



Part II - Lessons Learned from Union Corporate Campaign Against Tesla Using Worker Safety.

Insights

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Part II - Corporate campaigns - first the press and then the OSHA complaints

Multiple Rounds of Cal-OSHA Inspections.

Cal-OSHA has opened four investigations into Tesla, which clearly reflects union, California Assembly representatives and other third parties attacks on Tesla due to its nonunion status as *much as a concern for safety*. Note the hyperbole used by attackers in an April 18 Bloomberg BNA piece, *Tesla Worker Safety Report Highlights Unreported Injuries*.

With allegations that workers have been "sliced," "crushed," and "burned" in the company's Fremont facility, questions linger over how often under-reporting and mislabeling occur in the nation's workplaces.

Even Innocently Under recorded Injuries make an Employer Look Bad.

Among other issues, Tesla has been accused of trying to hide injuries in its records. Any employer is vulnerable to this claim because recordkeeping errors are easy to make, especially if one is a large and evolving manufacturer. Employer opens themselves to speculation when records are sloppy.

"If true, that's a troublesome admission either of benign inaccuracy or a malignant attempt to hide the ball; either way, it reflects a safety and health program with deficiencies," he said. "I would want to examine very carefully the citations that Cal/OSHA has apparently issued; they may show systemic safety and health problems particularly if they have not been contested." April 18, 2018 Bloomberg BNA - *Tesla Worker Safety Report Highlights Unreported Injuries*.

Think Tanks and Investigative Reporting Groups are always eager to pile on.

I am not saying that the issues are not genuine, but they may be exaggerated and publicized for an ulterior motive – and this behavior causes long-term harm to building genuinely cooperative safety efforts between management, labor and government.

I've linked to Reveal, The Center for Investigative reporting's piece, Insult to Injury: [Tesla says its Plant is Safer but it Left off Injuries off the books.](#)

Everything a Targeted Employer Does Can be the Basis for Attack.

In an effort to meet production goals and as a further sign of bad planning, Tesla has started some assembly work under tents and apparently “someone” complained to Cal-OSHA, who has opened another inspection, perhaps about heat illness concerns, a legitimate Cal-OSHA emphasis area.

Bloomberg BNA reported on June 21, 2018, that people were complaining about Tesla Severance Agreements discouraging public complaints about safety.

From what the article says, it appears that Tesla’s Severance Agreements are typical – they contain a clear statement that the Agreement does not limit the right of employees to complain to or cooperate with government investigation.

However, the Agreements include provisions requiring employees accepting the Severance package to report concerns, including safety, before departure. Why would any employer not make this demand so that they can take corrective action? And why would an employee object to this sort of provision unless they wanted to hide the issue until they could use it to publically embarrass the company?

And Don’t Forget the Inevitable Whistleblower and Retaliation Claims.

Again, speaking from experience, we’ve seen so many frivolous claims by supposed whistleblowers that were motivated by a desire to hurt the government or by the complainers own personal issues. Equally frustratingly, I’ve seen employees with legitimate claims simply walk away and get another job when one wishes that they would have made a claim. It’s not that retaliation does not occur ... but there is some weird self-selection process where frivolous claimants seem to bring actions more than legitimately harmed individuals.

I do not know the facts but a four-month former Safety Employee has brought a claim.

My Advice

1. CEOs and top executives rely far too much on their safety staff to ensure compliance and a genuinely effective safety culture. If the top exec doesn’t roll up his sleeves and get involved, it won’t happen. Elon Musk may have belatedly learned this lesson
2. If you want to remain a union free business than create a work environment that unions cannot use safety to create a wedge between you and your employees. There is no better way to show genuine interest in employees than to build a safety culture embraced by top leadership.
3. Involved employees are less interested in the siren calls of union organizers and plaintiff lawyers, and no area provides as much opportunity for employee involvement as safety.
4. Hire top-notch safety professionals, support them, and don’t make them feel isolated.
5. Don’t allow sloppiness in Recordkeeping, especially Workplace Injury-related. Failure in this core area taints the image of all of your safety efforts.
6. Fight every OSHA citation for which you have legitimate basis to challenge. A union or members of the press will use even minor past violations to make you look bad. Never roll over

or the press will use even minor past violations to make you look bad. Never roll over.

7. Cooperate with and build alliances with OSHA. Make sure that inspections are not the only time that OSHA sees you.
8. If you are unionized, don't give up; some union leadership gets it and will cooperate on safety. Others won't, but you have to try. Construction Craft Unions are often excellent business partners on safety.

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