

## Union Calls For May 15 Fast Food Workers Strike In 26 Countries

Insights

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Fast food workers are difficult targets for union organizing efforts, but its simply too large a market for unions to ignore. Moreover, the fast food industry is an easy target for demands for a “living wage” and attacks on the use of temporary or part-time employees. (expect to see these themes more and more as elections approach). Beginning in 2012, we saw protests in as many as 100 cities. The protests, combined with other efforts, have resulted in a great deal of press for the “living wage advocates” and even resulted in National, State, and local laws raising the minimum wage.

Now the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association (IUF) has called for spontaneous worker strikes in as many as 150 U.S. cities and protests 25 countries next week on May 15 seeking “\$15 an hour.”

Although the IUF and other unions are using the “living wage” demand as a rallying cry, the union’s goal is to sign up members and organize restaurants.

I do not know how many workers will heed the call to “strike” on May 15. Some of the previous protest efforts did not meaningfully affect customers. Various papers reported “strike votes” in Chicago and elsewhere.

Regardless of whether May 15th disrupts fast food restaurant operations, employers should expect these tactics to increase in frequency and aggressiveness. Unions are using embarrassing public pressure to try to force fast food employers to recognize the union as the employee’s bargaining

agent without going to an election. Unions may fear that they will lose elections because in a campaign, the employer has a chance to share their side of the story. Of course, unions also claim that employers retaliate against employees and unlawfully discourage the formation of a union. Therefore, the union approach is to make life so miserable for these employers that they throw in the towel and accept the union's claim to represent employees without going to election.

Do not judge the effectiveness or harm of these tactics by the 2012 and 2013 fast food protests. While we doubt that employers will knuckle under to union representation demands simply because the unions hurt the restaurant's brand, the union efforts may in fact harm the restaurant's brand and create problems, especially if the employer is not prepared.

Fast food restaurants are tightly staffed and cannot afford many absences. Similarly, the typical fast food restaurant does not have a large number of managers, and those managers may be completely unprepared for responding to union harassment. Unions may hope that these employers respond in a knee jerk fashion and "fire" employees who "strike" because this would be unlawful. This means that restaurants must be prepared to handle employees who engage in protected concerted activity and also must have staffing plans in place to respond to stores which experience meaningful no-shows.

Similarly, the National Labor Relations Act and other laws allow ugly and often untrue communications in labor disputes. Restaurants must be prepared to respond to hand billing and public attacks on their brand. Sometimes the best response may be no response. However, there will be occasions for well prepared PR teams to effectively respond to handbilling or protests, including by even offering promotional discounts and gift cards to customers disrupted by union efforts. Some brand's executives have joined the national dialogue as shown by the recent thoughtful comments by Dairy Queen's CEO.

Also, union hand billing can cross the line and violate property rights, block suppliers or result in an unlawful secondary boycott. On the other hand, protesters have certain rights on public right-of-ways. In some jurisdictions, such as California, protestors, including labor protectors, enjoy certain rights to hand bill on restaurant property, including around drive-throughs and at the restaurant doors. Fast food restaurants need to know their property rights and be prepared to enforce them as needed.

Restaurant brands and their larger franchisees will need to prepare "response teams," including skilled managers to help affected restaurants, PR personnel, and security and legal advisors.

The union, UNITE-HERE's efforts against the Hyatt chain show that unions and their affiliate organizations will also bring wage hour, "wage theft," race and national origin discrimination claims, and many other individual and class action suits and complaints in a further effort to bring pressure on brands. UNITE-HERE caused the Hyatt group problems by filing nationwide OSHA claims alleging ergonomic violations involving housekeepers, and pointed out that such alleged safety issues disproportionately affected minorities. Unions are increasingly using safety complaints

safety issues disproportionately affected minorities. Unions are increasingly using safety complaints to put pressure on or embarrass employers or to drive a wedge between employees and management. While the typical fast food restaurant may not present many of the serious hazards present in foundries and construction sites, there are many routine items which may be missed by under trained and harried store managers. The unions know about this vulnerability.

An especially distasteful tactic is for unions and their affiliated groups to pull hundreds of Health Department Inspection Reports on State and National chains. The union then finds any reference to cockroaches, rodents or any other disturbing finding at any of a brand's many locations, and then may use this information to attack the entire chain or individual restaurants who have experienced glowing health inspection reports.

May 15 may not create the disruption hoped for by the IUF, but this "strike" should serve as a reminder to fast food restaurants to be prepared for future efforts.

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