



## Tom Dwyer Automotive Services Monthly Newsletter for February, 2016

### Our Feature Articles



#### Referral Reward Program yearly wrap-up

And we need YOUR vote to  
pick our yearly winner!



#### Flat Rate Pay influences performance

Both you and your  
Technician deserve better!



#### Pull Back The Curtain... IT'S HERE!

The NEW Sellwood Bridge  
opens February 27<sup>th</sup>

### Our Monthly Columns

#### Tom's Tidbits

Let's make this easy for the  
Pundits

#### "What Now?!!" Toons

Keith Tucker's February Toon

#### Drew's Kitchen

Sirloin and parmesan meatloaf

#### Shop Talk

Here's how your comments  
matter

#### Health Notes-

Health notes cures the  
common cold

#### Sellwood Bridge Update

NEW Bridge opens Feb 27<sup>th</sup>!

#### Book Spotlight

"Deep State" by Mike Lofgren

#### Humorousness

Political cartoons of the  
campaign season

#### Popcorn Shorts

- How Presidential Candidates rank in a bar fight
- Keystone losers say the U.S. owes them \$15 BILLION
- How to spot Fake News
- 15 New Cars to avoid... and other car lists

#### News To Make You Furious

Kiss Your Courts GOODBYE!



# Tom's Tidbits

---

Let's make this easy for the Pundits



Greetings!

For the Punditocracy, the takeaway from the 2016 Primaries so far has been the inexplicable rise of the “outsider” or “insurgent” candidates. Over the past months they’ve all sung the same song... voters are angry, upset, and furious; they’re ready to blow up the system and don’t care who gets hurt. The Talking Heads and the Establishment they represent just can’t seem to understand how normally docile Commoners can be dissatisfied with everything The Man has so generously allowed them. How dare they refuse the officially approved candidates?

Perhaps the answer lies with people like Jeneyah McDonald of Flint, Michigan. Her family is one of the thousands shattered by the criminal negligence of an appointed “City Manager” scrimping dimes at the cost of other people’s lives. Though she still pays for the toxic sludge in her water pipes, Jeneyah must pay for bottled water for drinking, cooking, even bathing. The city gave her a free lead filter but she doesn’t use it. Why? “Even after the filter, I’ve continued to purchase water for lack of trust in what the City of Flint deems as ‘safe’ for residents.”

There, Pundits, is the root of the problem... no trust in a failing Government. Worse, a reason not to trust government. After WWII people broadly and strongly believed the government had their best interests at heart, or at least deserved the benefit of the doubt. From the 60’s on that confidence eroded through decades of war, scandal, lies, corruption, and malfeasance at every level of government. Maybe it was always like this and the people just didn’t have enough information to realize it, but the shades have certainly been lifted from their eyes. Now, in the Information Age, it is tougher to sell the story of “of, by, and for the people”.

It’s irrational to think that the government is “against” us; that their every action is intended to rob our freedoms or herd us bleating into a New World Order. But it would be equally irrational to think that Democracy is working as intended. In today’s America, government responds almost exclusively to the priorities of the powerbrokers and the money they bring with them. Damage to Poor or Middle Class people may be just unintentional collateral damage, but benefits, if there are any, are tepid at best. Voters are angry not just because they may be feeling the ill effects themselves but because they see the damage around them.

With the exceptions of the well-insulated true believers, people in America know the Emperor has no clothes. They laugh at the Establishment candidates and their pitch and seem eager to listen to a candidate who embraces the premise “Government is failing us”. Anger, disillusionment, cynicism, desperation... these aren’t inexplicable and unreasoning reactions of a non-thinking electorate, they’re possibly the most rational responses to a failing political system.

Take Care and Make a Great Day!

A handwritten signature in blue ink, appearing to be "Tom".



# What NOW?!! Toons

Our monthly check in with Keith Tucker



**"WHAT NOW?!!"**

© KEITH TUCKER  
WWW.WHATNOWTOONS.COM

**POP QUIZ-** Here are links to YouTube videos of the Palin/Trump endorsement speech and to the Saturday Night Live version of it. Can you tell the difference?  
(Hint: Watching them won't necessarily be helpful.)



# **“Flat Rate” pay influences performance**

Both you and your Technician deserve better!



One of the major differences between Tom Dwyer Automotive Services and other shops is the fact that we DO NOT rely on Flat-Rate compensation for our Technicians. Under Flat Rate systems, Technicians are paid a set amount (a “Flat Rate”) for each repair operation regardless of the time they actually spend on it, and they aren’t paid at all unless there’s work to be done. Your Technician’s pay may sound like a detail you shouldn’t have to worry about, but we think it can have a huge effect on the quality of auto care and we think you should know exactly why...

## **We hate Flat-Rate!**

Technicians can be compensated in many ways; you will find hourly, salary, and commission-based pay systems or combinations of them out there, but for the last 50 years plus “Flat-Rate” has been the most common form of compensation. Under Flat Rate compensation, Technicians are paid by the number of specific, individual labor operations they perform regardless of the quality of their work. If this sounds like a fair deal, then you should know about the unintended consequences to Flat-Rate compensation. Production-based pay can cause a myopic mindset in the Technician, affect the work being done, bring problems to the work environment, and lower the net value of the work to the client.

## **Technicians; not just mechanics anymore**

Today’s Technicians maintain a diverse and constantly changing skill set that goes beyond mechanical repair to include advanced and evolving computer control systems. Today’s vehicles are rolling networks with multiple controllers, actuators and sensors. “Automotive Technician” currently ranks as one of the most technically challenging careers because it is so equipment, knowledge and synthesis intensive. An experienced professional Technician must be able to perform multi-carline, broad range, mechanical and technical services. Unless a shop only offers basic maintenance with no real repair of any depth, they will have to have these highly skilled professionals on-staff.

When labor guide estimates are used per labor operation to calculate Flat-Rate pay, technicians are required to build their paychecks piece by piece. These highly trained professionals expect and deserve good, *reliable* compensation for the demanding work they do.

## **Flat Rate technicians are not compensated for product quality or time invested.**

Would you prefer that your automotive service technician be compensated for how fast the work is done or for successful participation in a process with a deeper purpose than just profit?

Labor guides provide data for estimates and scheduling but should not be used to dictate a paycheck. Flat-Rate compensation can negatively influence technician motivation, working speed,

attention to detail and overall sense of responsibility to the client and their vehicle. Flat-Rate technicians are, after all, being paid to perform very specific individual labor operations; they are not being paid for attention to detail. The Flat-Rate technician is paid for the completion of specific labor operations; PERIOD. The labor guide may dictate that a given alternator replacement requires 1.9 hours to perform. This time estimate will be used to calculate the technician's wage whether it actually takes them .9 hours or 2.9 hours. Their mission is clear and the field of vision understandably shrinks. The quick completion of individual labor operations becomes a focus, potentially at some sacrifice for the broader concept of taking good care of Client vehicles.

Craftsmanship and attention to detail are not rewarded by Flat-Rate compensation. Exactly the opposite effect is reinforced; speed becomes the only basis for reward. There are Technicians that can maintain a quality product and attention to detail in a Flat-Rate system, but they are rare indeed.

### **Don't blame the technicians for this problem... they didn't create it!**

Flat rate makes sense to numbers-crunching business owners because there is no cost of labor for a Flat Rate technician who is idle. In fact, you can have excess work force; the expense of having two Flat Rate technicians waiting for work is no more expensive for the business than one. When you're on Flat Rate your pay ebbs and flows with the business' available work demand. Sometimes there is more work than can be done and at other times workers stand around idle. Flat Rate pay can cause problems with staff when distribution of more desirable jobs, or in slow periods the scarce work can become contentious. These unpredictable variables can make things more difficult to maintain an environment favorable to the happiness and retention of skilled personnel.

Income is important to worker satisfaction, but the form of compensation is an important part of motivation and performance insuring a steady competent work force. Everyone prefers to do a good job in a logical context. Most professionals would not remain happy in an environment that fails to provide quality goods or services. There is nothing worse than being forced to go through the motions of an inconsistent, needless or poorly done task. Our technicians enjoy being involved in a comprehensive process; keeping a trained eye on the vehicle, watching out for our clients by helping prioritize recommendations and involvement with the records management. Technicians who aren't paid by Flat-Rate can take the time to perform better service.

### **Our approach benefits clients *and* staff**

We believe an environment with steady compensation, an honest mission, and clear job description best serves the client and best keeps the staff loyal and happy. Salary and/or hourly pay helps reinforce the perception that each *complete* vehicle is our responsibility. Through fair and consistent compensation, industry-leading inspections, honest advice, precise estimates, professional guaranteed service, accurate records management, and assuming the responsibility for the complete vehicle, we deliver for our clients *and* our staff.



# Referral Reward Yearly Wrap-up

---

And we need YOUR vote to pick our yearly award!



Your Referrals mean the world to us! Lots of businesses say “thanks” to their customers for referrals, and we do too. For a long time we sent certificates for our Minor Interval Service as thanks, but Tom wanted to make sure our potential clients could be sure there was no ulterior motive to the referral. His solution was our Referral Reward Program, in which we make a donation to the non-profit group of your choice for each new client you send us. Each group you select is entered for Quarterly and Yearly awards as well; in fact we’re announcing 2015’s fourth Quarterly award this month. We’re going to wait a month before we announce our Yearly award though, for a very good reason... we’re asking for your help to choose!

2015, the second year of our Referral Reward Program, is coming to a close with another bang. The program itself is pretty simple: every time a new client says you referred them, we call you to ask which non-profit group you support and we make a donation to them in your name. The group can be any one you care about, whether it’s environmental, political, social, educational, or something we haven’t even thought of. We recognize these groups in our monthly newsletter, but there’s more. Every quarter we pick one group for an additional \$200 award, and at the end of the year we pick one of the year’s groups for a \$500 award.

The program’s been very popular with our clients, and the groups nominated certainly like it as well! Since the program started in 2014, including quarterly and yearly awards, **we have donated over \$10,300 to 162 different groups. \$4,713 of that came this year alone in donations to 78 individual groups.** This month we’re announcing both our fourth quarter awardee and our 2015 yearly winner, but before we do let’s take a look at all the groups who benefitted this past year...

## 2015 Monthly Awards

We closed out the 2015 Referral Reward year with donations to eight different organizations...

[Bark](#) by Lael E.  
[ACLU of Oregon](#) by Ranier G.  
[p:ear](#) by Gradine S.  
[XRAY.FM](#) by Manual G.

[Ducks Unlimited](#) by Donna N.  
[Raphael House](#) by Susan M.  
[Child Aid](#) by Cody L.  
[Oregon Environmental Council](#) by Megan L.

...but that’s just the tip of the iceberg of everyone we gave to this year. Here are all the groups who have received donations in the program in 2015, along with links to each of them. We wish each group continued success, and would like to once again thank our clients for making all this possible!

[Neighborhood Partnerships](#) by Margot J.  
(twice!)  
[Union Gospel Mission](#) by Joy S.  
[LifeWorksNW](#) by Mike S.

[Oregon Food Bank](#) by Mark L.  
[Friends of Tryon Creek](#) by Jake P.  
[backline](#) by Wendy M.  
[Operation Nightwatch](#) by Bill S.

[Willamette RiverKeeper](#) by Melanie G.  
[Oregon Humane Society](#) by Dee H.  
[TREE Fund](#) by Kim R.  
[Workers World Party](#) by Lynn N.  
[Working Families Party](#) by Gary W.  
[Oregon Food Bank](#) by Grace H.  
[Juvenile Diabetes Research Fdn](#) by Steve L.  
[Adventist Hospice](#) by Megan GB  
[Blue Sky Gallery](#) by Eric M  
[Downtown Church](#) by Peggy S  
[Feed the Hungry Global](#) by Phil W.  
[Jesuit High School](#) by David H.  
[JOIN PDX](#) by Hans M.  
[Oregon Humane Society](#) by Catheryn M.  
[p:ear](#) by Joe P.  
[Artichoke Music](#) by Jack K.  
[Children's Cancer Association](#) by Chris F.  
[Dress for Success](#) by Lisa D.  
[Gifford Pinchot Task Force](#) by Pam H.  
[Guide Dogs for the Blind](#) by Randy T.  
[Oregon Humane Society](#) by David H.  
[Oregon Food Bank](#) by John L.  
[Oregon Food Bank](#) by Manuel R.  
[Oregon Food Bank](#) by AJ O.  
[Oregon Food Bank](#) by Steve P.  
[Red Cross](#) by Kevin T  
[Restore Oregon](#) by Mike T.  
[Share Vancouver](#) by Terry T.  
[Union Gospel Mission](#) by Mark E.  
[KBOO Radio](#) by Sheila C.  
[TVW \(Tualitin Valley Workshop\)](#) by Darrin B.  
[Cleveland High School](#) by Kari F.  
[Oregon Humane Society](#) Laura Z.  
[Amnesty International](#) Vaughan R.  
[Oregon Food Bank](#) by AJ O.  
[Oregon Food Bank](#) by Allain M.  
[Portland Waldorf School](#) by Ann Marie B.  
[American Civil Liberties Union](#) by Vaughan R.  
[Natural Resources Defense Council](#) by Jim L.  
[Bernie Sanders 2016](#) by Darin M.  
[Doernbecher Foundation](#) by Tom H.  
[Randall Children's Hospital](#) by Kirsten M.  
[St. Andrew Nativity School](#) by Salina J.  
[Oregon Food Bank](#) by Charles A.  
[Bicycle Transportation Alliance](#) by Craig B.  
[Community Music Center](#) by Jennifer P.  
[It Gets Better Project](#) by Kevin S.  
[SOLV](#) by Jennifer T.

[Portland Animal Welfare Team](#) by Steve B.  
[Catholic Charities](#) by Helen R.  
[Growing Gardens](#) by Matt M.  
[KMHD Radio](#) by Dave J.  
[Raphael House](#) by Katie M.  
[Oregon League Conservation Voters](#) by Carl W.  
[American Red Cross](#) by Bruce P.  
[Families and Communities Together](#) by Jim L.  
[Oregon Humane Society](#) by Marlene M.  
[American Heart Association](#) by Nancy S.  
[Center for Appropriate Transport](#) by Nicole P.  
[Polycystic Kidney Disease Fndn](#) by Veneta S.  
[Randall Children's Hospital](#) by Mark G.  
[Oregon Food Bank](#) by Brad L.  
[Mercy Corps](#) by Jay S.  
[KBOO Radio](#) by Woods S.  
[Oregon Humane Society](#) by Darrin F.  
[Oregon Food Bank](#) by Seth W.  
[Oregon Food Bank](#) by Sue F.  
[Mercy Corps](#) by Josh T.  
[The Breast Cancer Society](#) by Barbara M.  
[Make a Wish](#) by Bryce K.  
[Red Cross](#) by Kristen C.  
[Northwest Pilot Project](#) by Tasha H.  
[Oregon Cultural Trust](#) by Kimberly H.  
[Medical Teams International](#) by Kathy F.  
[Oregon Food Bank](#) by Gary S. and Mark L.  
[Protect Our Winters](#) by Ian D.  
[Planned Parenthood](#) by Karen M.  
[Oregon Food Bank](#) by Mary V.  
[Q Center](#) by Doug K.  
[Bark](#) by Melissa R.  
[KBOO](#) by Pete C.  
[Friends of Trees](#) by Erin W.  
[Little Sisters of the Poor](#) by Sean D.  
[Zenger Farm](#) by Matt M.  
[Bark](#) by Candice L.  
[Fences for Fido](#) by Wayne G.  
[KBOO](#) by Joe D.  
[Aris Bishop Scholarship Fund](#) by Malina N.  
[Native American Youth Association](#) by Dick H.  
[Oregon Food Bank](#) by Dennis M.  
[Oregon Humane Society](#) by Jamie C.  
[Peninsula Children Learning Center](#) by Sophia D.  
[Pongo Fund Pet Food Bank](#) by Mary Chris M.  
[Lewis Elementary PTA](#) by Julie W.  
[Wounded Warrior Project](#) by Shan S.  
[Planned Parenthood](#) by Linda W.

## Quarterly Winners- (Each group received a \$200 additional donation)



### First Quarter- Medical Teams International

Currently based in Tigard, OR, Medical Teams International was founded in 1979 by Ron Post, an Oregon businessman with no medical background. Inspired by refugees fleeing the Khmer Rouge into Thailand, Ron put together 2 dozen medical volunteers to bring supplies and medical care. Less than a month later, he and his volunteers were doing the same in Cambodia's killing fields, and they've never looked back. Today MTI is active in over 30 countries including the US, and has programs in disaster response, mobile dentistry, community health, emergency medical services, medical supply distribution, and medical services and training. And we bet they can still use YOUR help! Please contact MTI at 14150 SW Milton Court, Tigard, OR, 97224, call them at 503-624-1000 or 800-959-4325, or go by their website at [www.MedicalTeams.org](http://www.MedicalTeams.org).



### Second Quarter- Randall Children's Hospital

Every aspect of Randall Children's Hospital has been carefully created to promote maximum care, healing and comfort for our young patients and their families. Serving children from its new state-of-the-art home since 2012, Randall Children's Hospital offers the most modern approach to children's health care— blending the finest in medical services with family-friendly spaces and patient care procedures designed to reduce stress on patients and their families. With specialists in virtually every field of children's medicine – heart, cancer, neurology, orthopedics, neonatal and pediatric intensive care, rehabilitation and more– Randall Children's Hospital is a regional leader in the care of babies, children and teens.



### Third Quarter- p:ear

p:ear builds positive relationships with homeless and transitional youth through education, art and recreation to affirm personal worth and create more meaningful and healthier lives. Each year our programs serve almost 900 homeless and transitional young people ages 15 to 24. To truly exit homelessness, kids must develop the internal strength, skills and foresight to make healthy choices. p:ear provides a safe, non-judgmental environment in which youth are trusted to outgrow unproductive and harmful behaviors. We offer individualized mentoring and education programs in a safe, reliable setting designed to foster trust, build self-esteem and to teach homeless and transitional kids – who all too often are regarded by society as disposable, "hopeless cases" – that they are valuable individuals with a future who have something vital to contribute to this community.

## Our fourth Quarterly award for 2015 (and another check for \$200) goes to...



### Friends of Zenger Farm

Zenger Farm is a working urban farm that models, promotes and educates about sustainable food systems, environmental stewardship, community development and access to good food for all. Zenger Farm's experiential and science-based programs teach youth and adults the importance of food, farming, wetland conservation and environmental stewardship. Participants learn that healthy food comes from healthy soil, which can be anywhere, even in the city. Zenger Farm provides opportunities for community members to get their hands dirty and learn where their food comes from.

With busy Foster Road whizzing by just outside the Zenger Farm gate, first-time visitors may be surprised to find a working farm right here in the city. Zenger Farm grows four acres of mixed vegetables and fruits, raises laying hens year-round and turkeys seasonally. They raise bees for the



production of honey and the pollination of annual and perennial food crops, and keep a large population of Red Wiggler worms to compost farm waste.

Zenger Farm uses sustainable farm practices to grow safe and healthy food today, and protect their urban parcel of farmland and the downhill wetland for generations to come. They do not use chemical fertilizers or pesticides, but instead, provide habitat for a diverse population of beneficial insects, and rotate a flock of laying hens throughout the farm fields to control weeds and provide nutrients for the soil.

While the average bite of food travels 1500 miles to get from farm to fork, produce grown at Zenger Farm stays right here in Portland, Oregon. You can find Zenger Farm veggies at local restaurants and farmers markets, or enjoy a share of the farm's harvest weekly from June-November.



## **And here's where we need you... PLEASE VOTE FOR OUR YEARLY WINNER!**

Our clients make the Monthly individual awards easy... they pick the group, we send the check. Things get much more difficult when it comes to picking our Quarterly and Yearly award winners. It's an agonizing choice decide between so many worthy groups, all of whom are doing great work, and all of whom would put every dime to good

use. We picked last year's Yearly winner ourselves and we'll keep the choice of the Quarterly awards in-house too, but we're going to put the tough choice of picking this year's winner on your shoulders.

## **PLEASE PICK YOUR FAVORITE GROUP FROM THE ABOVE LIST OF ALL OUR 2015 AWARDEES**

Pick any of the groups from the list and send an email to Charles Letherwood, our North American Director of Referral Award Contests, at [Charles@tomdwyer.com](mailto:Charles@tomdwyer.com). Please include "Yearly Award" in your subject line so we're sure to catch it. Please vote only once, and the **deadline for voting is Feb 29, 2016**. Thanks for your help!

### **Referral Reward Program details**

Now that we've told you about the success of the Referral Reward Program so far, we hope you'll want to take part. The Program really is as straightforward as it sounds, but in anything like this there's always some fine print. Here's all the details, and we hope you'll use them to donate to your favorite charity soon!

- For every new client who tells us they came in because of your recommendation, we'll donate 20% (up to \$50) of the qualifying purchases from their first invoice to the non-profit group of your choice. This offer only applies to new, first-time clients who come to us through your referral.
- The person you refer must have a 15-year-old-or-newer vehicle of a type we service. Sorry, but our 1998-and-newer policy still has to apply, and we can't help with their Lamborghinis or 18-wheel

trucks. (We should remind you that the “15-year-old-or-newer” restriction applies ONLY to NEW clients. If we’ve been servicing YOUR older vehicles, we’ll gladly continue to do so!)

- Once someone mentions your referral, we’ll contact you for information on the organization you’d like us to donate to. You can choose any environmental, political, social, community, or other non-profit group you support, but we do reserve the right to refuse to donate to them if we find them inappropriate for some reason. In the unlikely situation that we refuse your group, we will either ask you to choose another group or we will issue you a personal coupon for 20% off labor costs on your next visit.
- You can refer a friend, family member, co-worker, or any random person on the street that you think needs superior automotive care, but the person must mention you by name as a referral source to qualify. We ask every new client how they heard about us, but if they don’t tell us YOU referred them then we can’t make the donation YOU want.
- We’ll be thankful for anyone you send us, but spending for oil changes, tires, and batteries won’t count toward their qualifying purchases.
- Each quarter we’ll highlight a group in our newsletter and make an additional donation of up to \$200.00 to their cause. At the end of the year we’ll highlight another group in our newsletter and make an additional donation of up to \$500.00 to their cause.

# **Pull Back The Curtain... IT'S HERE!**

The NEW Sellwood Bridge opens February 27



Well, this is an article we've been eager to write since construction started on the new Sellwood Bridge in 2012. Believe it or not, after almost 4 years of construction...

## **THE NEW SELLWOOD BRIDGE GRAND OPENING WILL BE ON FEBRUARY 27, 2016!!**

The project won't be completely finished until November because there's still extensive work on the West Side, final tie-in and make-pretty work across the whole project, and of course the old bridge (which we've all been driving on for the past 4 years) has to be demolished. But the New Bridge, the one we've all been waiting for, will be open with traffic flowing safely and smoothly along a span that is extremely unlikely to fall in the river. Multnomah County and the Sellwood Neighborhood are throwing a party to celebrate, so we'd like to extend an official invitation to the festivities and tell you what to expect from the weekend's events...

### **Thursday, 2/25- Candlelight Goodbye, 730-830pm**

The first thing you need to know is although the big party is Saturday, Feb 27, things actually start earlier. On Thursday, Feb 25, the bridge will close after the rush hour traffic at 7p. We'll let Multnomah County [explain things from there...](#)

"Fans of the old Sellwood Bridge will have one last chance to say goodbye. The old bridge will permanently close to traffic that day at 7 pm. From 7:30 – 8:30 pm, and residents can walk across the 90-year old bridge one last time to say goodbye. Bring your flashlights, electric candles, and phone lights for this candlelight event. A bagpiper in kilts will lead the gathered friends of the old bridge as we bid it farewell.

Participants should assemble on Grand Avenue off of Spokane street (near the bridge's north sidewalk) no earlier than 7 pm. The procession starts at 7:30 pm. We'll have time to walk from east to west and back again. The bridge will need to be cleared by 8:30 pm so that work to set up the new bridge for traffic can begin."

### **Friday, 2/26- Construction and cleanup**

Once all the mourners have gone, the detour bridge (the current bridge) will be completely closed to all traffic (cars, trucks, bikes, and pedestrians) so crews can dismantle the jump span between the bridges and prepare for Saturday's extravaganza.

### **Saturday, 2/27- Opening Celebration, Noon to 4pm**

The main event is Saturday from Noon to 4p. Again, we'll let Multnomah County give you the details...



Due to limited parking, Sellwood neighbors are encouraged to walk or bike to the event. Bicycle parking will be provided at the east end of the bridge. Dress warm and bring an umbrella!

## Sunday and Monday, 2/28-2/29 Final construction and cleanup

**Tuesday, 3/1- Bridge fully opens to traffic!**

## What's still left to be done?

## How can I stay up-to-date through the rest of the project?

But really, the best way to stay up on any aspect of the Sellwood Bridge Project is to go to the incredible [SellwoodBridge.org](https://sellwoodbridge.org). This County website has full information on history and construction along with photos, drawings, videos, and more.



# **Drew's Kitchen**

## **Sirloin and Parmesan Meatloaf**



February brings a hearty favorite that will feed the family for several nights. Pull a chair up to the table and dig in to this comfort-food favorite...

### **Sirloin and Parmesan Meatloaf**

#### **Ingredients:**

- 1 tbsp olive oil
- 2 cups chopped red onion (abt 1 large)
- 6 garlic cloves, minced
- ½ cup ketchup, divided
- 1 ¾ pounds 90% lean ground sirloin
- 1 ½ cups fresh whole-wheat breadcrumbs
- ¼ cup chopped fresh basil
- 1 tbsp spicy brown mustard
- ½ tsp kosher salt
- ½ tsp freshly ground black pepper
- 3 oz Parmesan cheese, grated (abt ¾ cup)
- 2 large eggs

#### **Preparation:**

- For even shaping, use a loaf pan as a mold to shape the meat loaf; then invert onto the baking sheet
- Preheat oven to 375°
- Heat a large nonstick skillet over medium-high heat. Add oil; swirl to coat.
- Add onion and garlic; sauté 5 min. Cool slightly.
- Combine onion mixture, ¼ cup ketchup, and remaining ingredients in a large bowl, stirring just until combined.
- Press beef mixture into a 9x5 inch loaf pan. Invert pan onto a foil-lined baking sheet. Remove loaf pan.
- Bake meat loaf at 375° for 45 min. Brush top with remaining ¼ cup ketchup.
- Bake at 375° for 10 minutes or until a thermometer inserted into the center registers 155°.
- Let stand 10 minutes. Cut into 8 slices

#### **Cooking time**

Hands-on time 15 min; Total cooking time 1 hr 15 min

#### **Serves 8**

#### **Nutrition**

284 calories; 14.5g fat (5.8g sat, 6.2g mono, .9g poly), 26g protein, 11g carb, 1g fiber, 117mg chol, 3mg iron, 585mg sodium, 156mg calcium.

# Shop Talk

Here's how your comments matter



## Comment of the Month

*Deanna D. said, "Thanks for the painted door. It looks nice!"*

A painted door might not sound like it deserves "Comment of the Month", but look closer... a couple months ago we got a Comment Card (perhaps coincidentally from a 'Deanna D.') mentioning that our office door was looking a little shabby. We painted it a beautiful Dwyer blue and voila, Deanna wrote to say thanks. The point is that those Comment Cards you get in your front seat after service aren't just junkmail. We read every one, and we use your suggestions to improve whenever and wherever we can, even on a seemingly small detail like a door that needs painting. Please, take a minute or two to fill out your Comment Card and tell us what we're doing right, and maybe even more importantly, what we're doing wrong. It's not a waste of your time... your opinion is VITAL to us!



Now that we're well into 2016, let's see how those Comment Card results were doing as 2015 came to a close. We're pretty proud of these results, but will do everything we can to see those "Yes" percentages going up even farther this year!

## **16, 026 Total Comment Cards in count**

Question	Yes	No	%
<b>Was your vehicle completed within the estimate?</b>	15836	190	<b>98.81%</b>
<b>Was your vehicle completed on schedule?</b>	15783	242	<b>98.48%</b>
Did you understand the repairs recommended?	15975	51	99.68%
Was the work performed explained to you?	15982	44	99.72%
Were the personnel courteous and professional?	16008	18	99.89%
Was your vehicle as clean as you left it?	15939	87	99.45%
Were you satisfied with your service experience?	15982	44	99.72%
Would you recommend us to a friend?	15996	30	99.81%





## **Referral Reward Program**

We started our Referral Reward Program because Tom wanted a tangible way to say "Thanks!" for your all-important referrals without actually bribing you with things like oil changes. The program is simple... every time a new client comes in and gives your name as a referral source, we call you and make a donation to the non-profit group of your choice. The donation isn't huge... it varies from \$10-\$50 based on the size of the new client's first visit spending (excluding tires, batteries, and oil changes), but those small checks can really add up! The numbers go up a little more when you include our \$200 Quarterly and \$500 yearly donations as well!

We're very proud of this unique program, and want to share the good news with you. Please read this month's Feature article, "Referral Reward Yearly Wrap-up" to learn about the groups we've helped in 2015 and since the program began. Most importantly, you can also find out how to

## **Vote for our 2015 Yearly Winner group!**

Thank you to everyone for referring your friends and neighbors to our shop. There can be no higher compliment, and we appreciate the continued support shown by all our clients. We hope to help one of your friends soon, and we hope you vote in this year's contest!



## **Your reviews and referrals matter**

We are constantly grateful for the supportive and loyal clients we have developed over the years. Your comments and appreciation keep us on the right road to providing the superior automotive service you deserve. Your reviews and referrals are not only the highest compliments we can receive, but they're the lifeblood of our new business. If you like what you've found at Tom Dwyer Automotive Services, please tell a friend or take a minute to write a review on [Yelp](#), [Angieslist](#), [Google](#), or the review site of your choice. Thank you!



## **Latest Automotive Recalls**

Automobiles are just like any other product; occasional flaws in manufacture or design can cause problems once they leave the factory. When an issue is identified the manufacturers and government work hard to bring the vehicles back in for refit or repair, but not all recalls make the front pages. The National Highway Traffic Safety Administration maintains a [constantly updated list of recalls from every manufacturer](#). The last month's recalls are below, but clicking the button at right will take you to the full list at the NHTSA website.

# Health Notes

## Health Notes Cures the Common Cold



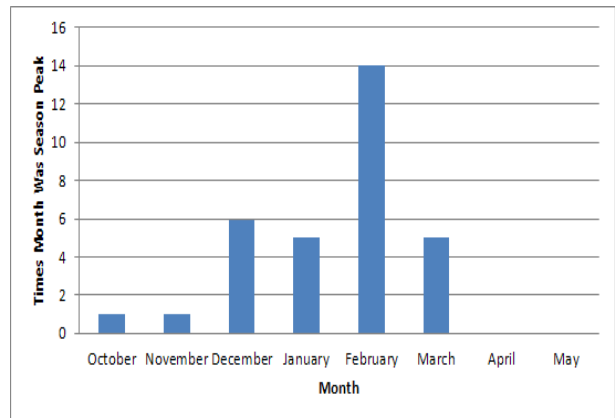
Wow! Look at that graph! February is historically the worst month for cold and flu cases, so we imagine there are several of you reading this newsletter from your beds right now. If there's ever a time that Health Notes would come in handy, February is apparently it...

[Do's and don'ts for common colds](#)- BBC Future, Dec 2014

The old cures for the common cold can seem laughable in light of modern medicine, yet the apparent benefits of many of the treatments we take for granted today – such as dosing up on vitamins or snorting salt water – evaporate under scrutiny. So what works and what doesn't? BBC Future has sifted through the evidence to find out...

[10 tips to ease flu symptoms](#)- Web MD

Are you or someone in your house sick with the flu? There's no cure, but there are some natural ways to ease your symptoms. Give these a try today...



[8 tips to treat colds and flu the 'natural way'](#) - Web MD

With no cure in sight for the cold or the flu, over-the-counter treatments can at best bring symptom relief or shorten the duration of those symptoms. Or you can take the natural approach. WebMD explores some home remedies that may help you feel better along the way...

[CDC says 'Take 3' actions to fight the flu](#) - Centers for Disease Control

Flu is a serious contagious disease that can lead to hospitalization and even death. CDC urges you to take the following actions to protect yourself and others from influenza (the flu)...

[The flu: What to do if you get sick](#) - Centers for Disease Control

Most people with the flu have mild illness and do not need medical care or antiviral drugs. If you get sick with flu symptoms, in most cases, you should stay home and avoid contact with other people except to get medical care. Here are some tips to make your time with the flu a little easier...

[5 ways to fight the flu](#)- TeensHealth.org

The flu is annoying enough on its own, so it doesn't help that flu season falls at one of the most exciting times of the year. To avoid missing out on sports events, Halloween parties, Thanksgiving feasts, and holiday fun, follow these tips...

[Trouble swallowing pills? Try the 'pop bottle' or the 'lean forward'](#) - NPR Health News

As a kid, I'd bury pills under sofa cushions or hide them under carpets. I'd hide them under my tongue and spit them out later. My parents tried everything, including hiding tablets in food, but I was way too smart to fall for that. Things have improved slightly since then. With adulthood comes the realization that we must all be prepared to take a few bitter pills, but I still gag on Tylenols and crush up my antibiotics. So when researchers in Germany said they have come up with techniques that could end my pill-swallowing troubles for good, I was intrigued...

# **Sellwood Bridge Update**

February 27 is the Big Day



The NEW Sellwood Bridge will OPEN to traffic on February 27, and our “Sellwood Bridge Update” staff is taking the month off to celebrate. Please read this month’s Feature article, “Pull Back The Curtain... IT’S HERE!” for all the details.



As always, Multnomah County maintains the definitive website on everything related to the Sellwood Bridge Replacement project, [www.sellwoodbridge.org](http://www.sellwoodbridge.org). Construction and closure alerts, archived information, and other resources are all available 24/7 for your convenience. If you’re looking for something that’s not on the website, you can contact Mike Pullen ([mike.j.pullen@multco.us](mailto:mike.j.pullen@multco.us), 503-209-4111) or visit [www.sellwoodbridge.org](http://www.sellwoodbridge.org).

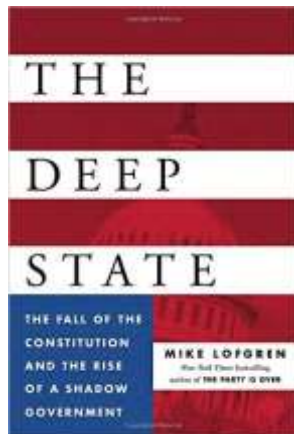


# **Book Spotlight**

## **“Deep State” by Mike Lofgren**



The Primaries are under way, and we’re 9 months away from the 2016 Presidential Election. Concerned citizens from every point on the political spectrum will be wearing strange political costumes, chanting odd chants, buttonholing their friends and family, and working their butts off for their candidate. But does it really matter? Mike Lofgren, in his book “The Deep State”, argues that it really doesn’t. Our government is controlled not by unelected powerbrokers and functionaries who care little about who’s sitting at the top. Is he right? You won’t know unless you read his new book...



### **“Deep State” by Mike Lofgren**

*(click the book cover to go to the Powells.com site)*

Mike Lofgren is back with a book perfectly pitched for the frenzied circus of the primaries. His argument this time is that for all of the backstabbing and money grubbing of the campaign season, the politicians we elect have as little ability to shift policy as Communist party apparatchiks.

Welcome to Mike Lofgren’s Washington, D.C.—a This Town, where the political theater that is endlessly tweeted and blogged about has nothing to do with actual decision making. The real work gets done behind the scenes by invisible bureaucrats working for the vast web of agencies that actually dictate our foreign policy, defense posture, and security decisions. Have you ever wondered why Obama’s policies look so much like Bush’s? Seek no further: Hillary v. Jeb is just window dressing. Actual power lies in the Deep State, Washington’s shadowy power elite, in the pockets of corporate interests and dependent on the moguls of Silicon Valley, whose data-collecting systems enable the U.S. government to spy on our every move, swipe, and click.

Drawing on insider knowledge gleaned in his three decades on the Hill, Lofgren offers a provocative wake-up call to Americans and urges them to fight to reinstate the basic premise of the Constitution.

[Read the Salon interview with Mike Lofgren about “Deep State” here](#)

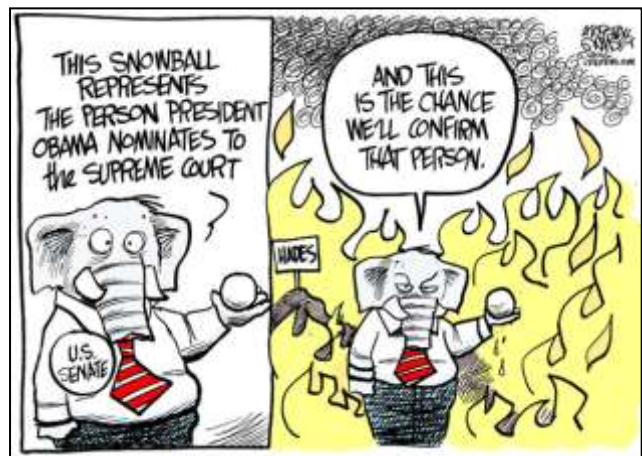
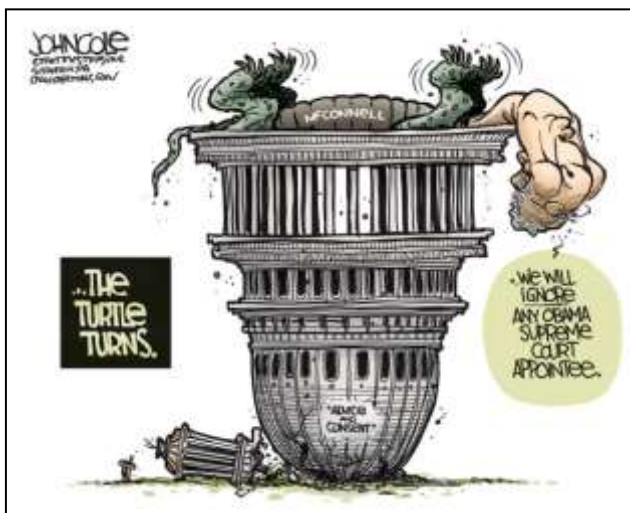
# Humorousness

## Political cartoons of the campaign season

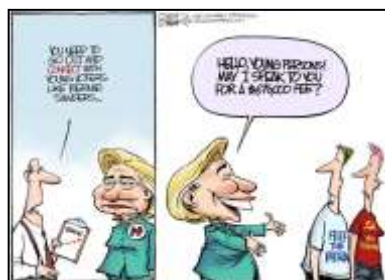
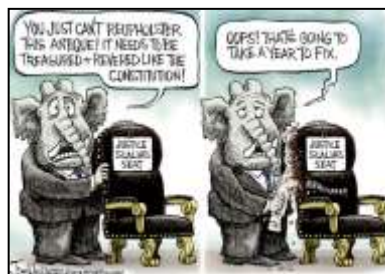
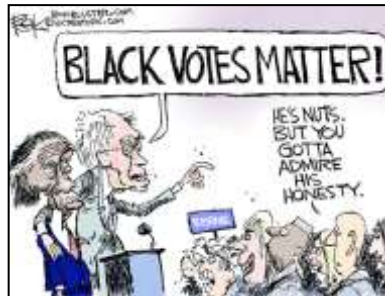
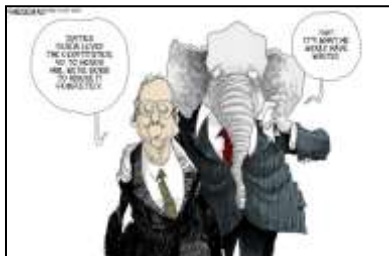
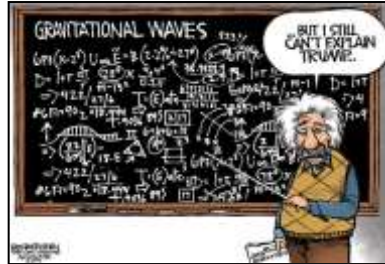


The runup to the Presidential Election can be some pretty grim slogging, with unqualified candidates punching and kicking each other over empty rhetoric while they ignore the serious stuff that people actually care about. But at the Humorousness newsdesk, we say if you can't beat 'em, join 'em! This month's Humorous will take a page from the candidates, and enjoy the punching and kicking while ignoring the important things. Join us for a sampling of political cartoons from the past few weeks, and a source on where you can get many, many more...

This selection of cartoons comes from [The Week magazine](#), available online at . Their political cartoons are on [their Cartoon page](#), where you can subscribe to a weekly cartoon newsletter as well.







# Popcorn Shorts

Cool stuff that's too small for a big article



Just like it says, Popcorn Shorts is about the kind of things we think are really interesting, but don't really need a large article to explain them. From the sublime to the ridiculous, check in here for crunchy bits of info you'll love to munch. Much (but not all) of our delicious Popcorn comes from articles we've posted on [our Facebook page](#). If you're on Facebook, please stop by and "Like" us and we'll keep a fairly-constant-but-not-frequent-enough-to-be-annoying stream of these coming to your virtual door!



## Which Presidential Candidate would have your back in a bar fight?



A new standard to judge politicians has arisen in the past several years... which one would you want to have a beer with? It's supposed to get to the humanity and authenticity of the candidate, and it does probably make us think about these idealized people in a slightly more human way. But let's say you've had that beer with your candidate; maybe even a few too many beers with a few too many candidates. In today's political climate it's all too likely a fight would break out in your imaginary bar, so when the fists and bottles start flying which candidate would you want at your side? Read this [list of Candidates Ranked By Their Usefulness In A Bar Fight](#) and be surprised by some, but not all, of the results.

## Keystone losers say the U.S. owes them \$15 BILLION



The Man tells us the TPP would not threaten our law and justice system, but this story gets in the way of the propaganda... TransCanada, the Canadian company behind the cancelled [Keystone XL pipeline, has filed a claim arguing that under NAFTA it is entitled to \\$15 billion](#) in compensatory damages because of the cancellation. The claim will be decided by a private NAFTA arbitration panel, not the American legal system. Every decision, EVERY LAW, affects the ability of SOME entity to make money, so it's hard to see how an award to them would signal the end of any ability to make law without gigantic payouts to anyone who can hire a lawyer. But we'll see.

## How to spot Fake News



The Flint Water Crisis seems impossible yet it's true, and in reading about it we ran across two Flint stories that seem plausible but are false. (Residents are NOT having their children taken by the state for lack of running water (<http://www.snopes.com/flint-water-crisis-cps/>), and residents are NOT legally forbidden from selling their homes due to existing lead problems (<http://www.snopes.com/illegal-sell-homes-flint/>)). In a situation as serious as Flint's there's an obvious danger in rumor being repeated as truth so we posted [a link on How To Spot Fake News](#). We think the popularity of this post among our Facebook Followers is a true compliment to their respect for REAL information.

## 15 New cars to avoid



The average New Car price is right around \$30K, making cars the second-most-expensive item most people buy in their lifetimes (after their homes). Our clients frequently ask us for advice on which cars to buy (or avoid), and while we're always happy to help there are other recommendations out there as well. [Forbes magazine recently released their list of 15 cars to avoid](#), based on rankings for initial quality, long-term reliability, scores for performance and design, and rankings for resale value. Get their list here, then go on to see their lists for Best SUV's, Best Cars To Own, 10 Best Cars, and more. Just make sure you come back to discuss everything you've learned with us!



# News To Make You Furious

## Kiss Your Courts Goodbye!



You remember paragraph 14 of the User Agreement you accepted when you signed up for the Pickle-of-the-Month Club? No? Well, of course not, no one reads those things! But maybe we should. Nowadays, paragraph 14 contains an innocent-sounding clause that says disputes will be settled by arbitration instead of the courts. None of us takes that clause seriously but if you ever have a conflict with the company you could find yourself, not in a courtroom, but across the conference table from an arbitrator. This “neutral party” is most frequently a retired judge or corporate lawyer, and is routinely paid by the companies you’ll be fighting. Though arbitrators are theoretically guided by the law they are not bound by it, and there is no appeal from an arbitrator’s decision...

Arbitration started as an inexpensive alternative to lawsuits between corporations, where it might have made sense as a neutral battleground between equals. But arbitration has exploded into pervasive use between companies and individuals, and the power dynamic is not the same at all. The company has all the power in this situation and you have no negotiating ability whatsoever. Sure, it’s a contract and you’re perfectly free to say no and take your business elsewhere, but if you do, say goodbye to your credit card, cellphone, cable, internet, online shopping, car rental, hospital care, and even your job. And already there may not be much “elsewhere” to take your business to... forced arbitration is used not just by a couple bad apples but by [virtually every large company in virtually every industry](#) with more smaller companies coming on board every day. And though it purports to be a neutral venue, one study found that [94% of rulings](#) went against consumers.

Wise people might not waste their time just being angry about this; they might choose to band together with other people who have been similarly wronged and fight. Not so fast! Recent Supreme Court decisions make filing class action lawsuits difficult or impossible. It’s very much in a company’s interest to defraud thousands or even millions of customers of small amounts, yet it’s rarely worth an attorney’s time to take a case where an individual has lost a few tens or even a few thousands of dollars. In medical suits, class action suits allow groups who have been harmed by defective devices or drugs to retain experts or subpoena companies for information. Without class action these expenses must be borne by each individual, and information gained from one subpoena can’t be shared with other litigants.

One further “feature” of arbitration is that it can allow standards other than simply law to prevail. Many religious groups, and even non-religious companies, can and do require arbitration under “scriptural” standards. Well, at least until they lose. Some companies that have lost under scriptural arbitration turn have later turned to secular law to have their scriptural decisions overturned.

The standard of law isn’t ease, economics, or efficiency. The standard of law is justice. The Rule of Law doesn’t exist without a Court system, and “equal before the law” has no meaning if we cannot stand before the bar of law to be judged. Men and women around the world have fought and died for the Rule of Law and impartial courts with the ability to enforce that law. We think it’s infuriating to see those bloody gains flushed down the toilet of expediency to satisfy the avarice of mindless conglomerates. But we’ll see if you agree...

**Arbitration Agreements**, Q&A on WorkplaceFairness website, Nov 2000

1. What is arbitration?
  2. What is forced arbitration?
  3. Is arbitration bad?
- (continues through 18 points)

**Beware The Fine Print**, 3-part Series, Jessica Naudziunas, Michael Corkery, and Poh Si Teng in the NY Times, Nov 2015

[Part 1- "Beware The Fine Print" \(Video\)](#)

[Part 2- In Arbitration, a 'Privatization of the Justice System'](#)

[Part 3- In Religious Arbitration, Scripture is the Rule of Law](#)

**Eliminating Forced Arbitration**, Alliance for Justice website

Forced arbitration clauses routinely are inserted into the fine print of contracts that people must sign to buy a product or service or get a job. Spotify uses forced arbitration—a fact AFJ was prohibited from advertising on the service. Five of the largest banks in the country, PNC, Wells Fargo, JPMorgan Chase, Citigroup and US Bancorp, all use it. A recent petition signed by more than 100,000 consumers and activists called on them to end the practice. And many popular online services—Netflix, Instagram, Snapchat, and Amazon, for example—all use it as well. Under forced arbitration, individual consumers or employees must fight it out before a private arbitrator essentially chosen by the company that cheated or discriminated against them. Arbitrators do not need to be lawyers or follow precedent, yet their word is nearly always final and unappealable.



Click here for Alliance for Justice's video "[Lost in the Fine Print](#)"

**SCOTUSBlog Special Feature: Arbitration**, Multiple authors on the SCOTUSBlog website

**Mandatory Arbitration Stacks Deck Against Credit Cardholders, Data Show**, Public Citizen website, Sep 2007

Consumers who seek justice in disputes with their credit card companies shouldn't expect to find it in binding mandatory arbitration (BMA); in cases decided in California by a major arbitration firm over a four-year period, consumers lost 94 percent of the time, a new Public Citizen report shows. Further, virtually all were collection cases filed against consumers by credit card companies or firms that buy debts from these companies, indicating that credit card companies are using arbitration as a means to collect debts. The report, "The Arbitration Trap: How Credit Card Companies Ensnare Consumers," was released at a press conference today with lawmakers who have introduced legislation to protect consumers from arbitration, and a victim of unfair arbitration proceedings.

**Arbitration Everywhere, Stacking the Deck of Justice**, Jessica Silver-Greenberg and Robert Gebeloff in the NY Times, Oct 2015

On Page 5 of a credit card contract used by American Express, beneath an explainer on interest rates and late fees, past the details about annual membership, is a clause that most customers probably miss. If cardholders have a problem with their account, American Express explains, the company "may elect to resolve any claim by individual arbitration." Those nine words are at the center of a far-reaching power play orchestrated by American corporations, an investigation by The New York Times has found. By inserting individual arbitration clauses into a soaring number of consumer and employment contracts, companies like American Express devised a way to circumvent the courts and bar people from joining together in class-action lawsuits, realistically the only tool citizens have to fight illegal or deceitful business practices.

**Thrown Out of Court**, Lina Khan in Washington Monthly, Aug 2014

Late last year a massive data hack at Target exposed as many as 110 million consumers around the country to identity theft and fraud. As details of its lax computer security oversight came to light, customers whose passwords and credit card numbers had been stolen banded together to file dozens of class-action lawsuits against the mega-chain-store company. A judge presiding over a consolidated suit will now sort out how much damage was done and how much Target may owe the victims of its negligence. As the case proceeds, documents and testimony pertaining to how the breach occurred will become part of the public record.

All this may seem like an archetypal story of our times, combining corporate misconduct, cyber-crime, and high-stakes litigation. But for those who follow the cutting edge of corporate law, a central part of this saga is almost antiquarian: the part where Target must actually face its accusers in court and the public gets to know what went awry and whether justice gets done.

**How Consumers Are Getting Screwed by Court-Enforced Arbitration**, Herman Schwartz in The Nation, Jul 2014

For more than forty years, the Supreme Court's conservatives have been engaged in a campaign to shut the courthouse door to consumers, working people, small businesses and others seeking redress for corporate wrongdoing. In recent years, and especially since Chief Justice John Roberts and Associate Justice Samuel Alito joined the Court, a major weapon in this campaign has been the Federal Arbitration Act (FAA) of 1925. The conservatives have used the act to prevent victims of such abuses from seeking redress in the courts, forcing them into pre-dispute arbitration instead. In doing so, they lose a public trial, a jury and a neutral judge, as well as an appeal to a higher court; in many cases they may also have to give up discovery rights. It is not uncommon for them to wind up before an arbitrator who is dependent upon the defendant's business community for work and fees, and who may not even be legally trained. Not surprisingly, those forced into arbitration almost always fare much worse than they would in court.

**A Cereal. A Rabbi. A Peppercorn.**, Richard Goldfarb on Food Liability Law, May 2014

What can you say about an internet contracting strategy that died? I'm referring, of course, to General Mills' abortive attempt to include new terms of service on all its internet and social media products, including an agreement to arbitrate and to waive any right to a class action, that came and went so fast I couldn't blog about it until it was over. If you're on Facebook or Twitter, you probably had a friend, like I did, who tried to turn the tables on General Mills and posted some snarky "terms of service" for themselves. As you might guess, those aren't enforceable. What about what General Mills did? Putting aside the market, especially the PR market, speaking quite loudly

about it, to what extent might it have worked? That's a critical question that involves not just contract law, but the Federal Arbitration Act and the Supremacy Clause of the U.S. Constitution, and it's something on which the U.S. Supreme Court has a view that's not too hard to discern. What I've tried to do is to analyze it in a more systematic way than simply piling on with conventional wisdom.

#### [General Mills Says If You 'Like' Cheerios On Facebook, You Can No Longer Sue](#), Mike Masnick on TechDirt, Apr 2014

Three years ago when the Supreme Court ruled in *AT&T Mobility v. Concepcion*, basically allowing binding arbitration clauses in contracts to exclude class action suits, we noted that it was an unfortunate pitting of a broken class action system against a broken arbitration system. Both arbitration and class action lawsuits may have some good features -- and the concepts behind each sound good, but both have been abused to extreme levels. On the class action side, often these lawsuits have little to do with righting wrongs, and very much to do with big paydays for lawyers (and some companies even turn class action lawsuits into marketing opportunities).

On the arbitration side, while the theory of having a neutral third party settle the dispute without having to go through an expensive litigation process certainly sounds good, the reality is quite different. Since arbitrators are hired, and large companies are frequent employers, arbitrators have very strong incentives to side with those companies, in order to make sure they'll be hired in the future. When you have one party who is likely to be a frequent employer, and another who will only engage in the transaction once, guess where the bias is going to fall. And, indeed, multiple studies have shown that's exactly what happens. In one case 94% of rulings went against consumers. Another study showed that companies that regularly use arbitration get higher awards.

#### [The Evils of Binding Arbitration](#), Address to the Arkansas Trial Lawyers Assn, Nov 2000

Alabama first experienced the use of binding arbitration in our consumer contracts in late 1995. The first companies to include binding arbitration clauses were what we call the poverty industry -- title pawnshops, check cashing outlets, and "catalog stores." Across the state, many cases were filed against these type companies because of their deceptive sales tactics, fraud, and the usurious interest charged. As expected, these companies attempted to compel any and all cases to arbitration. Once the Republican majority led Alabama Supreme Court agreed that arbitration was the proper forum to resolve disputes against these companies, the door was flung open and the new "kudzu" took root and began spreading across our state creeping into every consumer contract imaginable. Now, binding arbitration is spreading into other states' consumer contracts at a rampant pace.

#### [A New Lochner Era](#), Jim Caton on Legal Reader, Feb 2016

Ever seen this? "Any dispute arising from the performance of this contract will be submitted to binding arbitration. Employee waives all rights to a trial in a court of law." If you've gotten a job or a credit card in the last several years, you probably have seen this bit of legal bullying. And you've probably gone ahead and signed your rights away with the queasy feeling that you had no choice.

Supreme Court Justice Ruth Bader Ginsburg recently likened such ubiquitous clauses to the notorious case *Lochner v. New York*. In that 1905 case, known to every law student, the Supreme Court ruled that a New York state law restricting the hours per week bakers could work was unconstitutional because it violated bakers' liberty to form contracts. Savor that. Imagine the low-wage laborer and his lawyer sitting down with a prospective employer to hash out the details of their employment contract. The absurdity of such a scene rises proportionally with unemployment statistics so that, here in 2016, the concept of "liberty of contract" seems like a bad joke more than a legal principle.

#### [Signing an Arbitration Agreement With Your Employer](#), NoLo Law website

You may wonder why you should care where your claims get heard, as long as they are heard somewhere, whether in an arbitration proceeding or a court of law. An arbitration differs from a court case in several ways, and many of these differences work against employees.

Most important, an arbitration is heard and decided by an "arbitrator" -- a private citizen (often a retired judge) who is paid by one or both sides to listen to the evidence and witnesses. That means you won't have a jury hear your story -- and juries are often sympathetic to employees.

In addition, the arbitration process limits the amount of information each side can get from the other. In employment cases, this generally hurts the employee, because the employer is usually the one in possession of most of the documents and information relating to the employee's case.

#### [Signing Away Our Rights](#), Katherine Stone in *The American Prospect*, Mar 2011

In 2007, Antonio Jackson, an African American worker at the Rent-a-Center store in Washoe County, Nevada, concluded that he had been repeatedly denied promotion to sales manager because of his race. He complained to his store manager, the corporate office, and the human-resource department, all to no avail. Instead he was suspended, then transferred to a less desirable location, and ultimately fired. Jackson sued for race discrimination, only to be told by his employer that he had forfeited his rights to appeal his case when he took the job.

Rent-a-Center required all employees to agree to compulsory arbitration. The waiver covered the right to sue not just for civil-rights violations but also for violations of other hard-won employee rights such as a minimum wage, overtime pay, rest breaks, parental leave, and disability rights as well as protection from workplace sex discrimination and sexual harassment.

Astonishingly, in 2010, the Supreme Court agreed with Rent-a-Center, holding that Jackson's discrimination charge had to be resolved by arbitration -- in a process created by the employer with no appeal to the courts. The Roberts Court's recent arbitration rulings have only intensified a trend that dates back more than two decades, as the high court has chipped away at these and other legal rights, permitting ever broader use of compulsory arbitration.

#### [Supreme Court's Arbitration Ruling Is Another Blow To Consumer Rights](#), David Lazarus in *LA Times*, Dec 2015

The U.S. Supreme Court made clear this week that, regardless of what the Constitution says about a consumer's right to sue, businesses are absolutely entitled to block people from banding together and taking a dispute to court. It was the court's latest ruling in favor of

arbitration, rather than class-action lawsuits, as a preferred method for resolving issues between companies and their customers — which is exactly how the business world wants it. Mandatory arbitration overwhelmingly favors business interests, consumer advocates say, and prevents people from closing ranks to challenge unfair fees and conditions.

#### [Justice Ginsburg's Warning To The American Worker](#), Ian Millhiser on ThinkProgress, Feb 2016

Lochner v. New York is one of the Supreme Court's great anti-precedents. Typically taught in law schools as an example of how judges should not behave, Lochner rested on a fabricated "right to contract" that, in effect, gave employers broad license to exploit their workers. The so-called right invented in Lochner and similar cases later formed the basis for decisions striking down the minimum wage and laws protecting workers' right to organize. Speaking at Brandeis University last Thursday, Justice Ruth Bader Ginsburg offered a warning that Lochner may not be as much of a relic of the past as it is often presented in legal textbooks.

"I was reminded of Lochner reading some decisions of the Court concerning workers, consumers, credit card holders who signed agreements saying "if you have a dispute with us, you can bring it only in arbitration — not in court — and you cannot use the class action device. You must sue for your individual claim, which might be 30 dollars, and that's it." And that has also been described as tied to liberty of contract."

#### [Have You Signed Away Your Right To Sue?](#), Stephanie Mencimer in Mother Jones, Apr 2008

Fonza Luke had worked as a nurse for Baptist Health System's Princeton Medical Center in Birmingham, Alabama, for 26 years when the human resources department summoned her to a meeting about a new "dispute resolution program." Nurses, housekeepers, and lab techs crammed into a conference room where hospital administrators presented a form and told them to sign. Signing meant agreeing to submit any future employment-related complaints to an arbitrator hired by the hospital and waiving the right to sue in court. Refusing to sign meant they'd be fired.

Luke had known the arbitration agreement was coming, and she didn't like the idea one bit—"I just think it's unfair to be made to do something like that," she says. So before going to the conference room, she slipped away to a pay phone and called her lawyer. He said, "Don't sign it. You'll be signing your rights away," she recalls. Luke turned in the form without a signature in quiet protest. A few weeks later, the hospital again ordered her to sign, and again she refused. Despite repeated threats, the hospital didn't fire her, at least not then.

Three years later, Luke traveled to Atlanta for a continuing-education class recommended by her coworkers. When she returned, the hospital fired her for "insubordination" because she had been cleared to take just one day off, not two. For 30 years, Luke had been an exemplary employee. Her personnel file was full of praise for her performance; a review three weeks before the firing called her a "role model." Many of the younger, white nurses Luke worked with had taken unapproved leave, she observed, and kept their jobs. So Luke filed a race and age discrimination complaint with the federal Equal Employment Opportunity Commission (EEOC), which conducted a lengthy investigation, upheld her complaint, and recommended that Luke file a civil rights suit in federal court, which she did in 2003.

#### **This sounds hideous. Who's on the other side?**

##### [Arbitration Clauses in Employment Disputes: Staying Out of Court](#), FindLaw website

The explosion in employment claims litigation highlights the need for employers in Hawaii to become more aggressive in avoiding the court system for resolution of employment disputes. Very few Hawaii employers have the financial ability to survive the recent decision of a jury in Iowa which awarded a victim of sex harassment \$82 million.

Such astronomical awards are responsible for the meteoric rise in the use of mandatory private adjudication—or Alternative Dispute Resolution ("ADR"). Under ADR, the forum for dispute resolution is switched, by agreement between the employer and the employee, from the courtroom to a conference room. Instead of going before a judge and jury, the dispute is resolved by a neutral but experienced third party arbitrator, who is empowered to issue a binding and final decision.

Typically the agreement to arbitrate is entered into at the time of employment, well before any actual dispute has even arisen. Such pre-dispute agreements have proven to be the only effective means of reducing the ever-burgeoning litigation costs and the frustrating delays which plague our court system. Most employers embracing arbitration do so because ADR will give their employees workplace justice, through a system that is quick, fair, more predictable and not "out of control."

Perhaps even more important, employers opt for arbitration to limit the cost of resolving marginal cases. With arbitration as an option, employers can afford to fight cases before an experienced arbitrator who knows the "law of the shop" and will not be unduly influenced by the "deep pockets" of the employer.