

“that’s what she said”

a ford & harrison blog about the popular television series “the office”

Cheap Labor

December 31, 2010 - by: [Joshua Drexler](#)

**Litigation Value: Class action by day-laborers hired by Dwight = \$500,000;
Penalties for violations of the Immigration Reform and Control Act = \$50,000.**

[Tonight's entry was authored by Josh Drexler, who you'll be hearing more from in the coming year.]

While watching last night’s two repeat episodes, I noticed that Dwight Schrute potentially exposed Sabre/Dunder Mifflin to significant liability in the opening scene of “Sex-Ed” (originally aired on October 14, 2010). Viewing the episode from a different angle, I note that Dwight revealed that he regularly hires day-laborers in the morning, promises to pay them at 6:00 p.m., and then cheats them out of their wages by abandoning them in Harrisburg, Pennsylvania at 5:45 p.m. under the pretext that they are in Canada. Moreover, Dwight apparently uses the day-laborers for work at the Scranton branch. What Dwight revealed in this two minute segue should send chills down any employer’s back.

Sabre/Dunder Mifflin may be able to avoid liability by arguing that Dwight acted solely on his own behalf. However, in this episode, one day-laborer’s work benefited the company – as he removed, or attempted to remove, an angry hornet nest from the parking lot. Further, if Dwight used the day-laborers with Michael Scott’s or Jim Halpert’s knowledge, the company’s defenses would be considerably weaker. Take heed – when an employer ratifies its

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employee's actions, no matter how bizarre, the employee can become the employer's agent as a matter of law.

If Jim and Michael actually knew about Dwight's actions and didn't try to stop him, Sabre/Dunder Mifflin may have violated the Fair Labor Standards Act ("FLSA") and the Immigration Reform and Control Act ("IRCA"). Under the FLSA, successful employees may recover unpaid wages, liquidated damages, and most significantly, their attorney's fees. The sheer number of claims brought under the FLSA is rapidly increasing. And, because the FLSA permits class actions, if Dwight's victims ever meet and decide to organize, Sabre/Dunder Mifflin's potential liability could increase exponentially.

As to the IRCA, an employer is subject to penalties if it recruits and/or employs unauthorized aliens or fails to follow the prescribed procedures for screening aliens who are unauthorized to work. While we don't know for sure that Dwight is hiring unauthorized aliens, his ability to pass Harrisburg, Pennsylvania off as Canada is some indication of the workers' status.

One final note – hopefully Dwight is telling the truth and only breaking immigration and wage and hour laws. Yet, the interview with a particularly scared day-laborer cast Dwight's actions in a more ominous light. After stopping his friend from getting in Dwight's car, the worker explained that: "We don't go with that man; I've seen several men go with that man and not come back. We've lost friends....we don't know what he does with them." To that end, for another recent observation of Dwight's psychopathic tendencies, see December 10, 2010, entry: "Ain't No Business Like Snow Business."

Happy New Year!