

48. The significance is due to the small number of discrimination cases. There were only 19 such cases in this survey.

49. The frequencies and the percentage of the sample at each grade of schooling was as follows:

Year of Education by Grade Completed	Absolute No. of Respondents	Percent of Sample
7th	2	.2
8th	13	1.5
9th	13	1.5
10th	30	3.4
11th	32	3.7
12th	380	43.4
13th	128	14.6
14th	156	17.8
15th	52	5.9
16th	28	3.2
17th	26	3.0
Missing Data	16	1.8

of the sample are over the age of 46.[50] The sample consists of 588 white union members, 68.3% of the sample, and 254 blacks, 29.5% of the sample. Hispanics and Asians were represented by 11 union members and 1 union member, respectively, or 1.3% and .1% of the sample. The sample included 336 females, or 39.4% of the sample. This figure is higher than expected. The group which is extemely well-represented is the black female group which is a full 15.9% of the sample.

Furthermore, the sample does not indicate as great a range in salary as exists in the industrial population. The lowest salary in this sample was $14,806, excluding hourlies. The highest paid individual received $21,974.[51] In many cases, interpolation of the respondent's position and salary was necessary.[52]

The chief bias expected from the research was that only union members who were extremely active in the union would answer the survey. This would be due primarily to their interest in a study on local union participation. Using the broadest definition of leadership, 77.5% of the sample was active in a leadership capacity. This broad definition of leadership was based on the respondent's answer to a filter question, which asked whether the respondent had held a union office or served on a union committee. A subsequent question asked what specific type of leadership position the respondent had held. The offices held by the respondents ranged from membership on a committee to chair of a committee to president of the union local. A consequence of this broad definition of leadership is that the proportion of leaders in the sample may be overstated.

IV. FINDINGS

A. Individual Characteristics

1. Education

The educational level, as hypothesized, appeared to have a positive effect on filing. The filing rate, the percentage of those filing out of

50. The age distribution was as follows:

	Absolute No. of Respondents	Percent of Sample
Under 26	72	8.2
Age 26 to 35	236	26.9
Age 36 to 45	162	18.5
Age 46 to 55	199	22.7
Age 56 to 65	177	20.2
Above 65	19	2.2
Missing Data	11	1.3
	876	

51. Furthermore, 230 members of the sample were clustered at a salary of $17,778 and 212 were clustered at a salary of $18,988.

52. If the respondent gave complete information on grade and title, it was possible to identify the step and thus the salary. If the information was so incomplete that it was impossible to determine the step, the median step is the person's designated grade.

all workers in that educational group, rises steadily with the educational level. Thus, 5.3% of the group having a high school education or less filed charges; 9.1% of the college level group filed charges; and 15.4% of the group having completed postgraduate work filed charges. The relationship is significant, although the significance may be partially a function of the large size of the sample.

Education may increase filings because the educated group may have more information about where and how to file a charge. In addition, even when the group with low education has adequate information about where to file, these workers may not feel as adept at exercising their rights as the highly educated group.

The results of the sample basically conform to much of the literature on education and participation.[53] Given the phenomenon of the "new breed of worker,"[54] the results of the sample mark an extremely significant development. The highly educated employee may go increasingly outside the usual channels of appealing to the employer in nonunionized settings,[55] and go outside the usual channels of the union in unionized settings.

2. *Age*

As hypothesized, younger employees file more frequently than older employees. The rate of filing is highest among the youngest group, at 8.6%. The filing activity steadily decreases as the age of the union member increases, with the filing rate for the oldest group being 2.2%.[56] The implication is that the younger worker may be rejecting the historic and institutional avenues of appeal for redressing grievances, such as the union and the employer, with increasing regularity.[57]

3. *Political Ideology*

Political ideology may be important in explaining why an individual files a law suit. The survey contained three scales to measure political attitude: a civil rights scale, a women's equality scale, and a

53. *See* A. CAMPBELL, P. CONVERSE, W. MILLER & D. STOKES, THE AMERICAN VOTER 291-519 (1960); S. VERBA & N.H. NIE, PARTICIPATION IN AMERICA: POLITICAL DEMOCRACY AND SOCIAL EQUALITY 125-37 (1972).

54. *See* notes 9-14 *supra* and accompanying text.

55. *See, e.g.*, *A Grievance Procedure for Non-Unionized Employees*, 37 PERSONNEL 66 (1950); Chipman, *Proper Grievance Handling Makes Unions Unnecessary*, CIV. ENGINEERING 95 (1973); Coyle, *Grievance Systems for Non-Union Officers*, 61 OFFICE-MANAGEMENT 28, 33-36 (1960); Epstein, *The Grievance Procedure in the Non-Union Setting: Caveat Employer*, 1 EMPLOYEE REL. L.J. 120 (1975); *Grievance Handling Where There is No Union*, 6 SUPERVISORY MANAGEMENT 35 (1961); Howlett, *Due Process for Nonunionized Employees: A Practical Proposal*, THIRTY-SECOND ANNUAL MEETING, INDUSTRIAL RELATIONS RESEARCH ASSOCIATION 164-70 (1979); Michael, *Due Process in Nonunion Grievance Systems*, 3 EMPLOYEE REL. L.J. 516-27 (1978); Miller, *Grievance Procedures for Nonunion Employees*, 7 PUBLIC PERSONNEL MANAGEMENT 302 (1978).

56. *See* table in Appendix A.

57. This finding further supports Miller's suggestion that the youthful worker is more litigious.

general conservative-liberal scale. Because these three issues are highly interrelated, the respondent's scores were combined to indicate the degree of political liberalism. The respondents were then divided by score into two categories: conservative and liberal.[58] The results indicate that liberal union members filed at nearly twice the rate as conservative members. The liberal group filed at a rate of 9.2%, whereas the conservatives filed at a rate of 5.3%. This significant difference indicates that employees' dispositions toward general political issues play an important role in explaining the tendency to file.

4. Sex

Because sex is a legal basis for filing, more females than males could be expected to file suit. Moreover, on the simple basis of probability, more females than males may have experienced discrimination. Only 28 of the females—or 8.1%—filed, however, compared to 35 males, or 6.7%. Consequently, although females are slightly more likely to file than males, the difference is not significant. One explanation may be that suits filed on the basis of sex discrimination form only a small fraction of suits filed. The number of sex discrimintion suits filed, however, indicates that this is not the case. Of a total of 63 suits, 40% (27) were filed on the basis of sex discrimination. Among those filing sex discrimination suits, the probability is that more females than males filed suit. This is also not the case. The females have a 3.8% filing rate for sex discrimination suits compared to a 3% filing rate among males.

The low filing rate among female workers on the basis of sex discrimination may be due to nonwhite women filing on the basis of race alone. Another explanation is that male stewards or union officials are filing on behalf of female workers. These possibilities would tend to understate the actual rate of filing among women. Finally, male workers may be filing on the basis of reverse discrimination, a proposition impossible to refute or confirm with the available data.[59]

5. Race

The survey anticipated that filing would vary with the race of the union member. Nonwhites should file more often than whites.[60] There are, for the purposes of the survey, two categories of race: white and

58. The original scales were seven point scales. Therefore, the maximum score was 21 points when the three items were collapsed. The cutoff point for considering someone conservative was 12 points and below. Thirteen points and above was considered liberal.

59. *See* Appendix B. There was no question on the survey asking whether the sex discrimination charge was on the basis of discrimination against males rather than females.

60. In McDonald v. Santa Fe Trails Transp. Co., 427 U.S. 273 (1976), the Supreme Court held that white males were also covered under Title VII. *See* REVERSE DISCRIMINATION (B. Gross ed. 1977); Blumrosen, *Strangers No More: All Workers Are Entitled to "Just Cause" Protection Under Title VII*, 2 INDUS. REL. L.J. 519 (1978).

nonwhite.[61] The rate of filing among nonwhites is more than twice that among whites—11.7% compared to 5.1%. Furthermore, when sex is controlled, the relationship between race and filing still remains significant.[62]

B. "Stakes" Hypothesis

Other objective characteristics of an individual, such as status as a single parent, seniority or salary, may affect a person's filing rate. Arguably, union members who are not married and who have children at home are more likely to file. They may have higher "stakes" in their job because they are supporting more than one person on one salary. Marital status alone is not expected to affect filing. Similarly, a great amount of seniority indicates the higher "stakes" a person has in continued employment. Finally, a high salary may predict that a person will file suits, based on the "stakes" hypothesis.

1. The Single Parent

For testing the single parent hypothesis, the sample was divided into three groups: (1) the nonparent group, (2) the married parent group, and (3) the single parent group.[63] The single parent group files most frequently, the married parent group next most frequently, and the nonparent group files least frequently. These findings support the "stakes" hypothesis. A single parent supporting one or more children may feel more inclined to file than married parents and much more inclined than nonparents, suggesting that an objective need to better one's salary or working conditions is an important motive for filing.[64] Furthermore, the single parents in this sample are 80% female, whereas the percentage of females in the sample as a whole is 39.4%. Therefore, the single parent issue also may be viewed as a women's issue.[65]

2. Seniority

Based on the "stakes" hypothesis, the higher the workers' senior-

61. The original question on the race of the respondent had five categories: White, Black, Latino, Oriental, and Other. *See* Appendix B. The Black, Latino, and Oriental categories were collapsed into a group termed Nonwhite.

62. *See* Appendix A for the tables and the statistics.

63. The marital status of *nonparents* apparently made no difference in the filing rate: each group filed at a 5.6% rate. The two categories of marital status require some explanation. Originally there were three responses possible: (1) married; (2) never married or widowed; (3) separated or divorced. The latter two categories were collapsed. Therefore, when the two variables were first combined, there were four groups: (1) those who are not married with no children; (2) those who are married with no children; (3) those who are unmarried with children at home; and (4) those who are married with children at home. Then, as stated above, groups one and two were collapsed after it was discovered that marital status alone did not affect the filing rate.

64. Filing also may serve a protest function, a tactic resource-poor groups may use to broaden the sphere of conflict.

65. This may explain why many of the women's movement groups and the women's labor groups, such as C.L.U.W., have emphasized day care as an issue for working women.

ity, the more frequently they will "voice" their complaint with an outside agency. This is not the case. The moderate seniority group files the most, the low seniority group the least, and the high seniority group somewhere in between the two, although the difference is not significant.[66]

This result indicates that a worker must have a certain minimal level of seniority before he will file a suit. If the worker has very little seniority, he or she may not feel sufficiently secure to "voice" a complaint. If the employee has a great amount of seniority, he or she may be fairly complacent, consumed by his or her impending retirement. The person with moderate seniority, however, may be at a stage of his or her working life where the denial of a promotion could be sufficiently critical to motivate some form of filing activity. This moderate level of seniority, moreover, may reflect a point in the worker's career when further opportunities to achieve a higher salary are blocked unless the worker can achieve a promotion. In other words, at the moderate level of seniority, workers may be "stuck" at the top of their salary grade.

3. Salary

The "stakes in the job" hypothesis predicted that union members who had high annual salaries would be more likely to file than the ones with low salaries.[67] A positive but not significant relationship[68] exists between the salary of the union member and the propensity to file complaints. Thus, 12.8% of the high salary group file complaints as opposed to 8% of the medium salary group and 4.9% of the low salary group. This result generally supports the socioeconomic status model of political activity. Of course, the activity examined in this study is the act of appealing to a government agency to assert one's statutory rights, rather than voting or campaigning.

The implications of the findings on salary, in conjunction with the earlier findings on education, are obvious. The employees most likely to exercise their statutory rights are those with high education and salary. Access to the benefits of these statutory rights is unevenly distrib-

66. The sample was divided into three groups by seniority: (1) the low seniority group which had between 0 and 3 years seniority; (2) the group with moderate seniority which had between 4 and 7 years seniority; and (3) the group with high seniority which had 8 years and above seniority. *See* Appendix A for tables and statistics. Also worth noting is that age and seniority are highly correlated (r=.65). The effect of one variable may be mistakenly attributed to the other.

67. In fact if the hourlies are kept separate, they file at a rate lower than the lowest salaried group so that no information is distorted or lost by collapsing the hourlies into the low salary group. *See* Appendix A.

68. The salaried employees in this set were divided into three groups: (1) the low salary group; (2) the medium salary group; and (3) the high salary group. There is a fairly sizable portion of individuals who are part-time hourly workers. For purposes of testing this particular hypothesis, they can be considered as the lowest salary group of employees because their stake in thier job is the lowest. *See* Appendix A.

uted across groups, with those who need the most, in objective terms, being the least likely to exercise their rights.

C. Satisfaction with Collective Bargaining Process

1. Satisfaction with Grievance Handling

Union members may also feel satisfaction or dissatisfaction with the way the union handles grievances or bargaining. Arguably, if union members are satisfied with the grievance process,[69] they will not file outside the system. As predicted, a strong relationship between worker dissatisfaction with the grievance process and filing outside the system is evidenced. Of the dissatisfied group, 20.1% filed, as opposed to 12.7% of the satisfied group.[70] Consequently, the statistics demonstrate that the EEOC and external law are being used as an avenue of appeal for grievances which have not been resolved to the satisfaction of the union member. In other words, there may be a "rational" basis to filing, rather than a basis predetermined by the individual's characteristics.

2. Satisfaction with Contract Bargaining

Another measure of satisfaction with the collective bargaining process in the union local[71] is satisfaction with bargaining. This perception is probably a better measure of overall satisfaction, because the grievance satisfaction measure incorporates the union member's specific reactions to a personal grievance. Of those who felt dissatisfied with bargaining, 12.9% filed complaints; of those who felt satisfied, 4.7% filed suits.[72] This basically confirms the strong relationship between worker satisfaction and the propensity to file.

D. Perceptions of Union Democracy

1. Method of Decisionmaking

In contrast to individual characteristics, which may indicate the propensity of an individual to file a suit, the individual's evaluation of the democratic process in the local union may influence filing. Predictably, the greater the perception that the union is democratic, the less the tendency to file outside the system. The primary measure of the perception of democracy is the worker's evaluation of the way decisions are made in the local. The survey allowed four possible responses to the following question: "How do you feel most of the important deci-

69. Originally this was divided into six categories. Very dissatisfied, dissatisfied, neutral, satisfied, very satisfied, and no grievances. This division does not, however, appear to be a true scale. The neutral category does not act as the midpoint on a scale.

70. *See* Appendix B.

71. *See* Appendix A.

72. For the idea that the control over different functions and the extent of control ought to be considered in a measure of democracy, see Hochner, Koziara & Schmidt, *supra* note 40.

sions are made in your local?" The first three responses—(1) "voting by secret ballot," (2) "members getting together on their own to decide," and (3) "the decisions get worked out at local union meetings"—involve direct participation by the individual. The fourth response, "the local union officers make these decisions," indicates an indirect control by members over decisions. As hypothesized, workers who perceive decisionmaking as indirect file at a greater rate than those who perceive decisionmaking as direct. Thirteen percent of workers who perceive that members only indirectly make decisions file suits compared to 4.9% of those who feel decisions are made directly by members.

2. *Control Over Decisions*

Another perception of the degree of union democracy is the control the individual believes he has[73] over decisions in the local. Again, the survey allowed four responses to the question of the degree of influence the worker believed he exercised over decisions in the local union. The possible responses were: (1) a great amount of influence; (2) some influence; (3) very little influence; and (4) no influence. The responses were later divided into (1) great or some influence and (2) very little or no influence. The filing rates of the two groups—7% for the low influence group compared to 7.6% for the high influence group—were not significantly different.

3. *Efficacy*

Efficacy is a concept related to the worker's perception of control, the feeling that a person could hold an office in the union if he chose to do so. The less "efficacious" a person feels the more likely he or she is to complain. The efficacious group is composed of the "confidents" and the "tired leaders,"[74] in other words all those who expected an of-

73. For a discussion of members' perceptions of union democracy, as well as the sociological and psychological factors in determining these attitudes, see R. MILLER, F. ZELLER & G. MILLER, THE PRACTICE OF LOCAL UNION LEADERSHIP (1965); T. PURCELL, BLUE COLLAR MAN (1960); T. PURCELL, THE WORKER SPEAKS HIS MIND (1953); H. ROSEN & R.A. ROSEN, THE UNION MEMBER SPEAKS (1955); J. SEIDMAN, J. LONDON, B. KARSH & D. TAGLIACOZZA, THE WORKER VIEWS HIS UNION (1958); A. TANNENBAUM & R. KAHN, PARTICIPATION IN UNION LOCALS (1958); Dean, *Social Integration, Attitudes, and Union Activity*, 8 INDUS. & LAB. REL. REV. 48 (1954); Form & Dansereau, *Union Member Orientations and Patterns of Social Integration*, 11 INDUS. & LAB. REL. REV. 3 (1957); Gouldner, *Attitudes of "Progressive" Trade Union Leaders*, 52 AM. J. SOC. 389 (1947); Kyllonan, *Social Characteristics of Active Unionists*, 56 AM. J. SOC. 528 (1951); Miller & Young, *Membership Participation in the Trade Union Local*, 15 AM. J. ECON. & SOC. 36 (1955); Perline & Lorenz, *Factors Influencing Participation in Trade Union Activities*, 29 AM. J. ECON. & SOC. 425 (1970); Rogow, *Membership Participation and Centralized Control*, 7 INDUS. REL. 132 (1968); Spinrad, *Correlates of Trade Union Participation: A Summary of the Literature*, 25 AM. SOC. REV. 237 (1960).

74. There were two parent questions for this concept. One question asked whether the respondent desired a local office and a second question asked whether the respondent expected a local office. If the person expected but did not desire a local office, the person was put into the "Tired Leader" group. If the person expected and desired an office, the person was considered to

fice in the local whether or not they desired the office. The noneffi-cacious group is composed of the alienated members and the thwarted leaders, those who do not expect to hold a local union office, whether or not they desire union office. The results indicate that efficacy is significantly related to filing. The efficacious group files twice as frequently—12.5% as opposed to 5.4% of the noneffi cacious group.

E. Union Activity

1. Activism

Another predictor of whether individuals file outside the system is whether they are active in the union or involved in union-related activities. Arguably, if a member is not active in the union, he is more likely to file than if the member is active in the union. The inactive member is more likely to be alienated from the union decisionmaking process and thus more likely to seek recourse outside the system.

There are various ways to conceptualize union activity. The first is the holding of formal leadership positions in the union, labeling all formal leaders as activists. The preliminary analysis utilized several definitions of formal leadership. One definition encompasses only the top leadership, the top four local union officers and the chief steward of the union. A "middle" leadership variable encompasses the four top officers, the chief steward, and the chairpersons of committees. A final definition includes minor leadership, participants on any committee, any chairperson of any committee, and any officers of a union. The relationship between leadership and filing is positive, not negative. The definition including minor leaders seemed to be the best predictor of filing, although the relationship was not strong. The simple correlation was .11, which is significant primarily because of the large sample size.[75] In other words, those workers holding minor positions were more likely than the rank and file union member to file.

A second way of conceptualizing activity is by studying participation in traditional union activities, such as Hagburg and Blaine did in their participation scale.[76] The activities that this survey included in the scale are: voting in a local union election, voting in a state election, voting in an international union election, voting in a strike authorization vote, voting on a contract ratification vote, union meeting attendance, and reading the union newspaper. Because of some peculiarities in the responses to the questions, the findings were less useful than an-

be a "Confident Leader". If the person desired but did not expect an office, the person was considered a "Thwarted Ambition" type. If the person neither expected nor desired an office, the person was an "Alienated" type. *See* Appendix B for the text of the questions.

75. There are 874 cases on which this correlation was based, with a significance at the .001 level.

76. Hagburg & Blaine, *Union Participation: A Research Note on the Development of a Scale*, 21 INDUS. & LAB. REL. REV. 92-96 (1967).

ticipated.[77]

A third way of conceptualizing union activity is to define union activity to include nontraditional union related programs. Nontraditional activity includes: union sponsored political activities, union sponsored community activities, strike activities, a training program in union leadership, union sponsored educational programs, a union picket line, union sponsored recreation team, and union sponsored health and welfare programs. The sum of these nontraditional activities is a fairly good predictor of filing activity. The correlation between the sum of these activities and filing is .13, which is significant at the .001 level. The measure of leadership finally used was the nontraditional activity total in addition to the minimal leader score, with 0 for a nonleader and 1 for a leader. This measure has a slightly greater effect on filing, with a correlation of .14.[78]

The results did not support the original hypothesis. Union activity appears positively associated with filing. This result may be due to the increased information which activists possess about the filing procedure. That the minor leader definition is a better predictor of filing than the top leader definition lends some weight to the accessability to information theory. Alternatively, the results may be due to one disenchanted faction within the union filing against another faction.

F. Grievance Activity

Grievance activity is a form of union related activity.[79] A strong relationship exists between grievance filing and filing unlawful discrimination charges and suits. The simple correlation is .19.[80] Among the 785 workers who filed between 0-2 grievances, only 44, or 5.6%, filed outside the system. A comparison between that rate and the rate of

77. The Pearson correlation was .16 based on a sample of 356, and was significant at the .001 level.

There were over 400 cases which had missing data on one or more of these measures, and it was not considered a valid measure of participation. It could not have been used in an analysis with other independent variables because of the huge mortality in cases that would occur. For instance, the cases with a complete response on this variable included only 30 out of 63 filers.

78. This was based on a sample size of 828 and was significant at the .001 level. Regular participation could be rejected without any loss in meaning because regular participation and the previous leadership measure are strongly correlated.

79. Grievance activity in this study is considered a form of union activity. This is because there was no reason to expect that grievance activity could be an indicator of dissatisfaction. In fact, the literature suggests just the opposite. *See, e.g.*, S. SLICHTER, J. HEALY & E.R. LIVERNASH, THE IMPACT OF COLLECTIVE BARGAINING ON MANAGEMENT 701-02 (1960). While a high level of grievance activity may indicate dissatisfaction, the absence of such activity does not necessarily indicate satisfaction.

80. The Pearson's correlation between grievance activity and filing is .19, based on 863 cases. This is significant at the .001 level. There were so many extreme scores on grievance activity, however, that the validity of this item was a matter of concern. The question was couched in terms of the number of grievances the respondent had filed on his own behalf. Two members filed 20 grievances, one member filed 22, and one member filed 50 grievances. A check for whether all of these were stewards indicated that two were stewards, but two were completely nonactive. The member who filed 50 and the member who filed 22 were both stewards.

filing outside the system by those workers filing over 3 grievances indicates that the latter is substantially higher—18 people or 23%.[81]

Controlling for degree of worker satisfaction with grievance handling, the relationship between grievance activity and filing holds solidly across satisfaction levels. This may suggest that grievance activity itself is more important than the degree of worker satisfaction with grievance handling.

V. A Model to Explain Filing

The variables which did not prove to be good predictors of filing were sex, salary, and the amount of control over decisions. The variables which were analyzed further were age, ideology, race, seniority, efficacy, sex, grievance satisfaction, union activity, and grievance activity.[82] A log linear analysis was used on a series of different combinations of these variables.[83] There were no interactions among these variables. The three variables[84] which were consistently significant and stable[85] across all combinations were race, grievance activity, and union activity.[86] The results are reported in Table 1 and Table 2. The preferred model is one which includes the joint effects of three independent variables.[87] The variables are: race (nonwhite v. white); grievance activity (high grievance activity v. low grievance activity); and union activity (high activity v. low activity). The model containing the effects of all three variables is significantly better than any of the

81. *See* Appendix A for chart and statistics.

82. The large sample size was responsible for many of the results being significant. Therefore the variables which were not as strong or were not theoretically as important were dropped. Thus, single parenthood, method of decisionmaking, and bargaining satisfaction were eliminated before the series of log linear analysis tests. The sex variable was included, even though not significant, because of the anticipated interaction with the race variable. For instance, black females might be filing at a greater rate than blacks as a whole, or more than black males.

83. A log linear technique is able to analyze variance. With log linear analysis, however, both the independent and dependent variables are categorical. The technique uses expected frequencies occurring under a model to determine the odds of a case falling in one of the categories of the dependent variable. A log linear analysis has the advantage of detecting interactions among the independent variables as well as the main effects of each variable. A log linear analysis does not measure the relative contribution of each variable, as a regression coefficient would. Log linear analysis is a hierarchical technique which compares the chi-square of higher order models to the chi-square of related lower order models. When a higher order model fits the data, all related lower order models will also fit. For a higher order model to be a preferred model (best fits the data), it must fit the data significantly better than its related lower order models.

84. To avoid empty cells, only three variables can be used at a time.

85. Technically, one cannot compare the magnitude of the overall chi-square of one log linear to a chi-square of a different combination of variables. Moreover, one cannot compare the overall explanatory power of one combination of variables to another combination, as one could compare R^2 in regression. Thus, the following decision rule was used: Which variable(s) is consistently a significant addition to the models in which it occurs. If it is consistently significant and stable in its behavior across different combinations of variables, the variable was considered for inclusion in the final model.

86. Age was the only variable which even approximated the three in the final model. Age is not always significant, however, and the middle category often does not behave consistently.

87. The three variables, controlled for each other, each contribute to the effect.

models containing the single effect of a variable or those containing the effects of any two variables. Furthermore, the models containing the various interactions among the variables did not describe the data better than the model with only the joint effects of all three of the variables. Thus, the model with joint effects illustrates that if a person is nonwhite, rather than white, the odds of filing are increased 2.72 times. Similarly, if the person files three or more grievances, the person is 4.14 times more likely than someone who files less than three grievances to file a suit. Finally, a person who is active in the union is 2.86 times as likely to file suit as one who is not active.

TABLE 1: Odds of Filing by Race, Union Activity, and Grievance Activity

Grievance Activity	Race	Union Activity	Filing Suit?*		Odds**
			No	Yes	
Low (less than 3)	White	Low	401	12	.029
Low	White	High	89	7	.083
Low	Nonwhite	Low	166	15	.079
Low	Nonwhite	High	32	5	.224
High (more than 3 grievances)	White	Low	30	2	.120
High	White	High	12	6	.340
High	Nonwhite	Low	12	3	.324
High	Nonwhite	High	3	4	.918

Results: Calculation of Improvement in Odds:***

Union Activity = 2.86 (.083/.029)
Race = 2.72 (.079/.029)
Grievance Activity = 4.14 (.120/.029)

* These are the observed frequencies. The odds are calculated on the expected frequencies of the model that fits best.

** The odds are calculated on the expected frequencies of the model that fits best.

*** The numbers represent the improvement in odds when it is known with certainty that a person falls in one category, rather than another of that variable. For example, a 2.86 rating means that if the person has a high activity level in union as opposed to a low activity level, he is 2.86 times as likely to file suits.

TABLE 2

		Degrees of Freedom	Chi-Square
1.	Independence Model (no effect of independent on dependent)	7	41.35
2.	Main Effect of Union Activity on Filing	6	27.83
3.	Main Effect of Race on Filing	6	31.23
4.	Main Effect of Grievance Activity on Filing	6	23.83
5.	Joint Effect of Union Activity and Race	5	16.80
6.	Joint Effect of Union Activity and Grievance Activity	5	13.85
7.	Joint Effect of Race and Grievance Activity	5	13.48
*8.	Joint Effect of Union Activity, Race, and Grievance Activity	4	2.62
	* (improvement over #4, #6, #7, at .05)		
9.	Interactions: Not Reported Because No Added Improvement		

$X^2 = 2.62$; Overall probab. = .62, 1df (See note 88)

Main Effect of Union Activity = 13.52 (41.35 − 27.83) df = 1

Main Effect of Race = 10.12 (41.35 − 31.23) df = 1

Main Effect of Grievance Activity = 17.52 (41.35 − 23.83) df = 1

*Preferred Model:

Joint effect of union activity, race & grievance activity = 2.62
(is a significant improvement over all lower order models)

VI. Conclusion: Implications of the Study and Policy Considerations

Of the variables examined in this study, three factors emerge as the strongest predictors of whether an individual worker is likely to file a suit or a charge. These three factors are (1) the individual worker's grievance activity; (2) the individual worker's race; and (3) the degree of participation by the individual worker in the union.[88] Assuming the validity of these findings, several practical implications are present.[89]

88. The log linear technique used for this analysis operates on a different principle than usual for determining the significance of a model. For each model tested, the null hypothesis is: this model fits the data. A model that is a good fit for the data, therefore, will require a probability large enough not to reject the null hypothesis.

89. This sample is based on a randomly selected number of union members who are em-

Two of these three factors reflect what one might have envisioned as characteristics of a litigious worker. One could have reasonably expected that the litigious worker would be a nonwhite worker and a person who files a greater number of grievances than other workers. These results fit our earlier predictions with the exception that the member's union activity has a positive rather than a negative correlation with filing. Significantly, the litigious individual reflects the changing demographic characteristics of the workplace in that he is likely to be nonwhite and, to a lesser extent, he is likely to be young.

The question which still confronts labor union officials and management, however, is how to devise a vehicle which can effectively and fairly balance the interests and rights of labor, management, government, and the individual worker in such a manner so as to eliminate or decrease the litigation crowding the dockets of courts and administrative agencies.[90] The phenomenon of overlitigation of employment-related disputes has proved to be costly to labor unions, particularly in the area of a union's duty of fair representation.[91] Two suggestions may be applicable. First, given the change in demographic composition of the workplace, a similar representative change within both the ranks of union officials and management representatives may serve to alleviate the expected tensions.[92] Second, labor unions, in attempting to meet duty of fair representation obligations, may wish to consider establishing union public review boards. Interestingly, although the United Auto Workers Union has successfully and voluntarily utilized a

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ployed in the state of Illinois. The sample does not include nonunion members who may have also filed grievances and suits against the employer and the union.

90. *See* Truesdale, *The Duty of Fair Representation: Must It Be Effective To Be Fair?*, 50 DAILY LAB. REP. F-1 to F-4 (1979), in which it is noted that since 1968 there has been a 170% increase in the filing of duty of fair representation claims. *See also NLRB Member Truesdale Questions Direction of Recent Fair Representation Duty Rulings*, 50 DAILY LAB. REP. 10, A-11 to A-12 (1979).

In regard to the amount of litigation under Title VII, see ANNUAL REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS 202-05 (1976):

> The year-to-year increase of cases filed under the Civil Rights Act of 1964 and subsequently under provisions of the Equal Opportunity Act (March 24, 1972), have been staggering. Beginning in 1970, the first year such filings were separately classified, there were only 344 employment civil rights cases filed. Six years later the volume has risen to 5,321 . . . 1,447% greater than in 1970 and 35.4% greater than last year.

Id. at 202.

The tremendous case backlogs and delays that plagued the EEOC administration were primary reasons why Congress, in 1972, granted the EEOC the power to bring lawsuits on behalf of complaining parties. 86 Stat. 113 (1972), 42 U.S.C. § 2000e-17 (1976). *See* S. REP. No. 415, 92d Cong., 1st Sess. 4-8 (1971). By June 30, 1975, the backlog of unresolved charges at EEOC had risen to more than 126,000, suggesting at a minimum that the problems associated with conciliation as an enforcement tool remain. *See* United States General Accounting Office, *EEOC Has Made Limited Progress in Eliminating Employment Discrimination* (1976).

91. As indicated earlier, filers in this study are defined as workers who have filed suits or charges under Title VII and/or § 8(b)(1)(A) or 301 of the LMRA.

92. T. PURCELL & G. CAVANAUGH, BLACKS IN THE INDUSTRIAL WORLD: ISSUES FOR THE MANAGER (1972).

union public review board,[93] only a few other labor organizations have adopted similar procedures.[94] Professor Stephen Goldberg has recently suggested, however, that the United Mine Workers Union consider the adoption of an internal union committee[95] to reduce the pressure on union representatives to take nonmeritorious grievances to arbitration, and to reduce the number of duty of fair representation suits or charges. The possible reduction or elimination of duty of fair representation charges and suits which might result from such union review boards would benefit both labor and management by strengthening the collective bargaining relationship.

The third way in which management and labor may take steps to internally resolve work-related grievances is by reexamining their grievance and arbitration procedures. As suggested earlier, the primacy which labor arbitration once enjoyed in the industrial relations system has been eroded.[96] This erosion has come on the heels of the courts'[97] and administrative agencies'[98] concern for the individual's

93. J. STEIBER, W. OBERER & M. HARRINGTON, DEMOCRACY AND PUBLIC REVIEW: AN ANALYSIS OF THE UAW, PUBLIC REVIEW BOARD (1960).

94. Two labor organizations which have been reported to have impartial review boards are the American Federation of Teachers and the Upholsterers Workers Union.

95. Address of Stephen B. Goldberg, at the Third Annual Seminar, Arbitration in the Coal Industry, Louisville, Kentucky (Nov. 10, 1980).

96. *See* Feller, *supra* note 39. The remarks of Robert Coulson, President of the American Arbitration Association are also particularly noteworthy. Coulson states:

> If grievance arbitration collapses because of the accumulated failings of the professionals who manipulate its control, it will be replaced by a government tribunal which will promise individual workers a fair share of individual justice. This is not a mirage. In every other developed nation, industrial tribunals or labor courts handle the kinds of complaints that we call contract grievances. That same government model for providing individual employment justice is waiting in the wings on the American stage. If our unique form of contractual dispute settlement fails to deserve the continuing loyalties of the American worker, it will be replaced by an all-purpose government employment tribunal.

See Coulson, *Satisfying the Demands of the Employee*, 31 LAB. L.J. 497 (1980).

97. A decision which was perhaps the harbinger of *Gardner-Denver* was Glover v. St. Louis-San Francisco Ry., 393 U.S. 324 (1969), where the Supreme Court held that resort to arbitration will not be required in duty of fair representation cases alleging racial discrimination. Courts have held consistently that the exhaustion of contractual remedies before bringing a Title VII case is not required. *See, e.g.*, Evans v. Local 2127 IBEW, 313 F. Supp. 1354, 1358 (N.D. Ga. 1969); United States v. Georgia Power Co., 201 F. Supp. 538 (N.D. Ga. 1969); King v. Georgia Power Co., 295 F. Supp. 943 (N.D. Ga. 1968); Reese v. Atlantic Steel Co., 282 F. Supp. 905 (N.D. Ga. 1967); Dent v. St. Louis-San Francisco Ry., 265 F. Supp. 56 (N.D. Ala. 1967). The same holds for suits under 42 U.S.C. § 1981. *See* Waters v. Wisconsin Steel Works of Int'l Harvester Co., 502 F.2d 1309, 1316 (7th Cir. 1974). In *Gardner-Denver*, the Court noted the allegation made by Harrell Alexander that he "could not rely on the union" to represent him. 415 U.S. at 42. The Court also recognized the possible lack of harmony in interest which might exist betwen an employee and union in race discrimination cases. 415 U.S. at 58 n.19; *see also* Peper v. Princeton Univ. Bd. of Trustees, 389 A.2d 465, 77 N.J. 55 (1978), in which the New Jersey Supreme Court read *Gardner-Denver* as requiring an employee to file a complaint with EEOC prior to instituting suit under the state human relations act. *Id.* at 475, 77 N.J. at 74. *See also* McMiller v. Bird & Sons, Inc., 376 F. Supp. 1086 (W.D. La. 1974), in which a United States district court stayed further proceedings under § 1981 of the Civil Rights Act of 1866 until the plaintiff-employee had fully utilized the conciliatory procedures under Title VII. In the related arbitral decision the court noted that the arbitrator did not consider the race discrimination issue. In Communication Workers of America v. District of Columbia Comm'n on Human Rights, 13 EMPL. PRAC. GUIDE (CCH) Empl. Prac. Dec. 6330 (1977), the court, relying on *Gardner-Denver*, held that an employee may

statutory rights. In the wake of *Gardner-Denver*, this has led to the increased possibility of frequent and multiple relitigation of unlawful discrimination issues in the arbitral forum and in the courts.[99] Al-

simultaneously file complaints with the EEOC and the District of Columbia Commission on Human Rights. *Id.* at 6331. Under the Fair Labor Standards Act, the question of whether the courts are bound by arbitral awards has not been resolved by the Supreme Court. *See, e.g.*, Iowa Beef Packers, Inc. v. Thompson, 405 U.S. 228 (1972) (*certiorari* is dismissed as improvidently granted to decide whether employees may sue in court to recover overtime compensation if their grievance of alleged statutory violation is also subject to resolution under grievance and arbitration provisions of the collective bargaining agreement); Leone v. Mobil Oil Corp., 523 F.2d 1153 (D.C. Cir. 1975) (employee need not exhaust his contractual remedies before bringing suit under FLSA); Satterwhite v. United Parcel Serv., Inc., 496 F.2d 448 (10th Cir. 1974) (arbitration precludes claim under FLSA); Atterburg v. Anchor Motor Freight, 23 LAB. REL. REP. (BNA) Wage and Hour Cas. 17 (D.C.N.J. 1977) (employees may maintain action under FLSA; however, employees' claims having been submitted to arbitration without prior protest evidences consent on part of parties to abide by final arbitral determination unless claim and finding of breach of duty of fair representation); McGilvray v. Bache, Halsey, Stuart, Inc., 23 LAB. REL. REP. (BNA) Wage and Hour Cas. 572 (Boston (Mass.) Mun. Ct. App. Div. 1977) (Massachusetts state court has jurisdiction under FLSA where it is doubtful whether arbitration panel could consider statutory penalties; therefore, it is questionable whether arbitration panel could or would afford employee his statutory rights of liquidated damages and attorney fees for possible violations of the Act). *See also* Philips v. Carborundum Co., 361 F. Supp. 1016, 1020 (W.D.N.Y. 1973) (suit under FLSA for equal pay: "[R]emitting an employer to arbitration is favored only when the employee's substantial rights are derived from the collective bargaining agreement, when the employee asserts rights derived from a federal statute, 'The presumption of comprehensiveness of the arbitral remedy is . . . rebutted.' "). *See* United States Bulk Carriers, Inc. v. Arguelles, 400 U.S. 351, 362 (1971). Barrentine v. Arkansas-Best Freight Sys., Inc., 47 DAILY LAB. REP. D-1 to D-4 (8th Cir. 1980) (arbitration precludes FLSA suit).

98. Although the NLRB made clear in Electronic Reproduction Serv. Corp., 213 N.L.R.B. 758 (1974), that it would continue to defer to arbitration under Spielberg Mfg. Co., 112 N.L.R.B. 1080 (1955), and Collyer Insulated Wire, 192 N.L.R.B. 837 (1971), the Board has since given greater consideration to the individual's statutory rights and interests. Under General Am. Transp. Corp., 228 N.L.R.B. 808 (1977) and Robinson, Roy, Inc., d/b/a Roy Robinson Chevrolet, 228 N.L.R.B. 878 (1977), the Board held that it has "a statutory duty to hear and to dispose of unfair labor practices and that the Board cannot abdicate or avoid its duty by seeking to cede its jurisdiction to private tribunals." *Id.* at 808. Although rejecting the Fanning-Jenkins thesis, Chairperson Murphy in *Roy Robinson Chevrolet*, which involved an 8(a)(5) refusal to bargain charge, sustained the application of the deferral doctrine. In *General Am. Transp.*, an 8(a)(3) charge, however, Chairperson Murphy concluded "that Collyer deferral seemed inappropriate where individual rights under Section 7 of the NLRA are at stake." By implication, *Roy Robinson* and *General Am. Transp.* will mean that *Collyer* will be limited to 8(a)(5) refusal to bargain cases. Furthermore, the Board has recently further tightened its policy of deferral to arbitration. In Suburban Motor Feight, Inc., 247 N.L.R.B. 2 (1980), the Board held that it will not longer honor the results of an arbitral proceeding in discharge and discipline cases unless the unfair labor practice issue was presented and addressed by the arbitrator. This parallels the Supreme Court's suggestion in *Gardner-Denver*. *See also* Simon-Rose, *Deferral under* Collyer *by the NLRB of Section 8(a)(3) Cases*, 27 LAB. L.J. 201, 209-12 (1976); Schatzki, *Majority Rule, Exclusive Representation, and the Interests of Individual Workers: Should Exclusivity by Abolished?*, 123 U. PA. L. REV. 897, 909 (1975). Moreover, given the courts' increasing focus on the individual rights and the duty of fair representation, the individual employee has another cause of action independent of a union, particularly where the claim is imbued with Title VII implications, *see, e.g.*, Glover v. St. Louis-San Francisco Ry., 393 U.S. 324 (1969). *Cf.* Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965). *See also Highlights: EEOC and NLRB Fail to Agree on a Memorandum of Understanding*, 400 FAIR EMPL. PRAC.: SUMMARY OF LATEST DEVELOPMENTS 1 (1980).

99. Multiple litigation is used here to describe situations where the employee-claimant bases a discrimination claim on several bases (*e.g.*, age, race, sex, religion, handicap, duty of fair representation, etc.). Relitigation is used here to describe situations where the employee-claimant bases a discrimination claim on one basis, but has that same discrimination claim litigated in two or more forums. *Alexander v. Gardner-Denver* is a prime example of relitigation. *See, e.g.*, Siegel, *An*

though rectifying this problem through statutory amendment is possible, many commentators have suggested alternate solutions to the problem as it affects labor arbitration.[100] Labor and management should investigate the feasibility of these alternatives. Given the nature of the litigious worker and the court's concern for the individual's statutory rights, particularly in discrimination disputes,[101] any new arbitral procedure must afford the individual worker some degree of participation in the process.[102] This does not necessarily mean participation in

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End to Multiple Litigation of Non-Meritorious Title VII Discrimination Claims, 28 LAB. L.J. 195 (1977); Meltzer, *The National Labor Relations Act and Racial Discrimination: The More Remedies, the Better?*, 42 U. CHI. L. REV. 1 (1974); Meltzer, *Labor Arbitration and Overlapping and Conflicting Remedies for Employment Discrimination*, 39 U. CHI. L. REV. 30 (1971); Comment, *The Inevitable Interplay of Title VII and the National Labor Relations Act: A New Role for the NLRB*, 123 U. PA. L. REV. 158 (1974).

100. *See, e.g.*, Edwards, *Arbitration of Employment Discrimination Cases: A Proposal for Employer and Union Representatives*, 27 LAB. L.J. 265 (1976); Newman, *Post-Gardner-Denver Developments in Arbitration—1975*, PROCEEDINGS OF THE 28TH ANNUAL MEETING OF THE NATIONAL ACADEMY OF ARBITRATORS 36-38 (B. Dennis & G. Somers eds. 1975); Robinson & Neal, *Arbitration of Employment Discrimination Cases: A Prospectus for the Future*, in ARBITRATION—1976 PROCEEDINGS OF THE 29TH ANNUAL MEETING OF THE NATIONAL ACADEMY OF ARBITRATORS 20-33 (B. Dennis & G. Somers eds. 1970).

101. In footnote 19 of the *Gardner-Denver* opinion, the Court recognized this potential problem. In the Court's words:

> A further concern is the union's exclusive control over the manner and extent to which an individual grievance is presented. See *Vaca v. Sipes*, 386 U.S. 171 (1967); *Republic Steel Co. v. Maddox*, 379 U.S. 650 (1965). In arbitration, as in the collective-bargaining process, the interests of the individual employee may be subordinated to the collective interests of all employees in the bargaining unit. See *J. I. Case Co. v. NLRB*, 321 U.S. 332 (1944). Moreover, *harmony of interest between the union and the individual employee cannot always be presumed, especially where a claim of racial discrimination is made*. See, *e.g.*, *Steele v. Louisville & N.R.R.*, 323 U.S. 192 (1944); *Tunstall v. Brotherhood of Locomotive Fireman*, 323 U.S. 210 (1944). And a breach of the union's duty of fair representation may prove difficult to establish. See *Vaca v. Sipes*, *supra*; *Humphrey v. Moore*, 375 U.S. 335, 342, 348-351 (1964). In this respect, it is noteworthy that Congress thought it necessary to afford the protections of Title VII against unions as well as employers. See 42 U.S.C. § 2000e-2(c).

415 U.S. at 58 (emphasis added).

102. *See generally* Dunau, *Employee Participation in the Grievance Aspect of Collective Bargaining*, 50 COLUM. L. REV. 731 (1950); Kamer, *Employee Participation in Settlement Negotiations and Proceedings Before the OSHEC*, 31 LAB. L.J. 208 (1980).

One of the primary arguments against the third-party intervention approach or worker participation approach may be that it runs against the concept of exclusivity established under the National Labor Relations Act. *See, e.g.*, Schatzki, *Majority Rule, Exclusive Representation, and the Interests of Individual Workers: Should Exclusivity be Abolished?*, 123 U. PA. L. REV. 897 (1975). Having one's counsel or representative in a third-party intervention procedure could effectively operate against the grievant, because the union may choose not to cooperate in the preparation of the case. If there is an apparent "tension" between the union and employer, moreover, the arbitrator may resolve doubts against the employee. *See* Atleson, *Disciplinary Discharge, Arbitration and NLRB Deference*, 20 BUFFALO L. REV. 355 (1971); Meltzer, *Labor Arbitration and Overlapping and Conflicting Remedies for Employment Discrimination*, 39 U. CHI. L. REV. 30, 45-46 (1971). Another concern is that undesignated civil rights groups might attempt to intervene in such disputes without being designated by the grievant. *See* Gould, *Third Party Intervention: Grievance Machinery and Title VII*, in BLACK WORKERS IN WHITE UNIONS, 233-34 (1977). See also Lyght v. Ford Motor Co., 458 F. Supp. 137 (E.D. Mich. 1978) and Strozier v. General Motors Corp., 442 F. Supp. 475 (N.D. Ga. 1977), two post-*Gardner-Denver* decisions in which two district courts noted in large part the fact that the individual-claimants were directly involved in the participation of their respective Title VII claims and settlement and thereby found they "voluntarily and knowingly" waived future Title VII actions and consequently were respectively bound by the earlier settlements. Equally important in both *Strozier* and *Lyght*, the courts focused upon the

the arbitration hearing. Proposals to include the grievant in the process have been advocated by such knowledgeable individuals as Alfred Blumrosen,[103] Robert Coulson,[104] William Gould,[105] Winn Newman,[106] and Arthur B. Smith.[107]

Absent a drastic change in legislation a reasonable decrease in the external litigation of work-related disputes will require the satisfaction, by both labor and management, of the real[108] or perceived needs of the litigious worker.[109] In addition, the worker must perceive that his or her opportunity to "voice" and redress his or her rights is thorough and honest. The alternative, as former National War Labor Board Chair-

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fact that both individual claimants were to some degree provided individual legal counsel or "expert personnel" during the negotiation process of the respective Title VII claims. The court viewed this factor as further evidence of meeting the "knowing and voluntary" settlement test as pronounced in *Gardner-Denver*. By implication it is fair to conclude that two key factors in these decisions were (1) the employee's participation in the settlement process and (2) the fact that the employees received some degree of fair and adequate representation by personal legal counsel or the "expert personnel" of state FEP commission. It would seem that these holdings tend to support the viability of allowing some form of worker-third-party intervention (along with union counsel) in Title VII-related grievances.

However, at this writing, the United States Court of Appeals for the Sixth Circuit has recently reversed *Lyght*, granting the claimant the opportunity to have his discrimination claim for back pay heard in federal court notwithstanding the Michigan Civil Rights Commission written notice that the claimant's claim was "adjusted" and the case closed. In the court's opinion, "Though Title VII evinces a congressional preference for conciliation over litigation, the facts remain that a person who claims injury from discrimination in employment practices is entitled to a hearing in federal court." Lyght v. Ford Motor Co., 54 DAILY LAB. REP. A-8 (6th Cir. 1981).

103. Blumrosen, *Labor Arbitration, EEOC Conciliation, and Discrimination in Employment*, 24 ARBITRATION J. 88 (1969). *See also* Blumrosen, *Bargaining and Equal Employment Opportunity*, 400 FAIR EMPL. PRAC.: SUMMARY OF LATEST DEVELOPMENTS 4 (1980) (reporting on the Fourth Annual Arbitration Day, New York, New York); Blumrosen, *Individual Worker-Employer Arbitration Under Title VII*, in PROCEEDINGS OF NEW YORK UNIVERSITY THIRTY-FIRST ANNUAL NATIONAL CONFERENCE ON LABOR 329-40 (R. Adelman ed. 1978).

104. Coulson, *Title VII Arbitration in Action*, 27 LAB. L.J. 146 (1976). *See also Address by AAA President Robert Coulson on Voluntary Arbitration of Employment Rights Claims and AAA Draft Rules for Such Cases*, 51 DAILY LAB. REP. E-1 to E-4 (1978).

105. Gould, *Labor Arbitration of Grievances Involving Discrimination*, 24 ARBITRATION J. 197, 218 (1969). *See also* Gould, *supra* note 102, at 229-39.

106. Newman, *supra* note 100.

107. Smith, *The Impact on Collective Bargaining of Equal Employment Opportunity Remedies*, 28 INDUS. & LAB. REL. REV. 376 (1975), in which the author states:

> Simply allowing alleged victims of discrimination to participate as parties or intervenors in the labor arbitration process, *although a step in the right direction*, would not completely deal with the Supreme Court's criticism of labor arbitration in the context of employment discrimination because such intervention could not remedy deficiencies in fact finding and decision making emphasized by the Court in *Gardner-Denver*.

Id. at n.31 (emphasis added). *See also* Stallworth, The Arbitration of Discrimination Grievances: An Examination into the Treatment of Sex- and Race-Based Discrimination Grievances by Arbitrators Since World War II, 356-61 (1980) (unpublished Ph.D. dissertation, New York State School of Industrial and Labor Relations, Cornell University).

108. *See, e.g.*, Coulson, *Satisfying the Demands of the Employee*, 31 LAB. L.J. 495-97 (1980).

109. *See, e.g.*, Walker, LaTour, Lind & Thibaut, *Reactions of Participants and Observers to Modes of Adjudication*, 4 J. APPLIED SOC. PSYCH. 295 (1975); Lind, Reactions of Participants to Adjudicated Conflict Resolution: A Cross-Cultural, Experimental Study (1974) (Ph.D. dissertation, University of North Carolina, Chapel Hill); Lind, Erickson, Friedland & Dickenberger, *Reactions to Procedural Models for Adjudicative Conflict Resolution: A Cross-National Study*, 22 J. CONFLICT RESOLUTION 318 (1978).

man William H. Davis warned in 1944, is the loss of control by labor and management over the collective bargaining process.[110]

110. In a speech before the American Management Association on May 24, 1944, dealing with management's stake in collective bargaining, Chairman William H. Davis said:

> It seems to me that management's stake in preserving the collective bargaining process is actually one of survival of management in its present form. Because if management and labor do not collaborate on peaceful, constructive bargaining at the conference table, they face the alternative of having Governmental interference, now tolerated because of war, carried over into peacetime. And, if Governmental participation in labor relations is made a permanent part of our industrial system, both management and labor stand to lose the freedom of action and the essential character they have had in the past.

Williams continued:

> I think I can safely say that such a prospect is one that neither labor nor management nor the Government would look forward to with any pleasure. In America's prewar labor policy it was assumed that the complexities of wages and hours and other management relationships could best be worked out by the parties themselves. The Nation accepted collective bargaining as the best method of solving these problems, and required by law that collective bargaining should be carried on in good faith. Thus, management's stake in collective bargaining is to make it work so that Government can be forced to the sidelines.

See Prevention and Settlement of Labor Disputes, in U.S. NATIONAL WAR LABOR BOARD, THE TERMINATION REPORT OF THE NATIONAL WAR LABOR BOARD 64 n.1 (1947). *See also* Witte, *Wartime Handling of Labor Disputes*, 25 HARV. BUS. REV. 169 (1947). For other scholars who have voiced early concerns about government involvement in industrial relations, *see generally* H. NORTHRUP & G. BLOOM, GOVERNMENT AND LABOR: THE ROLE OF GOVERNMENT IN UNION-MANAGEMENT RELATIONS (1963); G. TAYLOR, GOVERNMENT REGULATION OF INDUSTRIAL RELATIONS (1948).

Appendix A:

I. EDUCATION:

	High school or below	College degree or some college	More than college
Nonfiler	445 94.7%	331 90.9%	22 84.6%
Filer	25 5.3%	33 9.1%	4 15.4%

Raw Chi-Square 6.9 with 2df, Sig=.03
Cramer's V=.09

II. AGE:

	Below 35 years old	36-55 years old	55+ above
Nonfiler	265 91.4%	305 93.6%	181 97.8%
Filer	25 8.6%	21 6.4%	4 2.2%

Chi-Square=8.08 with 2df, Sig=.01

III. IDEOLOGY:

	Conservative	Liberal
Nonfiler	394 94.7%	386 90.8%
Filer	22 5.3%	39 9.2%

Raw Chi-Square=4.7 with 1df, Sig=.02
Adjusted Chi-Square=4.1 with 1df, Sig=.04
Phi=.07

IV. SEX:

	Male	Female
Filers	35 6.7%	28 8.1%
Nonfilers	487 93.3%	317 91.9%

Chi-Square=.42 with 1df, Sig=.51
Adjusted Chi-Square=.61 with 1df, Sig=.43
Phi=.02

SEX SUIT FILERS BY SEX:

	Male	Female
Filers	15 3.0%	12 3.8%
Nonfilers	490 97.0%	303 96.2%

Chi-Square=.71 with 1df, Sig=.39
Adjusted Chi-Square=.42 with 1df, Sig=.59
Phi=.02

V. RACE:

	White	Nonwhite
Nonfiler	558 94.9%	235 88.3%
Filer	30 5.1%	31 11.7%

Raw Chi-Square=11.8 with 1df, Sig=.006
Adjusted Chi-Square=10.8 with 1df, Sig=.001
Phi=.11

RACE CONTROLLED BY SEX:

MALES

	White	Nonwhite
Nonfiler	368 94.8%	114 88.4%
Filer	20 5.2%	15 11.6%

Chi-Square=5.4 with 1df, Sig=.01
Raw Chi-Square=6.4 with 1df, Sig=.01
Phi=.11

RACE CONTROLLED BY SEX:

FEMALES

	White	Nonwhite
Nonfiler	190 95.0%	120 88.2%
Filer	10 5.0%	16 11.8%

Chi-Square=5.1 with 1df, Sig=.02
Raw Chi-Square=4.2 with 1df, Sig=.03
Phi=.12

VI. SINGLE PARENTS:

	Not a parent	Married parent	Single Parent
Nonfiler	572 94.4%	189 90.9%	52 83.9%
Filer	34 5.6%	19 9.1%	10 16.1%

Cramer's V=.11

VII. SENIORITY:

	0-3 years	4-7 years	8 and above
Nonfiler	119 93.7%	145 88.4%	538 93.7%
Filer	8 6.3%	19 11.6%	36 6.3%

Cramer's V=.08

If the data are collapsed at 0-2; 3-7; and 8 and above, the moderate seniority group still files at the highest rate and the result is significant.

VIII. SALARY:

	Low Salary[1]	Medium Salary[2]	High Salary[3]
Nonfiler	137 95.14%	551 92.0%	41 87.2%
Filer	7 4.86%	48 8.0%	6 12.8%

Cramer's V=.06
Chi-Square=3.4 with 2df, Sig=.18

1-Low Salary=Greater than 1 standard deviation below the mean.
2-Medium Salary=± 1 standard deviation around the mean.
3-High Salary=Greater than 1 standard deviation above the mean.

IX. METHOD OF DECISIONMAKING:

	Direct Control	Indirect Control
Nonfiler	508 95.1%	203 89.0%
Filer	26 4.9%	25 11.0%

Adjusted Chi-Square=8.56 with 1df, Sig=.003
Raw Chi-Square=9.51 with 1df, Sig=.002
Phi=.11

X. CONTROL OVER DECISIONS:

	Great or Some Influence	Little or No Influence
Nonfiler	280 92.4%	576 93.0%
Filer	23 7.6%	39 7.0%

Chi-Square=.02 with 1df, Not Significant
Raw Chi-Square=.09 with 1df, Not Significant
Phi=.01

XI. EFFICACY:

	Efficacious	Not Efficacious
Nonfiler	56 87.5%	494 94.6%
Filer	8 12.5%	28 5.4%

Corrected Chi-Square=3.8 with 1df, Sig=.04
Raw Chi-Square=5.0 with 1df, Sig=.02
Phi=.09

XII. GRIEVANCE SATISFACTION:

	Satisfied[1]	Neutral	Dissatisfied[2]
Nonfiler	124 87.3%	76 90.5%	115 79.9%
Filer	18 12.7%	8 9.5%	29 20.1%

Chi-Square=5.59 with 2df, Sig=.06
Cramer's V=.12

1-This is satisfied and very satisfied.
2-This is dissatisfied and very dissatisfied.

Note: There were 502 people who filed no grievances; 98.4% of them were nonfilers.

XIII. BARGAINING SATISFACTION:

	Satisfied	Neutral	Dissatisfied
Filer	23 4.7%	13 7.5%	27 12.9%
Nonfiler	462 95.3%	161 92.5%	182 87.1%

Chi-Square=14.5 with 2df, Sig=.0007
Cramer's V=.12

XIV. UNION ACTIVITY:

	Low in Activity	High in Activity
Filer	32 4.8%	24 14.3%
Nonfiler	628 95.2%	144 85.7%

Chi-Square=18.91 with 1df, Sig=.000
Adjusted Chi-Square=17.45 with 1df, Sig=.000
Phi=.15

XV. GRIEVANCE ACTIVITY:

	Low Number of Grievances[1]	High Number of Grievances
Nonfiler	741 94.4%	60 76.9%
Filer	44 5.6%	18 23.1%

Chi-Square=29.91349 with 1df, Sig=.000
Adjusted Chi-Square=32.48086 with 1df, Sig=.000
Phi=.19400

1-A low number of grievances is 0, 1, or 2. A high number of grievances is 3 or above.

Appendix B

Questions Used in Survey

1. Education:

How many years of education do you have? (*Please circle*)

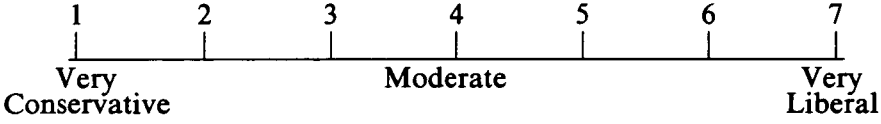
1 2 3 4 5 6 7 8	9 10 11 12	13 14 15 16	17+
Elementary	High School	College	

2. Age:

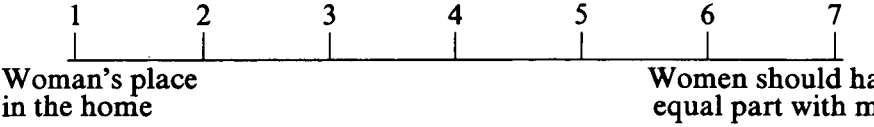
Are you		
	Under 26 years old	1
	26 to 35	2
	36 to 45	3
	46 to 55	4
	56 to 65	5
	Older than 65	6

3. Political Ideology:

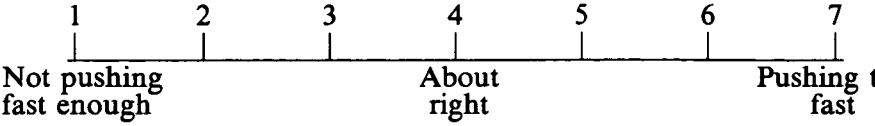
Please circle the number on the scale below that would come closest to your overall political feelings. The scale runs from Very Conservative (1) to Very Liberal (7).



In recent years there has been a lot of talk about women's rights. Some people feel that women should have an equal part with men in running business, industry, and government. Others feel that a woman's place is in the home. Please circle the number on the scale that is closest to the way you feel about this issue.



Some say that civil rights leaders have been pushing too fast. Others feel they have not been pushing fast enough. Please circle the number on this scale that is closest to the way you feel about this.



4. Sex:

Are you	Male	1
	Female	2

5. Race:

Are you	White	1
	Black	2
	Latino	3
	Oriental	4
	Other (*Specify*)_____	
	_____	5

6. "Stakes" Hypothesis: Marital Status and Children

Are you	Married	1
	Separated or divorced	2
	Widowed	3
	Never married	4

How many children live at home with you?

_____ children 12 and younger
_____ children over 12

7. Seniority:

How many years seniority do you have with your [Employer]?

_____ years

8. Salary:

What is your present job classification and grade?
Classification _____
(*Please don't abbreviate*)
Grade _____

9. Satisfaction with Grievance Handling:

Overall, how satisfied are you with the way the union has handled your grievances?

Very satisfied	1
Satisfied	2
Neutral	3
Dissatisfied	4
Very dissatisfied	5
Filed no grievances	6

10. Satisfaction with Contract Bargaining Process:

How satisfied were you with the way the union bargained your last contract?

Very satisfied	1
Satisfied	2
Neutral	3
Dissatisfied	4
Very dissatisfied	5

11. Perception of Union Democracy: Method of Decision-Making in Local:

How do you feel most of the important decisions are made in your local? (*Circle one number*)

Voting by secret ballot	1
Members get together on their own and decide	2
The local union officers made these decisions	3
The decisions get worked out at local union meetings	4
Other (*please describe*) _____	
_____	5

12. Perception of Union Democracy: Control over Union Decisions:

How much influence do you feel you have over decisions in the local union?

A great amount of influence	1
Some influence	2
Very little influence	3
No influence	4

13. Perception of Union Democracy: Efficacy

Would you ever *like* to hold a *local* union office?

Yes	1
No	2
Don't know	3
Already do	4

Do you *expect* that you will hold a *local* union office?

Yes	1
No	2
Don't know	3
Already do	4

14. Union Activity and Leadership:

In the past 3 years have you ever participated in the following union-sponsored activities? (*Answer for each activity*)

		Yes	No
a.	Support of union's political position on local or national issues?	1	2
b.	Community service efforts (United Way, March of Dimes, etc.)	1	2
c.	A strike	1	2
d.	Training program in union leadership (Steward training, for example)	1	2
e.	Union-sponsored educational programs	1	2
f.	Manned a picket line	1	2
g.	Recreation team (bowling, baseball, etc.)	1	2
h.	Health-welfare program (human relations committee, etc.)	1	2

Have you ever held a union office or served on a union committee?

Yes 1
No (*Skip to page 9*) 2

ATTENTION

If you have *never* held a union office or served on a union committee, please SKIP to question 15.

How long have you held each of the following offices? (*If you have not held the office, please answer "0"*)

President ..... _____years
Vice President ..... _____years
Recording or Corresponding Secretary ..... _____years
Treasurer ..... _____years
Delegate to Central Labor Council or Union Convention ..... _____years
Steward or Chief Steward ..... _____years
Bargaining team member ..... _____years
Trustee ..... _____years
Other (*Specify*) ..... _____years

How long have you served on each of these committees? (*If you have not served on a committee, please answer "0"*)

Executive Board or Executive Committee .... _____years
Civil rights committee ..... _____years
Health and Safety (including housekeeping) .. _____years
Grievance committee ..... _____years
Election committee ..... _____years
Constitution committee ..... _____years
Human relations committee ..... _____years
Other (such as Women's committee) ..... _____years

Are you or were you the Chairperson of any of these committees?

Yes 1
No 2

15. Union Activity: Grievance Filing

How many grievances have been filed on your behalf in the last three years?

_____grievances

16. Dependent Variable: Definition of Filers

Have you ever filed a Duty of Fair Representation suit against your Union?

Yes	1
No	2

Have you ever filed ...

	Yes	No
a. a *race* discrimination suit against your Employer?	1	2
against your Union?	1	2
b. a *sex* discrimination suit against your Employer?	1	2
against your Union?	1	2