



# THE NEW MODEL OF REPRESENTATION

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AN OVERVIEW OF LEADING WORKER CENTERS



**U.S. CHAMBER OF COMMERCE**  
Workforce Freedom Initiative

“For the national labor movement to play its part in helping workers organize, we must open up union membership and make the benefits of representation available to all workers. We need to create new models of worker representation. We need to be more strategic and forward-looking. And we need to face this challenge collectively, all of us who are fortunate enough to represent working people today and all of us who care about the future of workers, including all of us in this room.

“What will it be? Will the Taxi Workers Alliance prove to be the model? Will Working America? OUR Walmart? Warehouse Workers for Justice? The Restaurant Opportunity Center? The Fight for 15? Or innovative efforts to help car wash workers organize in LA, New York City and in a partnership between the Steelworkers and ARISE here in Chicago?”

— Remarks by AFL-CIO President Richard L. Trumka,  
2013 Conference on New Models for Worker Representation in  
Chicago, Illinois, on March 7, 2013<sup>1</sup>



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# 1. Introduction

In 2013, after five years of a labor-friendly Democratic administration, organized labor's representation in the private sector stood at its lowest point in 70 years.<sup>2</sup> There are many reasons for this decline. Organized labor attributes it to U.S. laws governing collective bargaining, which leave it to the workers, not a labor union, to decide whether to be represented.<sup>3</sup> Others attribute the decline to organized labor's obsolescence in light of the comprehensive system of individual employee rights available under U.S. law.<sup>4</sup> Still others attribute it to the stigma associated with labor unions created by years of partisanship, poor decision making, and corruption.<sup>5</sup> Whatever the reason, most workers seem disinclined to choose a traditional labor union to address their employment concerns.

No one is more acutely aware of this reality than organized labor itself. For decades, unions have looked for ways to increase membership, which offers a solution to declining revenue and other systemic problems such as pension-fund solvency. In recent years, unions have started to focus on groups they disregarded in the past, including low-wage and lower-skilled workers from immigrant communities. With limited exceptions, efforts to organize these groups have failed.<sup>1</sup> These failures have forced labor to try to rebrand itself to regain favor with the public and the workforce. To do so, many labor unions have created, or in some cases sought to harness, what they portray as grassroots organizations commonly referred to as worker centers. In spite of their appearance, however, the most well-known of these groups hardly represent grassroots uprisings by workers. Instead, they are, for the most part, formed and incubated by well-established and well-funded labor unions and foundations. They serve as fronts to convey a simple message unencumbered by historical burdens associated with the traditional union.

The worker center is not new. Worker centers of the past, including Casa de Maryland, with which the current Secretary of Labor, Tom Perez, has been affiliated, were typically non-profit, community-based organizations that offered a variety of services to their members, including education, training, employment services, and legal advice.<sup>6</sup> They advocated for worker rights through research, communication,

i With the exception of the Service Employees International Union's Justice for Janitors campaign, labor's efforts on this front have largely failed. For example, in the 1990s, the United Food and Commercial Workers (UFCW) conducted a high-profile organizing campaign against Walmart, the world's largest retailer. With virtually nothing to show for their efforts, the campaign for recognition within the United States quietly evaporated. Similarly, in the late 1990s, the International Brotherhood of Teamsters ("Teamsters") attempted to unionize workers at McDonald's, the nation's large fast food restaurant. Again, those efforts failed.

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lobbying, and community organizing.<sup>7</sup> Such groups have been largely successful in their endeavors, and many believe they make a positive contribution to society.

Unfortunately, some worker centers have become the new face of traditional labor unions. In doing so, they have moved away from their historical mission and closer to the goal of securing membership for organized labor. Many no longer focus on education and training. Instead, they often prioritize efforts to gain membership and recognition rights for their labor union sponsors. Some of these worker centers are in fact nothing more than wholly-owned and operated arms of established labor unions.

Not only does the use of the worker center model enable traditional labor unions to create the appearance of a grassroots movement and avoid the stigma of the traditional labor union, but it also appears this model is being used to attempt to avoid the regulatory scheme that governs traditional labor unions. For example, many worker centers do not comply with the regulations regarding financial transparency and organizational democracy under the Labor-Management Reporting and Disclosure Act (LMRDA). Similarly, many worker centers engage in conduct, including protests, secondary boycotts, and other picketing activities, that would be considered unlawful under the National Labor Relations Act (NLRA) if done by traditional labor unions.<sup>8</sup>

Perhaps the most significant aspect of the worker center model is that it offers labor unions the ability to advocate on behalf of workers without having to establish that they represent a majority, or even any, of them. In other words, through this model, a union can decide for workers what it thinks is in their best interest without ever soliciting their input or support. Indeed, many of the “protests” and “strikes” conducted by worker centers are actually staffed using surrogates supplied to the organization by labor unions, and few involve the actual workers themselves.

Only time will tell whether this new approach to organizing workers will be successful for organized labor. In fact, it is difficult to see how worker centers will ultimately lead to enhanced union membership and thus an improved revenue stream. Employers can be assured of one thing, however. The worker center approach will remain in existence for the foreseeable future. More and more employers, irrespective of the nature of their workforce, will face protests and pickets led by ostensibly grassroots organizations. As such, it is important to fully understand what these groups really are and who is behind them.



## 2. Background on Study

The following study profiles five of today's most active worker centers, some well known, others less so. They include the Organization United for Respect at Walmart (OUR Walmart), Warehouse Workers United (WWU), New York Communities for Change (NYCC), the Coalition of Immokalee Workers (CIW), and *Centro de Trabajadores Unidos en Lucha* (CTUL). Some are clearly fronts for established labor unions. Others are independent, but act like labor unions in their own right. Although they share many similarities, each worker center profiled has different methods of funding and organizing. The study will address four criteria for each organization: their history, funding, tactics, and relationship with a traditional labor union. All information obtained for this study came from publicly available materials, including public records, filings, and media reports.

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## 3. The Groups

### ORGANIZATION UNITED FOR RESPECT AT WALMART

#### History of the Organization

Following years of high-profile failures to organize the world's largest retailer, in 2011, the United Food and Commercial Workers (UFCW) created a new entity to pursue the union's campaign against Walmart — the Organization United for Respect at Walmart (OUR Walmart).<sup>9</sup> OUR Walmart claims to have recruited thousands of hourly associates at Walmart stores across the United States.<sup>10</sup> Unlike other worker centers featured in this study, OUR Walmart has not designated itself as a 501(c)(3) non-profit organization. Instead, the UFCW has claimed OUR Walmart as a “subsidiary” in the labor union's annual filings with the U.S. Department of Labor.<sup>11</sup> It also has claimed OUR Walmart to be a 501(c)(5) organization for purposes of tax treatment, which is the designation for labor unions.<sup>12</sup> The group has worked with other UFCW-sponsored groups such as “Making Change at Walmart” to challenge Walmart's employment practices and expansion efforts.<sup>13</sup>

Originally, the goal behind the OUR Walmart campaign was to have Walmart meet certain demands defined by the UFCW and its surrogates related to wages and work schedules.<sup>14</sup> In addition, the UFCW, through its Making Change at Walmart effort, demanded that Walmart recognize and bargain with OUR Walmart as the representative of its employees.<sup>15</sup> In furtherance of those goals, OUR Walmart engaged in extensive “strikes” and other protest activities, including highly publicized actions on the Fridays following Thanksgiving in 2012 and 2013.<sup>16</sup>

OUR Walmart and the UFCW were dealt a major setback in January 2013, when the groups were forced to settle a National Labor Relations Board (NLRB) unfair labor practice charge filed by Walmart challenging their unlawful picketing activity.<sup>17</sup> In connection with the settlement, OUR Walmart and the UFCW publicly disavowed any interest in obtaining recognition or bargaining rights on behalf of Walmart associates.<sup>18</sup> In addition, both organizations posted a statement to that effect on their websites.<sup>19</sup> They also agreed to cease and desist from engaging in protests on Walmart properties for a period of 60 days.<sup>20</sup> The activities of OUR Walmart and the UFCW were further restricted as the result of other legal proceedings brought against them by the company. In particular, in June 2013, an Arkansas court entered a 10-month preliminary injunction against the groups for trespass.<sup>21</sup> More recently, Walmart has pursued trespass actions in Florida and other states that are still pending.<sup>22</sup>

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The organization also draws upon UFCW local staff, union members on leave from employers under contract with the UFCW, and summer interns from the UFCW's Summer for Respect campaign.

The leader of the UFCW's campaign against Walmart is Dan Schlademan, a UFCW employee.<sup>23</sup> He is responsible for the planning, strategy, and execution of the entire campaign of the UFCW against Walmart, which includes OUR Walmart.<sup>24</sup> Schlademan reports to Pat O'Neill, an executive vice president of the UFCW and director of organizers for the UFCW International union.<sup>25</sup> O'Neill is responsible for all UFCW campaigns and reports to Joe Hanson, the International President of the UFCW.<sup>26</sup>

Within the UFCW hierarchy under Schlademan, there are a number of UFCW officials who coordinate the various Walmart campaigns, including OUR Walmart.<sup>27</sup> The organization also draws upon UFCW local staff, union members on leave from employers under contract with the UFCW, and summer interns from the UFCW's Summer for Respect campaign.<sup>28</sup> Schlademan and his staff manage a number of UFCW campaigns targeting Walmart including Making Change at Walmart, Respect D.C., Walmart Free NYC, and other anti-Walmart initiatives.<sup>29</sup> The UFCW even has a global campaign that targets Walmart through the global union federation UNI Global Unions, an international collection of labor unions based in Switzerland that operates throughout the world and has been involved in actions targeting Walmart in South Africa and elsewhere.<sup>30</sup>

### Funding

Details of OUR Walmart's funding are not publicly available because OUR Walmart does not file any of the federal financial disclosure forms normally required of labor unions under the LMRDA. This is because the UFCW has designated OUR Walmart a "subsidiary organization" in its filings with the U.S. Department of Labor (DOL). The benefits of such a designation become evident when one considers that under the law, a subsidiary organization's finances can be included with those of the parent labor organization and, without itemization on the parent group's own filings, are indistinguishable.

However, a careful analysis of OUR Walmart's relationship to the UFCW reveals that OUR Walmart should not legally be considered a subsidiary at all. The concept of a "subsidiary" of a labor organization is not defined in the LMRDA or the associated regulations. Instead, DOL created the concept in the instructions it developed for completing the LM-2 form. That definition has been acknowledged by a number of courts.<sup>31</sup>

In the case *Brennan v. Local Union 10, International Longshoreman's Union*, the Ninth Circuit held that to be considered a subsidiary organization, **all three** of the following criteria must be met: (1) ownership must be wholly vested in the





labor organization, its officers, or membership; (2) it must be governed or controlled by the officers, employees, or members of the labor organization; and (3) *it must be wholly financed by the reporting labor organization.*<sup>32</sup> The entity at issue in the *Brennan* case was a “memorial association” that collected dues from members and sold membership certificates to members of the labor organization with which the association was affiliated. The court held that because the association was not wholly financed by the union, it was not a subsidiary of the union.<sup>33</sup>

As was the case with the memorial association at issue in *Brennan*, OUR Walmart should not legally be considered a subsidiary of the UFCW because it is not wholly financed by the union. As such, it fails part three of the test. While it is known from depositions of UFCW leadership in the Florida trespass litigation that the group’s primary source of funding is the UFCW,<sup>34</sup> OUR Walmart also appears to have raised funds of its own, as Schlademan confirmed in one of those depositions.<sup>35</sup> One way the group has raised money is through online fundraising, which in one year exceeded \$50,000.<sup>36</sup> OUR Walmart also raises money from its members, who pay a monthly fee to belong,<sup>37</sup> and the organization’s website explains how the group uses the money thus obtained.<sup>38</sup> Finally, the UFCW’s 2011 IRS Form 990 filing describes income from OUR Walmart in the amount of \$57,310.<sup>39</sup>

## Tactics

OUR Walmart has stated that its purpose is to convince Walmart’s management to meet with the group to address concerns regarding wages, hours, and terms and conditions of employment at the company.<sup>40</sup> To that end, OUR Walmart created what it calls a “Declaration of Respect,” through which it seeks to have the company change its policies.<sup>41</sup> The changes sought include “confidentiality in the Open Door [process] and provid[ing] [a written] resolution to issues that are brought up and always allow associates to bring a co-worker as a witness”; wages of “at least \$13 per hour and expand the percentage of full-time workers”; “provid[ing] wages and benefits that ensure that no Associate has to rely on government assistance”; “mak[ing] scheduling more predictable and dependable”; and establishing policies and enforcing them evenly.<sup>42</sup>

To effectuate these goals, OUR Walmart has engaged in tactics that mirror those used by the UFCW in its previous campaigns against Walmart, including making in-person demands directly to Walmart’s leadership. For example, in June 2011, a group of OUR Walmart representatives traveled to Bentonville, Arkansas, demanded to meet with Walmart’s CEO,<sup>43</sup> and presented the Declaration of Respect to a member of senior management.<sup>44</sup> OUR Walmart has also held marches and rallies at company locations across the country on behalf of the workers the group claims to represent.<sup>45</sup>

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In November 2012, OUR Walmart organized what it claimed to be a nationwide “strike” for the day after Thanksgiving, which is the biggest shopping day of the year (known as Black Friday).<sup>46</sup> Despite the publicity, the demonstrations were small and not very effective. Not only was the 2012 Black Friday Walmart’s highest-selling sales day in company history, but employee absences that day were down nearly 60% compared with Black Friday the year before.<sup>47</sup> Indeed, fewer than 50 of Walmart’s 1.3 million U.S.-based associates participated in the protest nationwide, supporting the claim that the vast majority of OUR Walmart members and supporters are not Walmart employees.<sup>48</sup> The UFCW and OUR Walmart scheduled similar nationwide protests during Black Friday of 2013, which seem to have met with an equally similar lack of tangible success.

As noted above, Walmart filed an unfair labor practice charge against the UFCW as a result of its conduct, and OUR Walmart was forced to settle those charges. Nonetheless, OUR Walmart has continued its demonstrations at Walmart stores.<sup>49</sup> In some cases, members go beyond peaceful demonstrations outside particular stores and carry their demands inside Walmart facilities, where protesters block aisles and confront shoppers with handbills.<sup>50</sup> UFCW-led demonstrators have sometimes refused to leave until the store manager meets with them to discuss wages or grievances of a particular employee.<sup>51</sup> In one instance, the demonstrators filled shopping carts and blocked the checkout counters in an attempt to disrupt business, then abandoned the carts, requiring the company to throw away spoiled product.<sup>52</sup> Many Walmart customers and current employees have publicly complained that OUR Walmart’s tactics are disruptive and wasteful.<sup>53</sup>

In response, Walmart filed civil trespass suits against OUR Walmart and the UFCW in Florida, Texas, Arkansas, California, Colorado, Washington, and Maryland.<sup>54</sup> The suits seek to prohibit non-Walmart employees from entering Walmart stores for purposes other than shopping.<sup>55</sup>

In June 2013, OUR Walmart attempted to organize a multiday strike of Walmart workers, which culminated in a bus trip to Bentonville for Walmart’s annual shareholder meeting.<sup>56</sup> This strike, like the Black Friday strikes, received little support from employees.<sup>57</sup> Anticipating additional demonstrations on Walmart’s property, as had occurred in prior years, Walmart obtained a restraining order against the UFCW and OUR Walmart prohibiting them from “entering onto or inside Walmart’s private property in the State of Arkansas to engage in activities such as picketing, patrolling, parading, demonstrations, ‘flash mobs,’ handbilling, solicitation, and manager confrontations.”<sup>58</sup>

After its attempt to disrupt the Walmart shareholder meeting, the organization moved on to the Yahoo! annual shareholder meeting where members repeatedly asked Melissa Meyer, Yahoo!’s CEO and a member of the Walmart Board of Directors, about



employees' wages at Walmart.<sup>59</sup> During the meeting, members of OUR Walmart requested that Meyer bargain directly with the organization over employees' terms and conditions of employment.<sup>60</sup> Several OUR Walmart members protested in the Yahoo! lobby and had to be physically removed.<sup>61</sup> The group has also approached several other board members.<sup>62</sup>

Perhaps in an attempt to avoid the limitations and requirements imposed by federal law, OUR Walmart (and, surprisingly, the UFCW as well) have publicly stated that they have no interest in obtaining recognition or bargaining rights on behalf of Walmart employees. Initially, the groups appeared to have taken this position as a condition of settlement with the NLRB in early 2013 over the union's picketing that occurred in 2012. More recently, Schlademan reiterated that representing Walmart workers was not a goal of the group or the labor union.<sup>63</sup> Such a stance is curious, given the fact that the UFCW has for years tried to organize associates at Walmart. However, there would appear to be value in taking such a position because of the ability to skirt requirements of the law. Of course, there is nothing to prevent OUR Walmart or the UFCW from changing their motives at a time when making such a change would prove convenient.

OUR Walmart's statement, whether credible or not, does not enable the group to avoid being deemed a labor organization under the law. Indeed, the NLRA defines labor organizations to include organizations that seek to deal with employers, regardless of whether the organization seeks recognition as the certified bargaining agent of employees. OUR Walmart has not abandoned its demands that Walmart change terms and conditions of employment in its stores. As such, it continues to have the requisite purpose for a finding that it is a labor organization.

## Relationship with Organized Labor

There is extensive evidence to establish OUR Walmart's deep ties to the UFCW. In addition to the financial and other support offered above, OUR Walmart gets its organizational leadership from the UFCW. For example, in addition to the role Schlademan plays in the organization, Jill Cashen, the UFCW's communications director, has issued several statements and granted interviews speaking on OUR Walmart's behalf.<sup>64</sup> The union has not only attempted to recruit employees to join OUR Walmart's cause, but has voiced the worker center's demands.<sup>65</sup> The UFCW also provides OUR Walmart with legal counsel.<sup>66</sup> In May 2013, OUR Walmart filed several unfair labor practice charges against Walmart, alleging that the company was practicing unlawful surveillance against employees and retaliating against those employees participating in protected labor activities.<sup>67</sup> In each of the charges, the worker center was represented before the NLRB by a lawyer directly employed by the UFCW.<sup>68</sup>

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Given its ties to Change to Win, which housed two unions that had engaged in campaigns against Walmart, Warehouse Workers United's activities should be viewed in the larger context of those campaigns.

Of all the worker centers profiled for this study, OUR Walmart acts the most like a labor union. This is not surprising, given that the UFCW claims OUR Walmart to be a subsidiary organization of itself, although as noted above, that claim is open to challenge.

## WAREHOUSE WORKERS UNITED

### History of the Organization

Like OUR Walmart, Warehouse Workers United (WWU) also targets Walmart; however, it does so through activities related to workers employed by third-party suppliers who have contracts to provide warehousing and logistics services with the company.<sup>69</sup> WWU's members are warehouse workers in the Inland Empire region of California, just south of Los Angeles.<sup>70</sup> The warehouses, some as large as one and a half million square feet, are largely staffed by immigrant workers.<sup>71</sup> Like OUR Walmart, WWU is not a 501(c)(3) charitable organization; rather, it is affiliated with the labor federation Change to Win, a coalition of the Service Employees International Union (SEIU), the United Farm Workers, the Teamsters, and, until recently,<sup>72</sup> the UFCW.<sup>73</sup> Change to Win created the WWU campaign back in 2008 after the Employee Free Choice Act (EFCA) was introduced in Congress.<sup>74</sup> The WWU campaign was intended to organize workers in the warehouse industry once EFCA passed.<sup>75</sup> WWU remained after EFCA failed in Congress, but switched its mission and directed its efforts at targeting Walmart indirectly through contract workers.<sup>76</sup> Given its ties to CTW, which housed two unions that had engaged in campaigns against Walmart, WWU's activities should be viewed in the larger context of those campaigns.

### Funding

As a Change to Win campaign, WWU receives substantial funding from unions.<sup>77</sup> WWU also receives funding, both directly and indirectly, through various grant programs, some of which include public money. In 2013, the Center for Sustainable Suburban Development at the University of California Riverside received a grant from the Center for Collaborative Research for an Equitable California for a partnership with WWU to investigate wage theft and health care access among warehouse workers in Southern California.<sup>78</sup> The Labor Occupational Safety and Health Program at the University of California Los Angeles also received grants from the Federal Occupational Safety and Health Administration to work with WWU to train workers to document health and safety issues.<sup>79</sup> As a result, the groups have filed multiple workplace safety claims and have issued a report on warehouse working conditions, which was published in the weekly newsletter *The Cal/OSHA Reporter*.<sup>80</sup> WWU also receives financial support from Clergy and Laity United for Economic Justice (CLUE), a faith-based 501(c)(3) nonprofit organization in Southern California



that is closely allied with unions.<sup>81</sup> CLUE has also worked directly with Change to Win to create the Warehouse Workers Resource Center, which provides alleged victims of unsafe working conditions, wage theft, or discrimination with legal counsel and other services.<sup>82</sup> It hosts English as a Second Language programs, civic engagement activity, and Know Your Rights workshops for immigrant workers.<sup>83</sup>

## Tactics

Although WWU claims as its purpose organizing warehouse workers generally (and the Inland Empire contains hundreds of such warehouses), WWU has focused its efforts almost exclusively on the warehousing operations that support Walmart. Of course, the workers WWU seeks to represent are not employed by Walmart at all, but by contractors and temporary staffing agencies that provide labor for warehouse logistics companies.<sup>84</sup> Nonetheless, WWU seeks to leverage the Walmart brand in its efforts to organize the workers of the companies that actually employ them. WWU has been very public about its goal to organize warehouse workers, a goal it declares has been made difficult by the industry's decentralized structure, reliance on subcontracting, and temporary workforce.<sup>85</sup> This has caused WWU to avoid traditional union organizing, and instead it has attempted to build its membership through community outreach and collaboration with neighborhood groups.<sup>86</sup>

However, WWU has engaged in the *tactics* customarily associated with traditional organizing campaigns. For example, members of the organization have held demonstrations, including sit-ins, and have established picket lines at warehouses operated by the logistics and staffing companies that service Walmart.<sup>87</sup> In September 2012, a group of workers walked off their jobs and joined WWU on a six-day protest march from the Inland Empire to Los Angeles, allegedly to protest working conditions.<sup>88</sup> Upon the conclusion of their march, they presented a letter to Walmart management that purported to outline conditions in the supplier warehouses.<sup>89</sup>

In addition to protests, sit-ins, and walkouts, WWU has also filed several complaints and lawsuits against warehousing corporations. For example, in 2011, WWU and Change to Win filed a class action lawsuit alleging wage and hour violations against several logistics companies on behalf of warehouse workers,<sup>90</sup> a tactic commonly employed by both traditional unions and worker centers seeking to gain leverage against employers (and most famously used in the worker center context by the Restaurant Opportunities Center, or ROC).<sup>91</sup> In many cases, worker centers use these lawsuits to pressure companies into agreements addressing a variety of terms and conditions of employment.<sup>92</sup> Some of these agreements can include granting union organizers access to a workplace, or a requirement that an employer remain neutral (or silent) in the face of union organizing.<sup>93</sup>

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WWU’s litigation strategy has included efforts to fold Walmart into claims brought against the warehousing and logistics companies that actually employ the workers WWU seeks to organize. For example, in one lawsuit filed by WWU supporters alleging violations of wage and hour laws by the contractors, Walmart was added to the case under the theory that the alleged violations by the contracting entities were the result of Walmart’s negligence.<sup>94</sup> Interestingly, the plaintiffs in that case were represented by Janet M. Herold, who at the time was an associate general counsel for the SEIU and special counsel to Change to Win.<sup>95</sup> Shortly after the suit was filed, Herold left WWU and Change to Win and joined President Obama’s administration as a regional solicitor at the Department of Labor.<sup>96</sup>

In another example, WWU sought to involve Walmart in state occupational safety and health cases brought against the contracting agencies. Sherheryar Kaoosji, a research analyst for Change to Win<sup>97</sup> working on the WWU campaign, filed a complaint with the California Division of Occupational Safety and Health in July 2012 alleging that a logistics company and a staffing company, both subcontractors to Walmart, violated the California health and safety code.<sup>98</sup> In the complaint, WWU accused Walmart of being a joint employer and requested that the agency investigate all three companies. Importantly, in the letter, WWU declared itself to be the employees’ representative and directed the agency to contact it to arrange investigations of the worksite and interview employees.<sup>99</sup>

Unlike OUR Walmart, WWU does not hide its goal to organize workers. For example, in an article posted on WWU’s website, the WWU communications director explained that WWU believes unions are necessary in the warehousing industry and the Inland Empire.<sup>100</sup> Similarly, WWU has admitted that the purpose of its protests, sit-ins, and demonstrations has been to “highlight the need for national labor law reform to facilitate unionization.”<sup>101</sup> WWU’s director has confirmed that its goal is to organize workers on the lowest rungs of Walmart at the same time that groups like OUR Walmart are pressuring the company, explaining that “shaming [Walmart] in combination with a robust campaign of organized workers could cause the company to look hard at its own business model.”<sup>102</sup>

Consistent with its stated goals, WWU has sought to bargain directly with Walmart over the terms and conditions of employment of those working for the logistics and warehousing subcontractors. In January 2012, WWU sent a letter to Walmart demanding that the company adopt what the organization called a “Responsible Contractor Policy.”<sup>103</sup> The policy called on Walmart to cease using temporary staffing agencies for more than 10% of its business and to provide direct employment to the remaining 90% of the workforce; to provide equal compensation and benefits to all





workers within a facility doing equal work, regardless of whether their employer is Walmart, a third-party firm, or any other employer; to pay employees a “living wage”; to provide health benefits, paid holidays, sick days, and retirement compensation; and to commit to “implementing the least difficult means to union recognition as legally permissible.”<sup>104</sup> Walmart did ultimately agree to meet with WWU representatives and listen to employee concerns. The meeting was held in January 2013, and there have been no subsequent meetings as of this writing.<sup>105</sup>

### **Relationship to Organized Labor**

Like OUR Walmart, WWU has deep ties to traditional labor unions. In addition to receiving the majority of its funding from Change to Win, WWU also benefits from the assistance of union organizers and legal counsel of Change to Win and the SEIU.<sup>106</sup> WWU’s former Campaign Director, Nicholas Allen, has been an organizer with the SEIU since 1996.<sup>107</sup> WWU’s Communications Director, Elizabeth Warren, is directly employed by Change to Win, as are current Campaign Director Guadelupe Palma, Communications Associate Michal Long, and Strategic Researcher Kaoosji, who has filed multiple Cal/OSHA complaints allegedly on behalf of WWU members.<sup>108</sup> These relationships are not a surprise, as WWU is a campaign of Change to Win. It bears noting that, until recently, the UFCW, which currently targets Walmart through the worker center OUR Walmart, was a member of Change to Win and still appears to be a part of the organization’s Strategic Organizing Center. Thus, it would not be a stretch to assume that the real purpose of WWU is merely to ramp up pressure on Walmart to further the UFCW’s organizational goals.

## **NEW YORK COMMUNITIES FOR CHANGE**

### **History of the Organization**

The group New York Communities for Change (NYCC) is a worker center created by the former leaders of the Association of Community Organizations for Reform Now, better known as ACORN, based out of New York.<sup>109</sup> From 1970 to 2010, ACORN billed itself as the nation’s largest community organization of low-and moderate-income families, with more than 400,000 member families organized within 1,200 neighborhood chapters in 110 cities across the United States.<sup>110</sup> ACORN was marred by controversy, including an embezzlement claim against its founder, claims of voter registration fraud, and a widely publicized video segment that depicted employee misconduct in several cities.<sup>111</sup> Following the scandals, in 2010, ACORN’s New York office ceased operations.<sup>112</sup>

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Shortly after ACORN closed, NYCC formed and began to operate.<sup>113</sup> NYCC took over ACORN's former office space in Brooklyn, shared a number of ACORN's former board members, and, according to one news outlet, used its membership rolls to locate supporters.<sup>114</sup> Jon Kest, the former director of ACORN's New York operations, started NYCC and employed much of ACORN's old staff.<sup>115</sup> Following Kest's death in December 2012, Jonathan Westin, NYCC's organizing director and also a former ACORN organizer, took over as NYCC's executive director, where he remains today.<sup>116</sup>

According to one media report, NYCC played a key role in the Occupy Wall Street movement by organizing "guerilla" protest events and hiring door-to-door canvassers to collect money under the banner of various causes while spending it on protest-related activities.<sup>117</sup> Immediately following the report, NYCC quickly challenged the allegations as a smear campaign.<sup>118</sup>

Since its inception, NYCC has worked closely with traditional labor unions to organize low-wage workers. Initially, NYCC partnered with the Retail, Wholesale and Department Store Union (RWDSU) to organize grocery stores around New York City.<sup>119</sup> More recently, NYCC and RWDSU teamed up to unionize city car washes.<sup>120</sup> NYCC's most recent effort has been to facilitate the unionization of fast food workers through a campaign called "Fast Food Forward" (FFF).<sup>121</sup>

FFF describes itself as "a movement of NYC fast food workers to raise wages and gain rights at work." It claims to be part of a national movement of low-wage workers fighting for a better future.<sup>122</sup> The campaign's original goal was to organize dozens of fast food restaurants in New York in the hope of raising wages to \$15 an hour.<sup>123</sup> Primarily sponsored by NYCC, FFF also receives support from the SEIU — "a powerful union that is playing a quiet but important role behind the scenes."<sup>124</sup> FFF utilizes social media to spread its message and organize its base.<sup>125</sup> Similar campaigns with catchy titles such as "Fight for Fifteen" and "Can't Survive on \$7.35" have also appeared in other large U.S. cities including Chicago, Houston, Los Angeles, Detroit, and St. Louis.<sup>126</sup>

### Funding

NYCC has registered as a 501(c)(3) nonprofit organization.<sup>127</sup> According to its IRS Form 990 filing, NYCC "was established as a grassroots membership-based organization building power for low and moderate-income communities in New York State. Members take action on a range of issues affecting the quality of life in their neighborhood including affordable housing, education, foreclosures and predatory lending, workers' rights, immigration, and environmental justice."<sup>128</sup> In 2011, NYCC reported \$2.129 million in revenue (\$873,183 from contributions and donations and



\$1,256,574 from program service revenue<sup>129</sup>), with almost all of its revenue being spent on salaries, other compensation, and employee benefits.<sup>130</sup> According to the SEIU's LM-2 reports dating back to 2010, SEIU Local 1199 has contributed more than \$100,000 to NYCC,<sup>131</sup> and one media outlet reported that in 2012 the union gave \$2.5 million to the group, which exceeded the group's income for all of 2011.<sup>132</sup> In addition, NYCC received \$353,881 from Teachers AFL-CIO, Local 2 (United Federation of Teachers) between August 1, 2011, and July 31, 2012.<sup>133</sup>

## Tactics

On November 29, 2012, in what the *New York Times* called “[t]he biggest wave of job actions in the history of America’s fast-food industry,” FFF organized widespread demonstrations and worker “walkouts” across New York City.<sup>134</sup> The effort was sponsored by NYCC, UnitedNY.org, the SEIU and other organizations.<sup>135</sup> Several New York City candidates for mayor<sup>136</sup> quickly came out in support of the FFF campaign.<sup>137</sup> A week later, on December 6, 2012, NYCC organized another protest in Times Square, with protesters again demanding a “living wage” for fast food workers.<sup>138</sup>

In April 2013, NYCC organized another large-scale job action to coincide with the anniversary of the assassination of Dr. Martin Luther King, Jr.<sup>139</sup> According to Westin, the protest was designed “to show the escalation of the campaign and the movement of workers, to demand fair pay and better treatment, so they can continue to raise their families and put food on the table.”<sup>140</sup>

FFF staged large-scale protests during the summer of 2013. The efforts were largely funded by the SEIU.<sup>141</sup> The first, which occurred in July 2013, started in New York and spread to cities like Chicago, Detroit, St. Louis, and Washington, D.C.<sup>142</sup> The stated goal was to pressure fast food employers to increase the wages paid to their employees to \$15 per hour and to encourage union membership among fast food workers.<sup>143</sup> SEIU President Mary Kay Henry confirmed that her union was pouring dozens of organizers and large sums of money into making the “strike” effective.<sup>144</sup> The second, held in August, allegedly had participants in 58 cities, although it appears that few actual workers participated.<sup>145</sup>

The protests were preceded by a report FFF released in May 2013, titled *New York's Hidden Crime Wave*.<sup>146</sup> In the report, the group claimed “that the majority of fast-food employees — working at some of the most recognized and profitable American corporations — report that their employers are stealing their hard earned wages.”<sup>147</sup> The report was based on a survey of 500 New York City fast food workers in April 2013, conducted by Anzalone Liszt Grove Research, a Democratic polling organization. According to the report, “84 percent of workers surveyed responded

SEIU President Mary Kay Henry confirmed that her union was pouring dozens of organizers and large sums of money into making the “strike” effective.

# THE NEW MODEL OF REPRESENTATION

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In addition to the connection NYCC has with the traditional labor unions RWDSU and SEIU, the group appears to be one of the first worker centers to create its own labor union.

that their employer had committed at least one form of wage theft in the past year.”<sup>148</sup> Following release of the report, New York Attorney General Eric Schneiderman announced that his office was investigating whether the owners of several fast food restaurant franchises, as well as their franchisors, had cheated workers out of wages.<sup>149</sup> The investigation remains pending, although no actual charges had been filed at the time this report was written.

### Relationship with Organized Labor

In addition to the connection NYCC has with the traditional labor unions RWDSU and SEIU, the group appears to be one of the first worker centers to create its own labor union.<sup>150</sup> According to a filing with the U.S. Department of Labor, Jonathan Westin, Kendall Fells, and Kevin Doyle founded a formal labor organization called the Fast Food Workers Committee in November 2012.<sup>151</sup> Westin is the leader for NYCC. The other two individuals are SEIU officials, according to the SEIU’s most recent U.S. Department of Labor filings.<sup>152</sup> In addition to sharing Westin’s leadership, NYCC, FFF, and Fast Food Workers Committee share the same address in Brooklyn, New York.<sup>153</sup>

NYCC and FFF differ from some other worker centers operated by labor unions in as much as they do not hide their organizational objective to secure representation rights for workers in the industry. During the November 2012 FFF strike, employees demanded their respective employers raise their wages to \$15.00 per hour and voluntarily recognize the Fast Food Workers Committee.<sup>154</sup> The pattern is being followed in other cities such as Detroit, Chicago, Milwaukee, and St. Louis, with similar labor unions being formed by similar groups. All appear to have ties to the SEIU.<sup>155</sup> Thus far, there is no evidence that these groups have succeeded in securing representation rights for their affiliated unions.

## COALITION OF IMMOKALEE WORKERS

### History of the Organization

The Coalition of Immokalee Workers (CIW) is a worker center based in Immokalee, Florida.<sup>156</sup> Its claimed membership consists of approximately 5,000 immigrant workers employed by tomato and citrus producers in Immokalee.<sup>157</sup> Unlike the other groups, CIW does not appear to be directly affiliated with any traditional labor organization and instead relies on support from religious and nonprofit organizations.

CIW dates back to 1993, when it began organizing community-wide strikes and work stoppages to pressure Florida growers to increase pay for tomato harvesting.<sup>158</sup>



Specifically, between 1995 and 2000, CIW organized actions against Florida growers in 1995, 1997, 1999, and 2000. This included a 30-day hunger strike in 1997, and a 230-mile march from Fort Meyers to Orlando in 2000.<sup>159</sup>

Around 2000, however, CIW abandoned its strategy of direct engagement with growers and turned its efforts toward retailers and other end users of tomatoes.<sup>160</sup> According to its co-founder, Greg Asbed, “[t]he CIW determined that the vast and unprecedented consolidation of money and power at the top of the food industry that had evolved over the past several decades — with the emergence of national, multibillion dollar chains — created a tremendous downward pressure on wages and working conditions in the fields.”<sup>161</sup> Based on this theory, CIW launched the Campaign for Fair Food in 2001 “to put the proper incentives in place at the top of the food market supply chain in order to change the outcomes for those at the bottom.”<sup>162</sup> Put another way, CIW set out on a campaign to pressure the companies that purchased agricultural products from growers. The theory followed that these companies, if properly pressured, would in turn pressure the growers themselves.

## Funding

CIW relies on the assistance and financial support of outside organizations. For example, the Florida Rural Legal Services, Inc. (“Florida Rural”) — a partially government funded nonprofit law firm — helped CIW incorporate and attain 501(c)(3) status as a tax-exempt charitable organization and has worked with the group at various points throughout its 20-year existence.<sup>163</sup> At one point, Florida Rural served as CIW’s general counsel and took “an active, though intentionally backstage, role in its representation.”<sup>164</sup> In particular, Florida Rural handled CIW’s corporate work and monitored CIW’s actions to ensure that it was acting within the group’s corporate and tax-exempt status.<sup>165</sup> Asbed was once affiliated with Florida Rural.<sup>166</sup> Today, Florida Rural’s direct involvement with CIW has been reduced, but it remains active representing agricultural workers in connection with wage and hour claims against growers of produce.<sup>167</sup>

As a result of Florida Rural’s early assistance in helping to structure CIW as a 501(c)(3) organization, CIW has been able to fund its campaigns through grants. In its 2011 tax filing, CIW reported \$3,008,781 in total revenue, almost all of which came from contributions and grants,<sup>168</sup> several of which came from large foundations. It is unclear whether CIW charges membership fees.<sup>169</sup>

## Tactics

As mentioned, initially, CIW sought to meet and negotiate directly with growers. However, it now pursues most of its goals through the extensive use of

The Coalition of Immokalee Workers set out on a campaign to pressure the companies that purchased agricultural products from growers. The theory followed that these companies, if properly pressured, would in turn pressure the growers themselves.



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The Coalition of Immokalee Workers now pursues most of its goals through the extensive use of secondary boycotts against the end users of products picked by its members, many of which are well-known retailers and restaurants.

secondary boycotts against the end users of products picked by its members, many of which are well-known retailers and restaurants.<sup>170</sup> One way the group does so is through the aforementioned Fair Food campaign, which was launched in April 2001 when CIW called for a nationwide consumer boycott of a popular fast food restaurant.<sup>171</sup> Through this and its “penny-a-pound” campaign, CIW sought to engage major retailers to enter into Fair Food Agreements.<sup>172</sup> Over the course of the past 13 years, according to CIW, it has waged 11 successful campaigns with national companies under this program.<sup>173</sup> Signatories to the Fair Food Agreements commit to purchase tomatoes solely from growers that abide by a Code of Conduct, and agree to pay an additional amount per pound of tomatoes purchased (a “penny-a-pound”), which is meant to be passed on to workers represented by CIW.<sup>174</sup>

In November 2010, CIW entered into a Fair Food Agreement with the Florida Tomato Growers Exchange, a trade association that represents the majority of Florida’s tomato farmers.<sup>175</sup> By signing the agreement, the signatory growers became part of the Fair Food Program, agreed to increase wages for employee pickers, and agreed to abide by the Code of Conduct.<sup>176</sup> The Code of Conduct covering the Florida Tomato Growers Exchange has not been made public. However, similar codes of conduct covering other growers have.<sup>177</sup> A template for the Code of Conduct appears on the Fair Food Standards Council’s website.<sup>178</sup> It contains many basic terms and conditions of employment one might find in a traditional collective bargaining agreement.<sup>179</sup> In addition to the requirement that growers pass on the “penny-per-pound” charges paid by retail signatories of the Fair Food Agreement and abide by state and federal wage and hour laws,<sup>180</sup> it includes requirements that growers install time clocks, permit break periods, monitor worker health and safety, and provide written guidelines for employee advancement opportunities.<sup>181</sup> The Code requires the grower to grant CIW access to their facility to perform training and orientation of all employees, and creates an investigation mechanism to ensure the employer complies with the requirements of the Code and remedies any complaints.<sup>182</sup> Several employees have raised concerns about the effectiveness of the “penny-per-pound” plan and whether the additional contributions made by employers actually reach the workers themselves.<sup>183</sup> CIW claims that the program works effectively and that it supports employers in recent lawsuits related to the penny-per-pound filed against signatories to the Fair Food Agreements.<sup>184</sup>

CIW is currently targeting several large supermarket chains, as well as fast food restaurants.<sup>185</sup> To effectuate its goals, CIW has engaged in traditional tactics employed by labor unions, such as picketing outside stores, corporate headquarters, and shareholder meetings,<sup>186</sup> but it has also modernized its approach. For example, CIW regularly utilizes Twitter and Facebook to mobilize its base.<sup>187</sup> CIW has even created a webpage where its supporters can click a link and send an e-card to the corporate executives





of the target companies, demanding submission to CIW's demands.<sup>188</sup> On another webpage created by CIW, a user can print a letter prepared by CIW for transmission to a target company.<sup>189</sup> Moreover, CIW utilizes its radio station (broadcasting in up to five languages) to reach out to migrant workers.<sup>190</sup>

## Relationship to Organized Labor

Unlike the other worker centers profiled in this report, CIW does not appear to have direct ties to any traditional labor union. Instead, CIW has successfully developed close affiliations and partnerships with religious and student-based organizations, in particular, Interfaith Action of Southwest Florida ("Interfaith Action"). Interfaith Action describes itself as "a network of people of faith and religious institutions" that works with CIW "to improve sub-poverty wages and end modern-day slavery and human rights abuses in the fields."<sup>191</sup> According to Interfaith Action, it "educates and organizes in partnership with the [CIW]."<sup>192</sup> Not surprisingly, CIW provides financial support to Interfaith Action.<sup>193</sup> Interfaith Action, however, is just one of several religious-based organizations, including the International Justice Mission, Sojourners, and T'ruah (formerly Rabbis for Human Rights – North America), that partner with CIW toward achieving its mission.<sup>194</sup> CIW also receives significant support from the Student/Farmworker Alliance (SFA), a national network of students and youth whose mission is to "eliminate sweatshop conditions and modern-day slavery in the fields."<sup>195</sup> SFA traces its roots to 2000, when students from several Florida colleges and universities participated in CIW's organized march from Fort Meyers to Orlando.<sup>196</sup> Since then, SFA has been at the forefront of what it describes as a "resurgent farmworker solidarity movement, organizing around CIW's Taco Bell boycott."<sup>197</sup> For example, as part of the four-year campaign against Taco Bell, SFA played a key role in supporting CIW's objectives.<sup>198</sup> At the end of the campaign in 2005, SFA continued to assist CIW in every one of its campaigns against retailers and end users of tomatoes.<sup>199</sup> Some of SFA's officers, including Meghan Cohorst and Melody Gonzalez, have and/or are presently serving CIW in a leadership role.<sup>200</sup>

In addition to coalitions with religious and student-based organizations, CIW attributes much of its success to government endorsement of its mission. In 2008, Senators Edward Kennedy (D-MA), Bernie Sanders (I-VT), Sherrod Brown (D-OH), and Assistant Senate Majority Leader Dick Durbin (D-IL), expressed concern about farmworkers' living and working conditions in Immokalee, Florida.<sup>201</sup> This remark by lawmakers followed a day of hearings, where CIW co-founder Lucas Benitez provided testimony in support of CIW's mission.<sup>202</sup> Since 2008, Durbin has repeatedly pressed the agricultural industry to adopt tougher work standards and provide a penny-per-pound pay increase to workers in Immokalee.<sup>203</sup> In 2009, then Florida Governor Charlie Crist pledged to work with CIW,<sup>204</sup> and in April 2013, President Obama singled out

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the Fair Food Program as “one of the most successful and innovative programs” in the fight to uncover and prevent “modern-day slavery,” a fight the president called “one of the great human rights causes of our time.”<sup>205</sup> With the ever-growing support of faith-based organizations and student organizations and endorsement by lawmakers, CIW continues to pressure retailers to give in to its demands.<sup>206</sup>

## CENTRO DE TRABAJADORES UNIDOS EN LUCHA

### History of the Organization

The *Centro de Trabajadores Unidos en Lucha* (CTUL) is headquartered in Minneapolis, Minnesota. CTUL focuses on the immigrant workforce employed by contractors who perform janitorial services in large retail establishments and office buildings in Minneapolis. While the object of CTUL's efforts is to effectuate change in the employment relationship between the janitorial contractors and the workers CTUL claims to represent, it does so by pursuing the customers of those contractors, many of which are large and well-known brands. For example, CTUL's most recent efforts have been directed at Target, which has its corporate headquarters and a flagship store in downtown Minneapolis. Such conduct is referred to as secondary activity, which is generally prohibited by federal law when engaged in by a labor union, which, as a worker center, CTUL claims not to be.

CTUL was founded in 2005 as an initiative of the Workers' Interfaith Network (WIN).<sup>207</sup> WIN is an affiliate of Interfaith Worker Justice, a national faith-based worker center established in 1996 and based in Chicago, Illinois, which operates out of the Bethany Lutheran Church that shares the same Minneapolis address as CTUL.<sup>208</sup> Interfaith Worker Justice receives significant funding from a number of unions, including the SEIU, as well as Clergy and Laity United for Economic Justice-Los Angeles (CLUE-LA).<sup>209</sup> WIN's stated goal when it formed CTUL was to support low-wage workers, “who are facing workplace issues such as unjust firings or wage theft,” primarily through the provision of legal services.<sup>210</sup>

CTUL initially operated as the Interfaith Center for Worker Justice and focused on providing services such as education, legal counseling, and immigration assistance to low-wage immigrant workers. However, in 2007, it changed its approach. It transformed into a grassroots advocacy group with the objective of “empower[ing] low-wage workers to lead a movement aimed at achieving fair and equitable wages, working conditions and treatment for all.”<sup>211</sup>



## Funding

According to its filings with the Internal Revenue Service, CTUL has been designated as a nonprofit 501(c)(3) organization and files an IRS Form 990.<sup>212</sup> In 2011, CTUL reported gross receipts of \$134,675, most of which came from contributions, gifts, grants, and similar revenue, down from a high in 2007 of \$217,313.<sup>213</sup> Prominent grants received by CTUL include \$45,000 from The Catholic Campaign for Human Development received in 2011/2012, and a 2012 \$10,000 Round 2 grant from the Twin Cities' Metropolitan Council's Community Engagement Team in connection with light rail expansion.<sup>214</sup> CTUL has also received grants from the Headwaters Foundation for Justice in unspecified amounts.<sup>215</sup>

CTUL charges no membership fees and instead confers membership on individuals who attend three group meetings.<sup>216</sup> CTUL also solicits donations from the general public through its website. In addition, CTUL has organized several annual fundraising "galas" with silent auctions. Its stated purpose for these galas is supporting "retail janitors who work for companies that clean Target and other stores."<sup>217</sup>

## Tactics

CTUL does not typically direct protests at the employer of the individuals CTUL claims to represent. Instead, CTUL's high-level strategy is to focus primarily on the higher-profile companies that contract with the workers' actual employer.<sup>218</sup> CTUL retail industry targets have included a wide variety of well-known retail brands.<sup>219</sup> However, CTUL has not limited its activities to just well-known retail brands and has also pursued companies outside of the retail sector.<sup>220</sup> The goal of this secondary activity is to apply pressure on a higher-profile company that CTUL hopes will translate into greater pressure on the workers' actual employer. This, in turn, will cause the employer to give in to CTUL's wishes.

CTUL also conducts educational programs and enlists the aid of clergy and politicians in its advocacy campaigns. CTUL has sponsored petitions seeking redress for wages and working conditions, which it uses in campaigns.<sup>221</sup> It has organized marches, protests, and community events in support of its various causes.<sup>222</sup> CTUL's tactics are strikingly similar to those of the Coalition for Immokalee Workers (CIW). This is not surprising, given that CTUL is led in part by Brian Payne, who, as discussed below, was a prominent leader within CIW.

CTUL's tactics can be very disruptive. Over a several month period in the spring of 2011, CTUL staged "in-store guerrilla theater"<sup>223</sup> actions inside one major grocery store chain<sup>224</sup> that contracted with the janitorial service company that employed the workers on whose behalf CTUL was protesting.<sup>225</sup> The demonstrators protested

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In June 2013, CTUL staged a multifaceted attack against Target that included protests at its flagship downtown Minneapolis store and the annual shareholder meeting in Denver.

inside the stores, where they sang and performed skits.<sup>226</sup> They engaged in loud and disruptive chanting, blockage of aisles, and a consumer boycott.<sup>227</sup>

The grocery store sought and obtained an injunction against CTUL and its leaders. The injunction barred CTUL protesters from “[e]ntering any ... store, parking lot or other property for any purpose other than shopping.”<sup>228</sup> CTUL was also barred from providing organizational materials or support to individuals whom it had reason to know would use the materials to trespass, obstruct access, or make noise that disturbed customers.<sup>229</sup> Finally, the court ordered CTUL to post a copy of the court’s order on the group’s webpage and its Facebook page.<sup>230</sup>

As part of the same series of demonstrations, several CTUL supporters engaged in a hunger strike.<sup>231</sup> The hunger strike began in May 2011 with the slogan, “Hungering for Justice.”<sup>232</sup> CTUL reported that 18 workers and allies participated in the action over a 12-day period.<sup>233</sup> They demanded that the leadership of the targeted store participate in a meeting with CTUL and that it adopt a contractors’ code of conduct that called for fair wages and working conditions, and “the right for workers to organize free of retaliation.”<sup>234</sup> The president of SEIU Local 26 joined the hunger strikers several days after its inception.<sup>235</sup>

During the hunger strike, the Minneapolis City Council passed a resolution supporting retail cleaning workers.<sup>236</sup> The workers also obtained support from a number of religious and political leaders.<sup>237</sup> These community leaders ultimately assisted in ending the hunger strike, promising to press the employer for a solution.

Most recently, CTUL has directed its efforts against the retail giant Target. As part of those efforts, CTUL has engaged in protests and demonstrations at Target’s headquarters in Minneapolis.<sup>238</sup> In June 2013, CTUL staged a multifaceted attack against Target that included protests at its flagship downtown Minneapolis store and the annual shareholder meeting in Denver.<sup>239</sup> A group of more than 250 protesters congregated at the perimeter surrounding the store location where the shareholder meeting was held.<sup>240</sup> At the same time, another approximately 80 protesters associated with CTUL picketed Target’s flagship downtown store for about four hours.<sup>241</sup> Following the picketing, the protesters returned to put on a three-hour “Concert for Justice” in front of the store.<sup>242</sup> Despite this conduct, in the past 12 months, there is no evidence that any store has experienced any cleaning crew member walking out during or as a result of any strike. Not surprisingly, as with the OUR Walmart “strikes,” picketing is predominately staffed by CTUL supporters and members of affiliated groups rather than employees.<sup>243</sup>



CTUL has also attempted to invoke legal mechanisms to pursue the well-known companies that hire the janitorial service contractors that employ the workers CTUL claims to represent. For example, CTUL has filed NLRB unfair labor practice charges against janitorial contractors, alleging unlawful terminations for organizing attempts.<sup>244</sup> In those charges, CTUL has employed tactics used by other worker centers by attempting to enmesh the better-known third-party companies in the dispute.<sup>245</sup> In another instance, CTUL pursued an OSHA complaint against a third-party target of a CTUL campaign because it claimed the store in which the janitorial contractor provided services presented hazardous working conditions.<sup>246</sup>

### Relationship with Organized Labor

CTUL enjoys the support of the UFCW and has ties to the SEIU. CTUL's leadership includes Brian Payne, a former SEIU employee<sup>247</sup> who has a long history of working with various community activist groups. He co-founded SFA, which operates out of offices of the CIW, the aforementioned worker center located in Immokalee, Florida.<sup>248</sup> Payne and SFA were active in CIW's labor standards campaign against growers and a number of prominent fast food restaurants.<sup>249</sup> In 2011, Payne left CIW to assume his role with CTUL. CTUL has also received pledges of support by a number of prominent local union officials, including from the SEIU and the UFCW.<sup>250</sup>

CTUL also works closely with traditional labor unions on other initiatives. For example, in February 2013, CTUL joined the SEIU and several other worker centers in sending a letter to the heads of a number of major corporations urging them to do their part to resolve the "crises impacting Minnesota's middle class."<sup>251</sup> CTUL also participated in a "Week of Action" in Minneapolis in connection with SEIU Local 26 following a strike vote by the union and coordinated industry labor agreement negotiations with Local 26 for two separate contracts on behalf of Twin Cities janitors and security guards.<sup>252</sup> Together they also protested employment terminations at two nonunion Target contractors. CTUL members picketed Target's downtown Minneapolis retail store and distributed "We Expect More" flyers specifically attacking Target. Interspersed within the crowd of demonstrators were SEIU protesters with "Unlock our Future" flyers as well as UFCW and UNITE-HERE supporters.<sup>253</sup> Later that day, SEIU Local 26, with CTUL support, demonstrated in front of Target's corporate offices, calling for a one-day janitors' strike. Lucas Benitez, one of the co-founders of CIW, joined CTUL in support of the June 2013 strike.<sup>254</sup>

Ultimately, a major goal of CTUL has been to support the organization of nonunion janitorial and security guard contractors.<sup>255</sup> Payne has stated publicly that the group believes "unionization would help the workers address most of the issues they face."<sup>256</sup> To further this goal, CTUL protests have as one objective pressuring

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employers to enter into neutrality agreements with traditional labor organizations.<sup>257</sup> Following the June 2013 strikes, at least one entity appears to have agreed to enter into a neutrality agreement with the SEIU.<sup>258</sup> The results of that agreement and any resultant organizing efforts were not known at the time this paper was written.





## 4. Conclusion

The foregoing profile of five of the most active worker centers reveals similar themes among widely divergent groups. Most, but not all, have deep ties to organized labor, and all use the tactic of attacking a well-known and well-regarded brand as part of their efforts. However, the most significant similarity is that each seeks to “organize” workers and claims to represent them. Of course, none of them appear to have ever established that they in fact represent a majority of workers in an appropriate bargaining unit. By making this claim without actually enjoying such majority support, these groups are attempting to make an end-run around laws that they disagree with but cannot change. In light of the active support by well-established labor unions, foundations, and community activist groups, the worker center model of advocacy will continue to grow in the near term. However, whether it will actually result in increased union membership is an open question. Only time will tell.

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## Endnotes

- 1 Richard Trumka's complete speech is available on the AFL-CIO's website at <http://www.aflcio.org/Blog/Organizing-Bargaining/Future-of-Unions-New-Models-of-Worker-Representation> (last accessed on October 14, 2013).
- 2 Bureau of Labor Statistics, January 24, 2014, press release. Available at [www.bls.gov/news.release/union2.nr0.htm](http://www.bls.gov/news.release/union2.nr0.htm).
- 3 "To be blunt, our basic system of workplace representation is failing to meet the needs of America's workers by every critical measure." Excerpt from speech of AFL-CIO President Richard Trumka. See Sam Hananel, Article: *Unions Get Creative to Halt Decline in Membership*, Associated Press. Available at <http://finance.yahoo.com/news/unions-creative-halt-decline-membership-074650525.html> (last accessed October 14, 2013).
- 4 See James Sherk, Article: *Why Union Membership Is Declining*, Heritage Foundation, February 1, 2013. Available at <http://www.heritage.org/research/commentary/2013/1/why-union-membership-is-declining> (last accessed October 14, 2013). According to Sherk, many employees believe the protections provided to employees through federal statutes, such as the Fair Labor Standards Act, obviate the need for union representation.
- 5 Al Lewis, *Lewis: America Hates Unions More Than CEOs*, Denver Post, January 24, 2013. Available at [http://www.denverpost.com/ci\\_22441342/lewis-america-hates-unions-more-than-ceos](http://www.denverpost.com/ci_22441342/lewis-america-hates-unions-more-than-ceos) (last accessed October 14, 2013); Richard Bales, Article: *The Discord between Collective Bargaining and Individual Employment Rights: Theoretical Origins and a Proposed Reconciliation*, 77 B.U.L. Rev. 687, 694-702 (October 1997) (describing the various theories behind the decline of union membership in the United States).
- 6 See Janice Fine, Article: *Workers Centers: Organizing Communities at the Edge of the Dream*, 50 N.Y.L. Sch L. Rev. 417, 420 (2006) [hereinafter Fine, *Workers Centers*].
- 7 *Id.*
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- 24 Schlademan Dep. at 43.
- 25 *Id.* at 36–37.
- 26 *Id.*
- 27 *Id.* at 79, 191.
- 28 *Id.*
- 29 *Id.* at 58–59.
- 30 See UNI Global’s website at <http://www.uniglobalunion.org/Apps/uni.nsf/pages/aboutusEn>; see also <http://www.uniglobalunion.org/Blogs/walmart.nsf>.
- 31 *Brennan v. Longshoremen*, 91 LRRM (BNA) 2129 (9th Cir. 1975); *BBA v. Boilermakers*, 136 LRRM (BNA) 2102 (D. Ore. 1990).
- 32 *Brennan v. Local Union 10, International Longshoreman’s Union*, 527 F.2d 588 (9th Cir. 1975).
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- 35 *Id.* at 27, at 23.
- 36 *Id.* at 78.
- 37 See <http://forrespect.org/> and [http://forrespect.nationbuilder.com/become\\_a\\_member](http://forrespect.nationbuilder.com/become_a_member) (last visited October 28, 2013).
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- 71 *Id.*
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- 124 *Id.*; see also Clarence Page, Article: *Fast-food Workers Echo “Occupy” Spirit*, Chicago Tribune, June 19, 2013. Available at [http://articles.chicagotribune.com/2013-06-19/news/ct-oped-0619-page-20130619\\_1\\_fast-food-forward-minimum-wage-fast-food-workers](http://articles.chicagotribune.com/2013-06-19/news/ct-oped-0619-page-20130619_1_fast-food-forward-minimum-wage-fast-food-workers) (last visited October 16, 2013). The article claims that “the Change to Win



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- 126 See <http://fightfor15.org/en/>; <http://stlouis735.org/>
- 127 See IRS Form 990 (2011), <http://www.guidestar.org/FinDocuments/2011/271/359/2011-271359103-08fcf105-9O.pdf> (last visited July 25, 2013).
- 128 *Id.*
- 129 Program service revenue is revenue received by an organization while charging for the services for which it received tax exemption. Examples include tuition received by schools, admissions received by an art museum, and patient payments for medical services at a hospital, as well as government contracts as described above. Most organizations receive the bulk of their revenues from contributions and program service revenue. See <http://www.guidestar.org/rxa/news/articles/2001-older/understanding-the-irs-form-990.aspx>
- 130 Copies of New York Communities for Change’s 2011 Form 990s are on file with the Internal Revenue Service.
- 131 Copies of 1199 SEIU’s 2010-2012 LM-2 reports are available at <http://kcerds.dol-esa.gov/query/getOrgQry.do> (last visited July 25, 2013).
- 132 See Maher, *Worker Centers Offer a Backdoor Approach*, see also *office of Labor Management Standards Website*.
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- 137 *Id.*
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- 180 <http://fairfoodstandards.org/code.html> (last visited October 17, 2013).
- 181 See Pacific Tomato Growers, Ltd., *Code of Conduct*, available at <http://www.news-press.com/assets/pdf/A41653681013.PDF> (last visited October 17, 2013). The code of conduct also requires that the grower provide transparency to CIW and permit "third-party monitoring" to ensure the worker center is passing the penny-a-pound payments on to workers.
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