

OUR Walmart and the Worker Center

As the holiday season approaches, we see a stark increase in opportunities for charitable donations. Perhaps most noticeable among these opportunities is the concept of the food drive, where collection bins at your local grocer allow consumers to contribute food to the needy. In a twist on this concept, last week corporate giant Wal-Mart sponsored a food drive aimed at providing food to its own employees in need. While the program is defended by Wal-Mart as “a local way to help our fellow associates,” the food drive is being highly criticized as confirmation that Wal-Mart fails to pay employees enough to support a family.¹

The most prominent voice of opposition is the Organization United for Respect at Walmart (OUR Walmart), a nonprofit organization with the broad mission of gaining respect for all Wal-Mart associates. The organization consists of members who are former and current employees of Wal-Mart. Members may purchase either monthly or annual membership at \$5 or \$60, respectively.² Membership fees contribute to educational materials for members, printing a monthly newsletter, traveling to meetings, spreading the word to reach new members, and organizing and orchestrating rallies.³

The organization sees what Wal-Mart describes as an opportunity to help those employees who have fallen upon hardships as being dismissive of the actual issues faced by employees. A spokesperson for the organization argues that “we don’t want handouts, we want an employer that pays us enough to cover Thanksgiving dinner for our families.”⁴ In the wake of the food drives, the organization has staged strikes throughout the country

¹ USA Today. Group unmoved by Walmart’s ‘act of human kindness,’ <http://www.usatoday.com/story/news/2013/11/19/walmart-donations-drive-employees/3637953/> (last visited Nov. 23, 2013).

² OUR WALMART, <http://forrespect.org/our-walmart/about-us/> (last visited Nov. 23, 2013).

³ *Id.*

⁴ *Supra* note 1.

focusing on three main issues: ensuring that no associate makes less than \$25,000 a year, offering employees more full-time work, and "ending illegal retaliation" against employees who speak out against pay and working conditions.⁵

Along with protesting Wal-Mart's employee-aimed Thanksgiving food drive, OUR Walmart also plans on staging mass walkouts on Black Friday. The organization staged strikes at locations around the country last year, with little success. While OUR Walmart considers the strikes a victory, Wal-Mart reports that only around 100 people participated in the strikes, most of which were not even Wal-Mart employees, but were hired by the organization to participate in the Black Friday protests. In response to the protests, Wal-Mart executives threatened disciplinary action against workers who participated in the rallies and strikes, even though they are perfectly legal, which has recently resulted in the NLRB consideration of whether Wal-Mart violated workers rights by illegal retaliation.⁶

Despite its mission aimed at bettering the lives of Wal-Mart employees, the organization receives much criticism, obviously, from Wal-Mart itself. While the organization is billed as begin created "by associates for associates," Wal-Mart contends that it is merely a front for the labor union United Food and Commercial Workers.⁷ OUR Walmart claims that UFCW only helps with legal services and education, but the Wal-Mart Corporation argues that it is a subsidiary organization founded and funded by UFCW for the benefit of the UFCW.⁸ Federal labor law prohibits a union from picketing an employer for

⁵ *Supra* note 2.

⁶ U.S. NLRB Office of the General Counsel Advice Memorandum, Walmart Stores, Inc., 16-CA-095286, November 2013.

⁷ <http://www.ourwalmartfactcheck.com/> (last visited Nov. 23, 2013).

⁸ *Id.*

more than 30 days in order to achieve union recognition.⁹ By refusing to advocate for unionization, OUR Walmart — which is technically a “worker center” despite the UFCW’s heavy influence in the organization — can picket the company indefinitely while still remaining within the law. The UFCW has been trying to unionize Wal-Mart stores for the past 15 years, and Wal-Mart sees the protests by OUR Walmart as its latest attempts to circumvent labor law and get a foothold in the corporation.

While currently considered a nonprofit worker center, OUR Walmart is inserting itself into an area traditionally governed by the laws of labor unions. By becoming more directly engaged with employers in attempt to effectuate change in wages, hours, and working conditions, OUR Walmart is blurring the line in the distinction between worker centers and labor unions.¹⁰ The final decision on the point at which worker centers cross that line, and become subject to restrictions, is up to the NLRB, and Wal-Mart is making a strong push to have OUR Walmart’s activities restricted.

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⁹ The **National Labor Relations Act of 1935** (49 Stat. 449) 29 U.S.C. § 151–169 (1935).

¹⁰ *Id.*