

WHEN IS A UNION NOT A UNION? WHEN IT'S A "WORKER CENTER."

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In recent weeks, the fast-food industry has fallen prey to coordinated demonstrations by a number of loosely affiliated groups, rallying around wages, benefits and other conditions. The strategy invoked by these so-called "worker centers" (or "alt-unions") is not altogether new, and was actually contemplated by unions like the Service Employees International Union (SEIU) years ago. At that time, an internal strategy memo was leaked, at which point the union's intent to organize fast food restaurants was made public. While these reports were met with alarm on behalf of food establishments and other service-sector employers, little came of the effort, which fizzled out as quickly as it started.

Since then, however, we have seen a rise of the "worker center" concept, which is a grassroots effort designed to conceal the ultimate motives of the organization (i.e., to funnel potential members to its constituent labor unions) by masquerading as a social-rights group. Because these groups do not consider themselves to be "labor organizations," they have managed to operate in a shroud of secrecy by avoiding the duty to report their annual finances, while skirting other laws regulating picketing, boycotts, and secondary activity.

The most recent tactics revolve around coordinated one-day walk-outs that have the effect of cloaking participants in limited protection as "strikers," despite the fact that no labor union is directly involved. These tactics are often accompanied by demands for \$15 hourly wage rates (representing more than twice the current minimum), combining the overt efforts of local worker centers with

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behind-the-scenes support from unions, and other non-profit institutions. The SEIU has been bankrolling many of these efforts, which should come as no surprise given their end objectives.

While it is difficult to ascertain the origins of this concept, it seems to have risen from the ashes of the “occupy” movement, with which Big Labor flirted for a time before ultimately casting it aside. It also combines elements of the grassroots “working wage” efforts that fueled the early stages of the labor movement, along with more recent drives by migrant worker organizations.

Fueled by the advent of social media, the past few years have seen a proliferation of these groups, which now number over 200 and growing. Given the media attention garnered by their demonstrations, it’s fair to assume that they will continue for the foreseeable future. With union membership figures hovering at their lowest rates since first measured, these tactics may ultimately be seen as a way out of the quagmire. It’s too early to determine their ultimate objective, but it stands to reason that they hope to accomplish a number of things related to their primary goal of replenishing the historical losses of organized labor.

Ostensibly, the movement (at least as it pertains to fast-food workers) revolves around a desire to drive up hourly wage rates, using economic and media forces as the primary means by which to exert pressure. At present, high turnover rates in the fast-food industry operate as a substantial obstacle to organizing activity, which is typically confined to one establishment at a time for representation purposes. Higher wages presumably mean lower turnover, which in turn facilitates organizing activity while driving up potential dues revenue.

While it may seem unrealistic, it is fair to assume that the movement has “as a secondary objective” the intent to force vulnerable targets to capitulate by agreeing to neutrality agreements in an effort to avoid further economic pressure. Thus far, name-brand franchisees have been the primary target, but such activities could ultimately extend to smaller independent operations in the fast-food industry, and by extension, to other service sectors as well.

By couching the movement in social terms such as “fairness” and “equality,” the demonstrators are focusing on broad socioeconomic themes. But at the end of the day, the

activity is being directed at the employers themselves, and could be utilized to “test the waters” of union sympathy, and ultimately to secure signatures on authorization cards that would be referred to an actual labor organization. In the meantime, unwary managers could be provoked into singling out those who break rank to join the demonstrators, thereby paving the way for unfair labor practice charges that fuel the underlying organizing effort.

While these tactics remain in their formative stages, they could set the stage for a new grassroots organizing model that extends to other businesses, large and small. Although larger service franchisees would appear to be more vulnerable in the short term, no business is entirely immune. Consequently, this is an appropriate time to consider strategies designed to equip your managers with proactive tools to reduce exposure to such tactics, along with the resources they need to react effectively if and when such tactics show up at their workplace.

These resources should include step-by-step guidelines for spotting the early warnings signs of organizing activity, and for lawfully but effectively responding to the onset of picketing or other demonstrations. In the meantime, all developments in this area should be closely monitored for potential encroachment on your business. Some are already in the crosshairs.

Your Fisher Phillips attorneys stand ready to assist with these and other resources designed to protect your business interests.

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