

Hiring

Carl's Jr. Shift Leaders Say CKE Restaurants Suppresses Wages

CKE Restaurants Inc. suppressed fast-food restaurant workers' pay when it prohibited franchisees from hiring each other's staff or corporate staff, according to a lawsuit filed in California state court by a pair of current and former shift leaders (*Bautista v. Carl Karcher Enterprises LLC*, Cal. Super. Ct., No. BC649777, complaint filed 2/8/17).

"Our impression is that this is a widespread practice that's reducing wages within the fast-food industry," Nina DiSalvo, an attorney for the current and former Carl's Jr. shift leaders bringing the case, told Bloomberg BNA Feb. 9. "If the market is not free enough to allow workers who are working hard to earn the wages that they do or would in a free market, income inequality will continue to be a rampant problem."

CKE Restaurants chief executive office Andy Puzder is President Donald Trump's pick for secretary of labor. Puzder plans to divest his ownership stake in the company if confirmed and recuse himself from decisions relating to it during his time in office, Bloomberg BNA reported Feb. 8.

"While we will not comment on the specifics of any pending litigation, the timing of the filing of this baseless lawsuit is obviously intended to be an attempt, albeit a feeble one, to derail the nomination of Andy Puzder," Chip Seigel, CKE Restaurants Holdings Inc. executive vice president and general counsel, said in an e-mailed statement Feb. 9. "The plaintiffs and their backers will succeed at neither." Puzder's confirmation hearing is scheduled for Feb. 16.

Shift leader Luis Bautista and former shift leader Margarita Guerrero brought the claims in Los Angeles County Superior Court. Their lawsuit under California antitrust and fair business practice laws contends that the company required its franchisees to agree not to "employ or seek to employ any person then employed by CKE or any franchisee of CKE as a shift leader or higher" while the franchise agreement is in effect and for two years afterward.

The arrangement prevents workers "from taking their specialized Carl's Jr. skills to another Carl's Jr." location, DiSalvo said. Greater scrutiny of restaurant labor policies resulting from Puzder's nomination provides "an opportunity to shed light on some of the practices in the fast food industry that have gone on too long," DiSalvo said.

DiSalvo, Alexander Hood and David Seligman with Towards Justice in Denver represent the shift leaders, along with Jon Tostrud of the Tostrud Law Group, P.C., in Los Angeles and Jonathan Cuneo and Matthew Miller of Cuneo Gilbert & LaDuca LLP in Washington. An attorney hasn't entered an appearance for CKE Restaurants.

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