



Rania's Business Roundtable

UNIONIZATION AND LUXURY FASHION: BRANDS MUST REMAIN VIGILANT

Much discussion related to collectively bargaining employees in the luxury fashion industry is abuzz. Whether or not the unionization of luxury brand employees will happen is unknown, and whether unionization, if realized, will make employees happier is equally unknown. However, understanding the effect of unionization on the workplace is of paramount importance.

Landscape shift

I hate to say it but COVID has changed some people fundamentally. Ask yourself whether, in 2019, 2018 and prior, you accepted working until midnight or later to properly inventory and close a store during high sales periods.

If you answered "yes" do you feel the same today?

It is unclear whether COVID shifted priority to personal time and family, caused feelings of fatality that alter rationale for late hours, or something else. What is clear is that there is a dearth of qualified talent applying for jobs in the retail sector.

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Rania Sedhom



Join your fellow entrepreneurs for a conversation about the issues facing small businesses today, with refreshments and legal advice provided by attorneys Rania Sedhom and Matthew Scott.



Email info@bespokelawfirm.com today to reserve your seat, space is limited!

Roundtable Live!

In July, we discussed ChatGPT and AI in the workplace! Our guests learned about how businesses are already using generative AI like ChatGPT, and the thorny question of who owns products produced by AI! Our conversation also covered the dangers of note-taking AI for recording conversations online, and how AI is affecting students and the education process.

Drinking & Driving Food Trucks

Matthew Scott



Is it legal to serve alcohol from a food truck in New York City? Yes, but obtaining a liquor license to do so will turn your business into a run-of-the-mill restaurant.

The New York State Liquor Authority issues on-premises liquor licenses to particular businesses at particular locations. Consequently, you'll need to immobilize your business and operate from a single location. You can serve alcoholic beverages, but your patrons can only drink them in a designated seating area close to where you're parked. In addition, you must provide restrooms (public restrooms and porta-potties are fine).

According to a New York Times article from 2011, Pera Turkish Tacos was the first food truck in New York City to obtain a liquor license. The novelty earned quite the buzz. However, the space where the truck was parked closed at the end of the summer, which forced Pera to relocate after only a few months. Because its liquor license was not issued to the new location, Pera dropped their alcohol menu. It doesn't seem like anyone has made this concept work since Pera's launch a decade ago. Barring an unforeseen shift in liquor laws, that's unlikely to change any time soon.

Tacos & Trademarks

Max Singer



What do you think of when you hear the phrase Taco Tuesday? Your favorite local cantina? A high school cafeteria mainstay? Or a Wyoming-based restaurant chain called Taco John's?

Although they may not be the first place brought to mind by the phrase, Taco John's has held the trademark on the phrase "Taco Tuesday" since 1989 (in every state but New Jersey, where it was already held by another restaurant). Historically, Taco John's has aggressively protected the Taco Tuesday trademark by sending Cease & Desists and similar threatening letters to restaurants advertising with the slogan, even in states where they don't actually operate.

That all changed in July.

A long-fought campaign by Taco Bell used cleverly quotable petitions which, in addition to covering the substance of the suit, guaranteed extensive media coverage of the case. By controlling and building media exposure for the case, Taco Bell's lawyers were able to position the chain as the hero of the story, fighting to liberate the phrase from what was painted as onerous regulation.

The viral interest in the suit, fueled by the average consumer's surprise over the status of the trademark, may even have helped to further dilute the branding association of the trademark through sheer repetition. Taco Bell's lawyers argued -through legal channels and through public relations- that the trademarked phrase was present in the general zeitgeist, and not uniquely identifiable to Taco John's.

Ultimately, Taco John's made the same decision as the small restaurants they've threatened with legal action in the past, and agreed to abandon the trademark rather than, as CEO Jim Creel put it, "paying millions of dollars to lawyers".

With the release of the trademark (again, everywhere but New Jersey, where the IP still belongs to the original holder), it seems inevitable that Taco Bell and other restaurants will start running Taco Tuesday promotions of their own, providing a stark lesson on the importance of maintaining control of your trademarks in the public consciousness, and not solely through legal action.



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While you were practically accosted by salespeople when entering a store, consumers may now find it difficult to track down salespeople, stylists and makeup artists who can assist them.

Former employees of luxury left the industry due to what they perceive as poor or unfair working conditions, others moved to locations where luxury stores are not readily available.

Regardless of the reason for the shortage of employees, employers need to provide a working environment that invites success and growth. Collective bargaining may or may not help create a desired culture.

Readers will need to decide that for themselves.

A collective bargaining agreement is an employment contract between an employer and a bargaining unit to which the employees are members. Once unionization occurs, individuals who wish to work in the covered job must join the union prior to being hired.

Collective bargaining agreements govern conditions of employment.

Mandatory subjects for negotiation are wages, overtime, bonuses, grievance procedures, surveillance, safety and work practices, and seniority, and procedures for discharge, layoff, recall, or discipline. In other words, employees covered by collective bargaining agreements are not at-will employees.

Prepare to pay

As the name suggests, any changes made to conditions of employment apply universally to all collectively bargained employees.

For example, Jane and Jayne, each work at a luxury retail establishment on Fifth Avenue in Manhattan. Jane is a top performer who is on time, friendly and receives accolades from colleagues and patrons. Jayne, however, performs adequately but does not receive compliments from customers and is sporadically late. Lux Co awards Jane a raise of \$2.50 per hour and Jayne nothing.

If Jane and Jayne were members of a union, Lux Co would be required to follow the negotiated pay increase and award each of them, \$1.25 per hour. Also, by way of example, Jane is a favorite of her manager, Jain. Jain, therefore, allows Jane to take additional vacation days by awarding her comp time for a job well done.

Jain, however, dislikes Jayne and advises Jayne that she can only use whatever time was left in her vacation bank for the year.

If Jane and Jayne were in a bargaining unit, Jane would not earn additional vacation time because she was more liked.

Union negotiations are complex and the rules attendant with financial information that must be shared at the negotiating table is complicated.

For luxury brands that welcome unionization of their employees, they should acquaint themselves with the National Labor Relations Act and those who want to stymie the movement should find creative ways to make their companies an employer of choice.

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