



Unions Unleash Safety Attacks on Fast Food Restaurants

Insights

3.17.15

Yesterday was one of those occasions when I wish that my predictions had been inaccurate. I have speculated that the SEIU and other unions harassing fast food restaurants would eventually add mass OSHA complaints to their joint employer, discrimination, living wage, and other attacks. Yesterday, you probably saw the articles about “Fight for \$5’s” coordinated effort to file OSHA Complaints in 19 cities.

Now, don’t get me wrong. Restaurants, just like every other employer, must remain vigilant to protect their workers and to ensure compliance with OSHA standards. However, I question the sincerity of those OSHA complaints. I am sure that many restaurants need to improve compliance and safety, but I do not like third parties using OSHA’s limited resources to advance other agendas. OSHA deserves a larger budget, but until that exalted day, they have to employ their resources where they are most effective.

The SEIU and other groups readily admit that the OSHA complaints are the latest part of their “Fight For \$15 Campaign” which allegedly seeks to hold restaurants accountable for working conditions at franchise locations. The unions’ obvious goal is to eventually organize the huge number of fast food workers, but the transitory nature of such workers has traditionally made them unreceptive to joining a union. The strategy is to make employers so miserable that they give up and simply agree to a card check or other reorganization effort instead of an NLRB-supervised election.

The Complaints are against Franchisees, but is the union trying to involve the Corporation?

Under existing OSHA law, and OSHA’s Multi-employer Citation policy, absent corporate employees on site, it’s difficult to see how the Corporation would be citable based on requiring adherence to corporate standards. Thus, individual franchise restaurants should not be treated as part of the McDonald’s corporation for purposes of determining repeat violations of the same standards for McDonalds Corporation. Company stores would be different. If a franchisee owns more than one unit, other units could be exposed to Repeat violations if the same violations occur in a five year period. Repeat citations of routine items account for most of the six figure citations against companies with multiple locations. I do not see how the corporation would be subject to OSHA citations for individual franchisee’s stores. However, given the NLRB’s recent efforts to allege joint employment between restaurants such as McDonald’s and their franchisee, it will be interesting to see OSHA’s approach.

Use this concern to “Check” OSHA Compliance.

In the interim, restaurants should treat these complaints as a wake-up call to ensure that they are in compliance with OSHA’s standards. Keep in mind that you may maintain a safe work environment but still miss certain OSHA requirements. Likewise, OSHA standards are just part of a good employer’s safety efforts.

Common restaurant OSHA violations include:

- allowing materials to occasionally block exits, fire extinguishers and electric panels, such as during deliveries;
- inadequately marked exits; unacceptable accumulation of water on the floor and trip hazards
- failure to maintain Safety Data Sheets (SDS) for hazardous chemicals used
- failure to document training employees who wash dishes, clean and perform other duties which require such chemicals
- adequate eye protection and other PPE for the use of chemicals

The Press Releases and posted *“Fight For \$15”* video emphasizes exposure to grease burns; especially associated with cleaning and emptying grease. Restaurants should carefully check for proper procedures, PPE, and disposal practices.

Do Restaurant Managers know how to handle an OSHA Inspection, as well as handling and protesters?

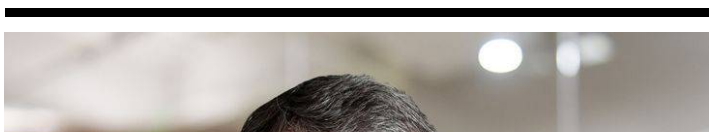
Most restaurant managers never meet OSHA and have no idea how to manage an OSHA inspection. The way in which they manage the inspection may be the difference between a good result and thousands of dollars in citations. Is a corporate, private consultant, trade association or law firm ready to advise such managers?

It is questionable whether the unions’ latest efforts will in anyway assist in organizing restaurant franchisee employees, but review [my past article about UNITE-HERE’s multi-year safety attacks on the Hyatt Corporation](#) if you want to see the extraordinary expense and hardship such corporate-wide attacks can cause. You might also review these past posts on third party attacks on [Retailers](#), [Restaurants](#) and on [Distribution](#).

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