Wimberly Lawson
Seale Wright & Daves, PLLC
Attorneys & Counselors at Law

Briefly

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DIVERSITY TRAINING IN U.S. Expands

Patty Wheeler

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According to a survey conducted by the Society for Human Resource Management (SHRM), about two-thirds of U.S. companies provide diversity training for their employees. Sixty percent require top-level executives to undergo diversity training and 70% require non-executive managerial employees to do so. Only 53% percent make diversity training mandatory for non-managerial workers according to the SHRM survey.

About three out of four organizations address diversity in various workplace practices. Eighty-five percent of companies reported allowing employees to take unpaid leave for holidays not recognized by the company while 79% pursue recruiting strategies intended to broaden worker diversity. Seventy-four percent engage in community research while 73% reported insuring that "diversity is a consideration in every business initiative and policy." Sixty-three percent reported that they provide career-development tools such as monitoring and coaching to increase diversity in their companies' upper levels. Less popular practices, according to the survey, include providing career-development tools for employees tailored towards their gender, race, ethnicity, or other diversity factors (offered by 28%); offering training in English as a second language (20%); and offering pay incentives to managers who meet specific diversity goals (12%). Larger companies were more likely to participate in a particular workplace diversity practice.

When asked about specific outcomes attributed to putting diversity practices into place, 78% of the human-resource managers surveyed stated that reduced costs linked to turnover, absenteeism and low productivity were "very important." Other outcomes deemed very important included: higher profits (74%); decreased complaints and litigation (74%); and an improved public image (73%). Other important outcomes noted included being able to recruit and retain a diverse workforce (66%); improved employee-opinion surveys which measure internal feelings about the company's handling of diversity measures; and diversity audits which track diversity factors among employees (51%).

For the purposes of the survey, SHRM defined diversity as variations in gender, age, race, ethnicity, religion, sexual orientation, socioeconomics, education, language and a handful of other factors such as employee personality and work style.

KNOW YOUR ATTORNEY

Chip Storey

Emil L. "Chip" Storey, Jr. is an Associate in the Nashville, Tennessee office of the firm, which he joined in 2004. His law practice includes an emphasis in workers' compensation and general liability. He received his Bachelor of Science degree in Finance from the University of Tennessee, and his law degree from the Nashville School of Law. Chip is a member of the Tennessee Bar Association, the Tennessee Trial Lawyers Association, the Nashville Bar Association, and the Mid-South Workers' Compensation Association.

DEMANDS FOR LABOR GIVEBACKS AND RETIREE CUTS TO INCREASE continued from page 3

crossed the picket lines to return to work in large numbers leading to a collapse of the strike there.

The bottom line appears to be that the heavily unionized sectors of the U.S. economy are experiencing increased global economic competition resulting in a potential new era of selling concessions to rank-and-file members while companies are becoming more aggressive in labor negotiations. One commentator notes that the UAW pioneered the whole package of employer-provided fringe benefits and now it is pioneering their dismantling.

MINIMUM WAGE INCREASE Comes Before Congress

Mary Dee Allen

. . . proposal picked up 47 votes, far short of the 60 needed to pass . . .

On October 19 the U. S. Senate defeated an effort by Sen. Edward Kennedy to raise the federal minimum wage for the first time since 1997. Kennedy proposed raising the minimum wage from $5.15 an hour to $6.25 in two steps over eighteen months. Kennedy's proposal picked up 47 votes, far short of the 60 needed to pass under the procedural rules which both Republican and Democratic leaders had to agree to use for the vote.

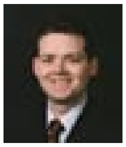
The Senate also rejected alternative legislation offered by Sen. Mike Enzi (R-WYO), which also would have raised the minimum wage to $6.25, but which contained six additional provisions offering tax and regulatory breaks for small business. That legislation also needed 60 "yes" votes to pass but attracted only 42.

Democrats objected to many of Enzi's proposals, particularly the one to create "flex time" to allow work hours to be shifted over a 2-week period. Supporters say flex time would give workers greater freedom to adjust their schedules for family needs while helping small businesses smooth out work flow. Opponents said that such a change would erode overtime pay in the 40-hour work week by encouraging companies to overwork employees during busy periods and then cut hours the following week.

Kennedy had tried earlier in the year to raise the minimum wage to $7.25 an hour. That measure was defeated by 49-46. Kennedy promises he will keep pushing for a raise. The Economic Policy Institute, a research group, estimates 7.3 million workers earn between $5.15 and $7.25 an hour.

Many business groups say a nationwide minimum wage raise would fuel inflation and discourage employers from adding workers, particularly youth. In an interesting development, Wal-Mart's Chief Executive urged Congress to raise the minimum wage saying it would help working families. However, Wal-Mart's pay and benefits have been criticized by unions, some lawmakers and other advocacy groups.

DEMANDS FOR LABOR GIVEBACKS AND RETIREE CUTS To Increase



Fred Baker

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"Ripple" effects will occur throughout the U.S. from recent labor concessions at General Motors (GM). In October, GM and the United Auto Workers (UAW) agreed to a substantial cut in the medical benefits GM gives its UAW retirees who will soon have to make co-payments for drugs and visits to the doctor, have annual deductibles, and pay for about a fifth of the cost of their coverage. These concessions save GM an estimated $1 billion a year although it leaves GM's new benefit levels still very generous. However, the national impact is even larger.

The auto industry is still arguably America's largest industry if you include related suppliers and distributors. When the largest player (GM) in the largest industry (auto) achieves a significant cost reduction, the impact will be broad. Daimler-Chrysler authorities said they intend to lower its health-care costs by between 25% and 30% through talks with the union.

The psychological effect on labor relations in the country is even more important than the financial impact. The UAW at GM realized it was better off with reduced benefits than with no benefits and was willing to concede an issue, health-care, that had been the UAW's most important issue over the years. Very few companies continue to offer fully paid retiree medical coverage and this trend will only increase in the future along with other employer demands to reduce, or at least control, overall health-care costs.

Two years ago there was a major grocery workers strike by the United Food and Commercial Workers against three major supermarket chains. About 60,000 workers suffered through a long strike only to get basically what the company had offered prior to the strike. The main issue in the strike was the sharing of the cost of health-care benefits. In recent months in a strike at Northwest Airlines, the company hired replacement mechanics who broke the strike. Although many feel that the union strike at profitable Boeing won back some health-care provisions management wanted to change, the union nevertheless gave up general wage increases to get this result. In Chicago this summer Walgreen's pharmacists

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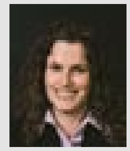
WAL-MART CHANGING NATIONAL STANDARDS, And Even The Economy



Michele Castagna

. . . study . . . has concluded that U.S. consumers pay lower prices nationally for goods and services as a direct result of Wal-Mart's impact on the economy but wages are also lower as a result.

As much as the GM-UAW health-care settlement is changing our nation's labor relations outlook, there are some truly remarkable developments at the world's largest employer, Wal-Mart, that are similarly shaping national trends. Union leaders consider Wal-Mart their "worst enemy" and a threat to the entire U.S. labor movement. Some studies are being published indicating that full-time employees at Wal-Mart earn about 20% less per hour than the average retail industry wage. Some claim that Wal-Mart's low benefits require local governments to subsidize Wal-Mart employees' health-care claims. On the other hand, union members continue to shop regularly at Wal-Mart, and Wal-Mart's Chief Executive recently urged an increase in the minimum wage saying the company's customers "are struggling to get by."

A particularly interesting question is whether Wal-Mart is good or bad for the American economy. Now a study filed by a private forecasting and economic research firm, Global Insight, has concluded that U.S. consumers pay lower prices nationally for goods and services as a direct result of Wal-Mart's impact on the economy but wages are also lower as a result. This study, released on November 4, was sponsored by Wal-Mart.

The study concludes that Wal-Mart's expansion has resulted in a cumulative decline of 9.1% in food-at-home prices, a 4.2% decline in commodities prices and a 3.1% decline in overall prices. The study shows that Wal-Mart's impact on employment, nationally, is positive since 210,000 jobs were created by last year or an increase of 0.15% relative to the overall number of jobs that would have existed without Wal-Mart.

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Happy Holidays

from

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WAL-MART CHANGING NATIONAL STANDARDS, AND EVEN THE ECONOMY **continued from page 3**

At the same time there was a 2.2% decline in nominal wages across the economy by 2004. According to the survey, this was more than offset by the lower consumption prices resulting in a net increase in real, that is, inflation-adjusted disposable income of 0.9%. In short, "consumers earned less in nominal dollars but their income bought them more in the economy with Wal-Mart because of real disposable income gains," the study states. The study says that Wal-Mart saved each American household an average of $2,329.00 in 2004.

Perhaps one reason for Wal-Mart to sponsor such a study is increased national attention being given to its labor and retail practices. Wal-Mart is apparently going on the offensive before the launch of a documentary that attacks it, produced by Director Robert Greenwald, called "Wal-Mart: The High Cost of Low Prices". There is even a counter-film, a DVD release called, "Why Wal-Mart Works: and Why That Drives Some People CRAZY".

Wal-Mart has gone so far as to sponsor a November 4th national meeting of economists, academics and the media in Washington. Economists from such diverse backgrounds as the Massachusetts Institute of Technology, the U.S. Department of Agriculture, the Airforce Institute of Technology and various private firms debated the issues. In the face of all the adverse publicity and campaigns by special interest groups, Wal-Mart has decided to open up a frank discussion nationally of its strengths and weaknesses.

A sort of national association at Wal-Mart is being formed by the United Food and Commercial Workers (UFCW), called the Wal-Mart Workers of America (WWOA). It was started in November and offers a clearinghouse to supply information and services to employees outside a traditional union framework. Through WWOA, members can learn about employment lawsuits and class actions Wal-Mart is facing, review stories about Wal-Mart in the recent news, and read various internal company memorandums that were made available to the group. Members will be informed of their employment rights and legal protections, how to go to state offices to learn about workers' compensation benefits, and directions to outside services where they can get legal advice. This association is a continuation of the UFCW's Wake-Up Wal-Mart effort. There is a similar organization in Florida, called Wal-Mart Workers Association, sponsored by the Service Employees International Union.

One of these organizations has published a particularly controversial internal memo in which Wal-Mart's Executive Vice President of Benefits, Susan Chambers, suggests that benefits and work practices be redesigned to attract a "healthier, more productive workforce," potentially saving $670 million by 2011. Chambers suggested offering savings on healthy foods and other benefits that appeal to healthy workers. She also suggested that jobs be redefined so that all include some physical activity. "These moves would also dissuade unhealthy people from coming to work at Wal-Mart," she wrote.

Wal-Mark's spokeswoman Sarah Clark said the company's intent "was not to dissuade unhealthy people to apply for jobs at Wal-Mart . . . it was to provide programs to our associates to help them live longer or healthier lives."

Not only is the memo bad publicity for Wal-Mart, but it may furnish some plaintiffs evidence to argue Wal-Mart discriminates against some workers or applicants. The plaintiff will argue that the memo could be admissible evidence that Wal-Mart has a policy of preferring younger, healthier workers over older, less healthy workers.