And One for All

By Reg P. Wydeven
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A while back, I caught the movie 'Spartacus' on AMC. Kirk Douglas stars as the title character, a slave born in the Roman Empire and later sold to be trained as a gladiator. After learning to be a killer, Spartacus turns on his owners and leads the other slaves in rebellion. Spartacus stages an invasion off the coast of Italy, but an ally betrays him. Trapped by three Roman armies, the slaves are slaughtered. Spartacus survives, but is taken back to Rome to be crucified.

In a moving scene, Roman soldiers ask the captured slaves to identify Spartacus in exchange for leniency. Instead, each slave proclaims himself to be Spartacus, thus sharing his fate. The scene reminded me of a union: a band of people together to stand up for one another – all for one and one for all.

With all of the focus in the news lately on the possible pending NFL lockout and the potential disbanding of unions representing Wisconsin's state, local and school employees, I thought it might be helpful to explain the collective bargaining process.

In a nutshell, collective bargaining consists of negotiations between an employer and a group of employees to determine the conditions of employment, as opposed to negotiating with employees individually. A collective bargaining agreement, or CBA, is the result of the collective bargaining process, and can end up being several hundred pages long. Employers negotiate the conditions of employment, such as pay, hours, benefits and job safety, with a union, which represents the interests of the employees.

When an employer and the union cannot agree to terms, many collective bargaining agreements dictate that the parties will submit to arbitration. Arbitration is a method of dispute resolution used as an alternative to litigation. An arbiter, or neutral third party, is selected by the parties to hear both sides of the negotiations. Under many CBAs, the arbiter's decision is binding.

The CBAs governing municipal and school employees in Wisconsin contain arbitration clauses, however, state workers have no such clause and often take longer to settle. In these cases, both sides agree on and submit their final offers to an arbitrator who simply picks one of them.

Collective bargaining came about as the result of the National Labor Relations Act. The NLRA was passed in 1935 by Congress under its power to regulate interstate commerce. The law explicitly grants employees the right to join trade unions and collectively bargain. The National Labor Relations Board was created by the Act to interpret and apply the law.

Employers are required to negotiate with the appointed representative of the employees under the NLRA. The law regulates tactics each side may employ to further their objectives, such as picketing, striking, or locking out employees like the NFL owners are threatening to do. However, while the NLRA establishes guidelines for bargaining in good faith, it does not require either side to agree to a proposal or make concessions.

While the NLRA is a federal law governing most private employers and employees engaged in some aspect of interstate commerce, Wisconsin's public employees are covered by two state laws. The first covers state employees and the second governs local and school workers. Accordingly, because federal law always trumps state law, Governor Walker is able to make his proposals because the NLRA does not apply.

I hope that all of these current labor disputes get ironed out to everyone's satisfaction, because next September I would sure love to watch the Packers defend their Super Bowl title with my employed teacher wife.