

From: [Buchanan, Art - OSHA](#)
To: [Haloftis, Alcmene - OSHA](#); [Jackson, Reginald - OSHA](#); [Williamson, SR - OSHA](#); [Hernandez, Jenny R. - OSHA](#)
Subject: FW: franchisee questions
Date: Friday, June 12, 2015 1:25:13 PM
Attachments: [Guidance to field-FNL.docx](#)

fyi

From: Carle, Tom - OSHA
Sent: Friday, June 12, 2015 12:22 PM
To: Buchanan, Art - OSHA
Subject: FW: franchisee questions

Art

Myrna sent the McDonalds questions to Patrick

Tom

From: Butkovitz, Myrna - SOL
Sent: Friday, June 12, 2015 12:20 PM
To: Carle, Tom - OSHA
Subject: FW: franchisee questions

I sent to Kapust et al

Myrna Ann Butkovitz
Acting Deputy Regional Administrator –Region III
The Curtis Center –Suite 740 West
170 S. Independence Mall West
Philadelphia PA 19106
215 861 4915

From: Butkovitz, Myrna - SOL
Sent: Friday, June 12, 2015 12:17 PM
To: Kapust, Patrick - OSHA
Cc: Galassi, Thomas - OSHA; Pannocchia, Orlando - SOL
Subject: franchisee questions

(b) (5)

. Myrna

Myrna Ann Butkovitz
Acting Deputy Regional Administrator –Region III
The Curtis Center –Suite 740 West
170 S. Independence Mall West
Philadelphia PA 19106
215 861 4915

From: [Buchanan, Art - OSHA](#)
To: [Hernandez, Jenny R. - OSHA](#)
Cc: [Haloftis, Alcmene - OSHA](#); [Williamson, SR - OSHA](#)
Subject: FW: franchisee questions
Date: Monday, June 15, 2015 9:44:21 AM
Attachments: [Guidance to field-FNL.docx](#)

Jenny,

Do you have a copy of the complaints?

From: Kapust, Patrick - OSHA
Sent: Friday, June 12, 2015 4:04 PM
To: Buchanan, Art - OSHA
Cc: Galassi, Thomas - OSHA
Subject: FW: franchisee questions

(b) (5)

From: Galassi, Thomas - OSHA
Sent: Friday, June 12, 2015 3:27 PM
To: Kapust, Patrick - OSHA
Subject: FW: franchisee questions

Patrick,

(b) (5)

From: Butkovitz, Myrna - SOL
Sent: Friday, June 12, 2015 12:18 PM
To: Kapust, Patrick - OSHA
Cc: Galassi, Thomas - OSHA; Pannocchia, Orlando - SOL
Subject: franchisee questions

(b) (5)

. Myrna

Myrna Ann Butkovitz
Acting Deputy Regional Administrator –Region III
The Curtis Center –Suite 740 West
170 S. Independence Mall West
Philadelphia PA 19106
215 861 4915

From: [Pannocchia, Orlando - SOL](#)
To: [Galassi, Thomas - OSHA](#)
Subject: FW: Franchisee/ Franchisor Joint Employers pjk 2 edits
Date: Wednesday, August 26, 2015 10:08:30 AM
Attachments: [Can Franchisee and Franchisor be Considered Joint Employers pjk 2 edits.docx](#)

FYI

Orlando J. Pannocchia

Counsel for Regional Litigation and Legal Advice
Office of the Solicitor, OSH Division
U.S. Department of Labor
(202) 693-5463

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From: Kapust, Patrick - OSHA
Sent: Thursday, June 18, 2015 10:01 AM
To: zzOSHA-DRAS; zzOSHA-RAS
Cc: Dougherty, Dorothy - OSHA; Galassi, Thomas - OSHA; Buchanan, Art - OSHA; Hernandez, Jenny R. - OSHA; Pannocchia, Orlando - SOL; Butkovitz, Myrna - SOL
Subject: Franchisee/ Franchisor Joint Employers pjk 2 edits

(b) (5)

From: [Barab, Jordan - OSHA](#)
To: [Cantrell, Margaret - OCIA](#); [Rosenthal, Ann - SOL](#); [Galassi, Thomas - OSHA](#); [Dougherty, Dorothy - OSHA](#)
Cc: [Berkowitz, Deborah - OSHA](#); [Linares, Elva E - OCIA](#); [McKinney, Nikki - OCIA](#)
Subject: FW: POLITICO's Morning Shift: OSHA probes franchises on joint employment — What happens after Browning-Ferris — More than one way to undermine a union?
Date: Wednesday, August 26, 2015 10:18:43 AM

(b) (5)

From: Morning Shift [mailto:morningshift@politico.com]
Sent: Wednesday, August 26, 2015 10:02 AM
To: Barab, Jordan - OSHA
Subject: POLITICO's Morning Shift: OSHA probes franchises on joint employment — What happens after Browning-Ferris — More than one way to undermine a union?

By Brian Mahoney

With help from Nirvi Shah, Matthew Korade and Timothy Noah

OSHA PROBES FRANCHISES ON JOINT EMPLOYMENT: OSHA is gathering information about relationships between franchisors and franchisees, marking a potential expansion of the Obama administration's scrutiny of the fast-food industry's employment practices.

OSHA officials in Washington have asked regional officials to take into account, when considering potential violations at franchised businesses, whether the franchisor in question controls the workplace safety practices of the franchisee, according to an [internal draft memorandum](#) obtained by the International Franchise Association and given to POLITICO.

The draft memo suggests that OSHA is contemplating joint employer citations against fast-food and other franchisors for violations of the Occupation Safety and Health Act of 1970, much as the NLRB's general counsel is already doing with respect to labor law. "The concept of joint employment has been recognized under the OSH Act," an OSHA representative told POLITICO in a statement. "The information in this document is meant to help OSHA inspectors determine whether there is joint responsibility for worker health and safety at a particular business."

While the memorandum is marked "draft," OSHA area directors have begun to follow through on the directive, subpoenaing at least one fast-food franchisee about its relationship with the franchisor. POLITICO obtained a copy of the subpoena, which seeks documents about "guidelines, policies, practices, procedures or instructions ... relating to hazard communication." The identity of the fast-food franchisor was blacked out in the document. More for Pros here: <http://politico.pro/li04rs6>

WHAT DO THE EXPERTS THINK? Workplace advocates think the joint employer inquiry is well within the agency's jurisdiction. "OSHA already has a multi-employer policy, which it applies to construction, so it's not a far stretch," said Mary Vogel, executive director of the National Council for Occupational Safety and Health.

Management-side attorneys see the fingerprints of the SEIU, which filed OSHA complaints against McDonald's and its franchisees in March. "I think that this is completely totally 100

percent political," Fisher & Phillips' Howard Mavity told POLITICO. "I don't think there's any legal analysis to it. I think they are solely trying to support the attacks on fast food by unions and their surrogates."

GOOD MORNING! It's Wednesday, August 26 and this is Morning Shift, POLITICO's daily tipsheet on labor and employment policy. Send tips, corrections and exclusives to bmahoney@politico.com, tnoah@politico.com and mlevine@politico.com. Follow us on Twitter at [@politicomahoney](https://twitter.com/politicomahoney), [@TimothyNoah1](https://twitter.com/TimothyNoah1) and [@marianne_levine](https://twitter.com/marianne_levine).

WHAT HAPPENS AFTER BROWNING-FERRIS?: The NLRB's decision in *Browning-Ferris* is expected any day now. The board will likely loosen its joint employer standard. What will happen then? A lobbying blitz from business. IFA's Matt Haller tells *Bloomberg BNA* that his organization will "double down" on lobbying after the decision. "He added that he hopes to see legislation to keep the current joint employer standard [in] place, as well as hearings and additional oversight by congressional labor committees," *BNA's* Chris Opfer writes. <http://bit.ly/1EhezGF>

Whipping Dems: Democrats are already facing lobbying pressure. The group's Coalition to Save Local Businesses recently hosted Democratic minority whip Steny Hoyer with franchise owners in Maryland to discuss the *Browning-Ferris* case. "Hoyer sung the praises of small businesses, but also reminded them about the stagnant wages that have animated a fast food-based campaign to pay workers \$15 an hour, as well as labor's attempts to organize McDonald's as a joint employer. He also questioned how independent franchisees really are from their corporate parents," the *Washington Post's* Lydia DePillis writes.

'It is a compromise of your ability to make that decision on your own," Hoyer said. 'You can't sell the kind of french fries you think are the best. You sell the french fries that McDonalds tells you to sell." <http://wapo.st/1LvHHKe>

MORE THAN ONE WAY TO UNDERMINE A UNION?: Wisconsin Gov. Scott Walker took on teachers unions and the rest of labor head-on in 2011, sharply paring collective bargaining powers. Florida, already a right-to-work state, took a more subtle stab this year: The Florida Education Department this week [said](#) all full-time teachers now have access to \$2 million in liability insurance protection that will cover damages and costs of defense - based on a change to state law earlier this year. Liability insurance is one of the key protections also offered by ... union membership, making the liability insurance a reason to skip paying union dues. Florida's protection is similar, but not identical, to what membership in the Florida Education Association provides. [<http://bit.ly/1IdUIZE>]

BORN TO RUN AT 40: Yesterday marked the 40th anniversary of Bruce Springsteen's "[Born To Run](#)," one of the 20th century's more timeless works of popular art about working class life. Jim Beckerman of NorthJersey.com [calls it](#) an "over-the-top fever-dream of teen life in a tawdry resort town, raised to the level of a Homeric saga," which sounds about right. Beckerman delivers a Jersey-centric, track-by-track exegesis here: <http://bit.ly/1KLNKaF>

DEADLINE APPROACHING: Today is the deadline for stakeholders to issue comment on the Labor Department's [new rule](#) requiring federal contractors to disclose labor law violations in the procurement process.

WAGE WATCH

- Fast food workers in Detroit on Tuesday told Labor Secretary Tom Perez about their struggles living on fast food wages, [USA Today reports](#). One worker [told Perez](#) that she had spent the night sleeping in her car alongside her three children after getting evicted. Watch that testimony here: <http://bit.ly/1EUSgBx>
- Stephens College in Missouri raised its minimum wage to \$10, according to Chron.com: <http://bit.ly/1EUSgBx>
- St. Louis advanced a new measure raising the city's minimum wage to \$11 by 2018, from the AP: <http://bit.ly/1JusdSU>
- Palo Alto, Calif., wants to boost its minimum wage to \$15 by 2018, according to the *Silicon Valley Business Journal*: <http://bit.ly/1EhroRm>

MEXICO: LABOR TALKS NOT LINKED TO TPP: Mexico's labor ministry isn't mincing words about the connection of labor talks to the TPP: There isn't any, officials said last week.

In one of the Mexican government's most direct statements on the topic, Jose Luis Stein Velasco, the ministry's head of international affairs, wrote to the news publication Inside U.S. Trade on Thursday to dispute quotes from labor sources in an Aug. 13 story saying the White House sought labor reforms under the Asia-Pacific pact.

"Every time the TPP issue has been raised, it was [specifically expressed] that discussions on labor topics within the bilateral agenda were not under any circumstance subject to the signing of the TPP, nor that the [conclusion] of the TPP was subject or conditioned to any of the topics of our bilateral agenda," he wrote, [according to a courtesy translation](#) of the letter.

The comments could draw backlash from labor unions and members of Congress who have criticized Mexico's record on workers' rights as the U.S. and the 11 other countries in the deal struggle to wrap up and then ratify the trade agreement. Read the letter here: <http://politico.pro/1LyXeM2>.

BIG BOEING RETIREMENT CASE OPENS TODAY: A rare trial opens today in a case alleging Boeing offered bad investment options and demanded excessive fees in employee 401(k) plans, *The Wall Street Journal's* Sara Randazzo reports. "The class-action suit, filed on behalf of 190,000 Boeing employees and retirees, has been in court for almost a decade. On the plaintiffs' side is a St. Louis lawyer known for waging yearslong battles over retirement plans. Boeing is his biggest target to date."

"The company has vowed to fight the suit, one of only a few such cases to go to trial. Boeing said it 'strongly disagrees with the claims' and is prepared to show that its investment options and fees have been in line with industry standards. Backing the suit is Jerome Schlichter, a personal-injury and civil-rights lawyer who since 2006 has gone after companies for alleged violations of the complex Employee Retirement Income Security Act, or ERISA. Since then, he has filed 18 suits against major corporations over purported 401(k) violations. The lawsuit against Boeing, filed in September 2006, was one of the first." <http://on.wsj.com/1NAbwwd>

COFFEE BREAK

- 'Workers Get New Tools for Airing Their Gripes,' from *The Wall Street Journal*: <http://on.wsj.com/1hdoAtK>

- The conservative response to Fight for \$15, from *Vox*: <http://bit.ly/1LznYMy>
- "Mich. Tribe Asks 6th Circ. To Rehear NLRB Casino Ruling," from *Law360*: <http://bit.ly/1i0hvj9>
- 'Hudson Valley accounts for 25% of A&P layoff notices,' from *Lohud.com*: <http://lohud.us/1NTep8o>
- Sex worker advocates blast prosecution of internet escort service raid, from *Hopes and Fears*: <http://bit.ly/1U5icH5>
- 'Bets That the Fed Will Delay Interest Rate Rise Could Be Premature,' from the *New York Times*: <http://nyti.ms/1Uce8zx>
- "Public-sector unions, labor relations, and free speech," from SCOTUSblog: <http://bit.ly/1NHG4eM>
- "American Apparel Workers Beat Piñata Of New CEO Outside Headquarters," from *BuzzFeed*: <http://bzfd.it/1hFanqo>

THAT'S ALL FOR MORNING SHIFT.

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Go to this edition >> <http://www.politico.com/morningshift/0815/morningshift19788.html>

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1000 Wilson Blvd., 8th Floor
Arlington, VA 22209
=====

From: [Kizer, Billie - OSHA](#)
To: [Hernandez, Jenny R. - OSHA](#)
Cc: [Ross, Benjamin - OSHA](#); [Williamson, SR - OSHA](#)
Subject: McDonald's reporting form
Date: Friday, June 05, 2015 4:37:42 PM
Attachments: [Sample McDonald's reporting form \(3\).xlsx](#)

Here's the latest update on the McDonald's complaints.

From: [Hernandez, Jenny R. - OSHA](#)
To: [Kapust, Patrick - OSHA](#)
Cc: [Williamson, SR - OSHA](#)
Subject: McDonald's spreadsheet
Date: Friday, June 05, 2015 10:05:37 AM
Attachments: [McDonalds complaints - FFW Campaign.xlsx](#)

Patrick,

Attached is the McDonald's spreadsheet.

Thanks,
Jenny

Jenny Hernandez

Directorate of Enforcement Programs
Occupational Safety and Health Administration
U.S. Department of Labor
Hernandez.jenny.r@dol.gov
202 693 2344

From: [Haloftis, Alcmene - OSHA](#)
To: [Arhin, Kofi - OSHA](#); [Buchanan, Art - OSHA](#); [Douglas, Stephanie - OSHA](#); [Fiers, Rudy - OSHA](#); [Harvey, Charles - OSHA](#); [Hernandez, Jenny R. - OSHA](#); [Jackson, Reginald - OSHA](#); [Lapera, Anna - OSHA](#); [Mapes, Tony - OSHA](#); [Poythress, Jennifer E - OASAM BOC](#); [Vaughn, Brenda - OSHA](#); [Williamson, SR - OSHA](#)
Subject: OAS-DEP Current Report
Date: Monday, April 20, 2015 2:04:28 PM
Attachments: [OAS-DEP Current Report.docx](#)

Please update your sections by COB. Thanks!

Alcmene

From: [Barab, Jordan - OSHA](#)
To: [Rosenthal, Ann - SOL](#); [Galassi, Thomas - OSHA](#); [Berkowitz, Deborah - OSHA](#)
Cc: [Dougherty, Dorothy - OSHA](#)
Subject: RE: Joint employer/OSHA story: POLITICO
Date: Wednesday, August 26, 2015 9:51:26 AM

(b) (5)

From: Rosenthal, Ann - SOL
Sent: Tuesday, August 25, 2015 3:01 PM
To: Galassi, Thomas - OSHA; Barab, Jordan - OSHA; Berkowitz, Deborah - OSHA
Cc: Dougherty, Dorothy - OSHA
Subject: RE: Joint employer/OSHA story: POLITICO

(b) (5)

Ann Rosenthal
Associate Solicitor for
Occupational Safety and Health
U.S. Department of Labor
202-693-5469
202-693-5466 (fax)

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From: Galassi, Thomas - OSHA
Sent: Tuesday, August 25, 2015 2:54 PM
To: Barab, Jordan - OSHA; Henry, Dori B - OPA; Berkowitz, Deborah - OSHA; McGinnis, Laura K - OPA; Rosenthal, Ann - SOL
Cc: Dougherty, Dorothy - OSHA
Subject: RE: Joint employer/OSHA story: POLITICO

(b) (5)

From: Barab, Jordan - OSHA
Sent: Tuesday, August 25, 2015 2:40 PM
To: Henry, Dori B - OPA; Berkowitz, Deborah - OSHA; McGinnis, Laura K - OPA; Rosenthal, Ann - SOL
Cc: Galassi, Thomas - OSHA; Dougherty, Dorothy - OSHA
Subject: Fw: Joint employer/OSHA story: POLITICO

(b) (5)

Jordan Barab
Deputy Assistant Secretary

From: Berkowitz, Deborah - OSHA
Sent: Tuesday, August 25, 2015 2:25:03 PM
To: Barab, Jordan - OSHA; Dougherty, Dorothy - OSHA; Galassi, Thomas - OSHA; Pannocchia, Orlando - SOL
Subject: FW: Joint employer/OSHA story: POLITICO

fyi

From: Berkowitz, Deborah - OSHA
Sent: Tuesday, August 25, 2015 2:25 PM
To: McGinnis, Laura K - OPA
Cc: Lawder, Jesse - OPA; Henry, Dori B - OPA; Rosenthal, Ann - SOL
Subject: RE: Joint employer/OSHA story: POLITICO

Hi Laura,
(b) (5)

Thank you

From: McGinnis, Laura K - OPA
Sent: Tuesday, August 25, 2015 1:46 PM
To: Berkowitz, Deborah - OSHA
Cc: Lawder, Jesse - OPA; Henry, Dori B - OPA
Subject: RE: Joint employer/OSHA story: POLITICO

(b) (5)

Laura K. McGinnis
Office of Public Affairs, U.S. Department of Labor
202.693.4653 (phone) | 202.251.7929 (Blackberry)
<https://twitter.com/USDOL>

From: Berkowitz, Deborah - OSHA
Sent: Tuesday, August 25, 2015 1:45 PM
To: McGinnis, Laura K - OPA
Cc: Lawder, Jesse - OPA; Henry, Dori B - OPA
Subject: RE: Joint employer/OSHA story: POLITICO

Laura—(b) (5)

From: McGinnis, Laura K - OPA
Sent: Tuesday, August 25, 2015 1:42 PM
To: Berkowitz, Deborah - OSHA
Cc: Lawder, Jesse - OPA; Henry, Dori B - OPA
Subject: RE: Joint employer/OSHA story: POLITICO

Hey, Debbie! (b) (5)

Laura K, McGinnis
Office of Public Affairs, U.S. Department of Labor
202.693.4653 (phone) | 202.251.7929 (BlackBerry)
<https://twitter.com/USDOL>

From: Berkowitz, Deborah - OSHA
Sent: Tuesday, August 25, 2015 1:03 PM
To: McGinnis, Laura K - OPA
Subject: RE: Joint employer/OSHA story: POLITICO

Just tried calling you..will call again.. I've reached out to SOL

From: McGinnis, Laura K - OPA
Sent: Tuesday, August 25, 2015 12:43 PM
To: Berkowitz, Deborah - OSHA
Subject: FW: Joint employer/OSHA story: POLITICO

Debbie,

(b) (5)

Laura K, McGinnis
Office of Public Affairs, U.S. Department of Labor
202.693.4653 (phone) | 202.251.7929 (BlackBerry)
<https://twitter.com/USDOL>

From: Versen, Joseph H - OPA
Sent: Tuesday, August 25, 2015 11:55 AM
To: McGinnis, Laura K - OPA
Subject: FW: Joint employer/OSHA story: POLITICO

From: Brian Mahoney [<mailto:bmahoney@politico.com>]
Sent: Tuesday, August 25, 2015 11:54 AM
To: Versen, Joseph H - OPA
Subject: Joint employer/OSHA story: POLITICO

Hi Joseph: I'm reporting today on an OSHA memo I obtained regarding joint employer liability and franchisors. Can you connect me with someone at OSHA to discuss the document? It is attached here. Thank you,

Brian

Brian Mahoney
Labor Reporter, POLITICO Pro
bmahoney@politico.com
O: 703-341-4677
C: 862-236-0461