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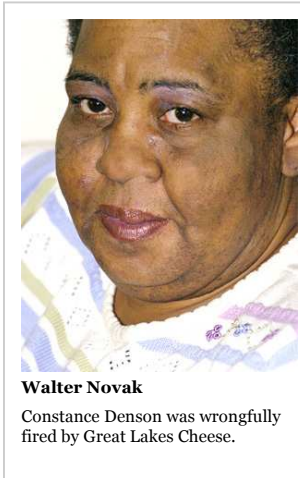


Minimum Rights

Ohio approved a minimum-wage increase. Then legislators got sneaky.

By Denise Grollmus

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Walter Novak

Constance Denson was wrongfully fired by Great Lakes Cheese.

Every morning, Constance Denson would arrive an hour before her shift at Great Lakes Cheese, carefully suit up for another day at the cold plant, then punch the clock and jump on the line.

By all appearances, she seemed an unusually dedicated worker. But she was simply compensating for the terror of being fired. "Everyone was real paranoid about punching in and out," she says. "I always got in there early to get my game face on."



Great Lakes was started in 1958 by Hans Epprecht, a Swiss immigrant who sold cheese throughout Cleveland. It's since grown to rank among the Forbes 500, with a history of piling up awards for its fine cheddars.

But those on the production line tell a different story. They describe a cheap company that violates labor laws by refusing to pay for the time workers spend layering up with clothes, hairnets, and smocks before their shifts.

In the past, such beefs were usually settled by class-action suits. After three years in court, the company would claim it didn't know any better, reach a settlement, and everyone would go back to work.

But a funny thing happened when Ohio passed a constitutional amendment in 2006 to raise the minimum wage. The legislature was charged with passing a bill to put it into practice. And what came out was the furthest thing from voters' wishes.

Business groups weren't pleased by the amendment. Nor was Senator Bill Seitz (R-Cincinnati), who received the bulk of his campaign contributions from these same groups. So Seitz took it upon himself to write the new law. "The amendment was extremely poorly drafted," he says. "It desperately needed clarification."

With the help of business lobbyists, he began to add all sorts of new restrictions. Suddenly, agricultural, amusement park, and home-care workers were excluded from the increase. He also attempted to eliminate an age-old ban on asking employees to work for less than minimum wage.

Seitz denies he was simply carrying water for business lobbyists. "That is the most silly thing I've

heard," he says. But there's little doubt a pro-labor vote had suddenly become an anti-worker law.

"It was clearly an attempt by Republicans and business groups to redefine some of the issues that the voters had voted on," says Tim Burga, the chief of staff for the Ohio AFL-CIO.

Seitz's bill was approved last April. One of the weirder provisions is a change in the way class-action suits are handled. For decades, all eligible workers were automatically included as plaintiffs in class-action suits. It was a way to guard individual employees from being singled out for revenge by management. "It protected workers from the wrath of their employers by including everyone and drawing attention to no one," says Cleveland lawyer Jason Bristol.

But Seitz changed the law so that workers must now voluntarily join a suit. And that's radically altered the way workplace rights are enforced in Ohio. Take the employees of Great Lakes Cheese.

After 18 months on the job, Constance Denson was fired. The company claimed she'd forgotten to punch out. The Equal Employment Opportunity Commission eventually ruled that she'd been unjustly fired, but she couldn't afford a lawyer to seek back pay or a return to work. (Great Lakes did not respond to interview requests.)

Then last summer, she was referred to lawyers Anthony Lazzaro and Jason Bristol. They quickly filed a class-action suit over the company's refusal to pay workers for prep time and overtime.

But as of today, only 90 of 700 workers have joined the suit. "This participation level is lower than we usually see," Lazzaro says. Employees, says Denson, are too fearful of being fired to take on the company.

The same thing happened at Le Chaperone Rouge, a day care and private elementary school with eight locations stretching from Amherst to Rocky River.

According to Lazzaro, employees are forced to attend training sessions, staff meetings, and open houses for no pay. Nor are they paid for staying after school to talk to a parent or tutor a student.

So last spring, Lazzaro and Bristol filed suit. Since then, only 22 of the school's 350 employees have joined the case. That's because the school has made it clear: You opt in, you're fired, according to the lawsuit.

In one affidavit, cook Kathleen Mayer claims that at least one employee was threatened by an administrator. She says a colleague was at her house when she received a call from Sandy Thomas, former director of the Rocky River school. "Ms. Thomas told my friend about the action and threatened to terminate her employment if she affirmatively opts in to the collective action," Mayer asserts. Needless to say, her friend didn't join the suit. (Thomas quit in January and couldn't be reached for comment.)

Le Chaperone Rouge's lawyer, Brent English, dismisses the case as "totally meritless" and calls Mayer's affidavit "libelous."

"If they are claiming that there was intimidation, they better prove it . . .," says English. "If their only source is that they overheard a telephone call to an anonymous employee, they better be careful, because that call was never made."

But Tara Mitchell says employers don't have to do much to scare workers. She's involved in a class action against her former employer, Bencin Material Hauling. Last year, while working as a truck driver, Mitchell cut herself while loading a trailer. She went straight to the hospital, where nurses

contacted Workers' Comp.

A few paychecks later, she says Bencin deducted money from her earnings to cover her claim. "I knew it was illegal," Mitchell says. The company also didn't pay overtime, and sometimes wasn't paying at all for the hours worked, Mitchell asserts. (Owner Mark Malbin didn't return *Scene's* calls.)

A Workers' Comp lawyer referred Mitchell to Lazzaro and Bristol, who filed a collective action in federal court. Still, "A lot of drivers are very reluctant to join, because of job security," she says. ". . . They felt like they still had a job, and that's what mattered to them."

But Seitz seems more intent on beating back lawyers than protecting workers. "I don't doubt that some people are afraid," he says. "But, you know — thank you very much — we are not interested in generating huge legal fees."