



ANDREW PUZDER'S RECORD: WHAT'S AT STAKE FOR WOMEN

Andrew Puzder, the CEO of CKE Restaurant Holdings (CKE), which owns several fast-food chains including Carl's Jr. and Hardee's, has been nominated to be Secretary of Labor by President-Elect Donald Trump. The Secretary of Labor is the nation's most senior official tasked with ensuring the well-being of workers and advancing their employment opportunities, and is therefore of great importance to women and their families. The Secretary of Labor oversees the Department of Labor's interpretation and enforcement of a number of laws vital to women's economic security and right to be free from discrimination, such as the minimum wage and overtime protections in the Fair Labor Standards Act, the Occupational Safety and Health Act, the Family and Medical Leave Act, the Affordable Care Act, and executive orders prohibiting employment discrimination by federal contractors and setting labor standards for federal contractors' employees, including protection of the right to earn paid sick days.

Mr. Puzder's record demonstrates that he should not be confirmed to this important position.

- **Mr. Puzder is an opponent of workplace policies crucial to raising women's wages.** Mr. Puzder has attacked policies that would raise women's wages. The overrepresentation of women in low-wage jobs, including minimum wage and sub-minimum wage positions, is an important driver of the gender wage gap. Because women are overrepresented in low-wage jobs, they are especially vulnerable to wage theft, and have a particular stake in raising the minimum wage and in robust overtime protections. Mr. Puzder has publicly and consistently opposed raising the minimum wage¹ -- a raise which, particularly if paired with the elimination of the separate, lower minimum wage for tipped workers, would help lift many women and the families they support out of poverty.² Mr. Puzder also opposes the current Department of Labor's rule expanding eligibility for overtime pay, which would benefit an estimated 12.5 million modestly paid U.S. workers.³ He has argued that paying overtime decreases employees' "sense of accomplishment,"⁴ and has falsely suggested that ineligibility for overtime pay ensures flexible schedules for workers.⁵ As Secretary of Labor, Mr. Puzder would be charged with enforcing the wage and hour protections his companies routinely violate: one recent investigation found that 60 percent of Carl's Jr. and Hardee's restaurants had at least one wage and hour violation,⁶ and under Mr. Puzder's leadership, CKE has paid millions of dollars to settle lawsuits alleging violations of California's wage and hour laws, including wage theft.⁷
- **Mr. Puzder is hostile to workplace health and safety protections critical for working women.** Mr. Puzder has dismissed the importance of rest and meal break requirements for workers, and indeed, many of his employees report being denied these breaks.⁸ Since he assumed leadership of CKE, his companies have been cited by the Occupational Safety and Health Administration for numerous safety violations, a third of which were deemed "serious" -- those that could result in death or serious harm to employees.⁹
- **Mr. Puzder has attacked policy supports vital to the health of working women and their families.** Mr. Puzder has criticized standards requiring the provision of important workplace supports as "government mandates" that interfere with his ability to run his business however he chooses.¹⁰ Mr. Puzder has consistently advocated for repealing the Affordable Care Act, particularly the requirement that employers make health insurance available to employees who work at least 30 hours a week.¹¹ This requirement is crucial for women, who are the largest consumers of health care, and often the primary decision maker and caregiver when a family member becomes ill. Mr. Puzder is also a critic of paid leave laws,¹² like the current Department of Labor rule ensuring that employees of federal contractors can earn paid sick days that can be used to address their own illness or a family member's illness, or to address domestic violence and sexual assault.

- **Mr. Puzder’s record demonstrates hostility to crucial sex discrimination protections enforced by the Department of Labor.** Under Mr. Puzder’s leadership, Hardee’s and Carl’s Jr.’s brand has been based on the objectification of women, including ads featuring highly sexualized images of “beautiful women eating burgers in bikinis,”¹³ in his words. He has expressed pride in these notorious advertising campaigns, stating that the ads reflect his personality.¹⁴ The corporate culture created by the ads has put his employees at risk, given the already high level of sexual harassment in the restaurant industry: a survey of employees at CKE companies found that two-thirds (66%) of women workers reported experiencing sexually harassing behaviors from management, co-workers, or customers, a rate over one and one-half times greater than the norm in the fast food industry.¹⁵ In fact, over half the female employees surveyed reported being sexually harassed by customers, including one worker who was asked “why I don’t dress like the women in the commercials.”¹⁶ Consistent with this culture, during Mr. Puzder’s tenure as CEO, his companies and franchisees have been the subject of numerous sexual harassment and sex discrimination lawsuits, the facts of which reveal a pattern of management failure to investigate or address employees’ reports of harassment and assault.¹⁷ Mr. Puzder has mused that machines are preferable to human workers, in part because machines do not bring sex discrimination cases.¹⁸ Mr. Puzder also serves on the Board of Directors of the International Franchise Association, which has opposed the Paycheck Fairness Act, a bill which would strengthen women’s ability to uncover and challenge pay discrimination.¹⁹
- **Mr. Puzder’s support for extreme positions in opposition to women’s reproductive rights also threatens women’s workplace rights.** Prior to assuming leadership of CKE in 2000, Mr. Puzder defended protesters arrested for sit-ins at abortion clinics, arguing that state trespassing laws should not apply to protesters because they held religious beliefs that they were preventing greater harms by trespassing.²⁰ He authored a Missouri fetal personhood law legally defining life as beginning at conception, as part of a strategy to undermine and ultimately overturn *Roe v. Wade*.²¹ Such positions have been advanced in order to exclude pregnant women from the workplace in the name of fetal safety, or to allow an employer to discriminate against women who use contraception or terminate a pregnancy.
- **Mr. Puzder’s personal history includes allegations of violence against women.** Mr. Puzder’s former wife accused him of multiple incidents of domestic violence in divorce proceedings in the 1980s. While Mr. Puzder has denied these allegations, and his former wife recanted them in a recent statement,²² he acknowledged in deposition testimony that police were twice summoned as the result of their disputes, and that one occasion when she was coming toward him he “grabbed her by the shoulders and pushed her back” and that “I don’t know if her foot caught or what happened, but she went down on her back and stayed down on the ground.”²³ Additionally, his ex-wife made an anonymous television appearance on *The Oprah Winfrey Show*, identifying herself as a survivor of domestic violence and discussing her experiences (without identifying Mr. Puzder).²⁴

Andrew Puzder’s record demonstrates that as Secretary of Labor he would seek to undermine the very laws that he would be tasked with upholding -- protections critical to the economic success of women and working families. Accordingly, the Senate should reject Andrew Puzder’s nomination.

¹ Andy Puzder, “Wages With Minimal Wiggle Room,” *Wall St. J.*, Dec. 28, 2015, <http://www.wsj.com/articles/wages-with-minimal-wiggle-room-1451259371?emailToken=JRzdvF6ZX+ehtwwb8wj3VlIdewXCvOJA1bWKnHPM0yJq33aruasgr8ygN7y+D/yHBwntotbtg>; Michael Hiltzik, “Does Andy Puzder really want to replace his Carl’s Jr. workers with robots? No, but...,” *Los Angeles Times*, Mar. 30, 2016, <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-puzder-20160322-snap-htmlstory.html>.

² Women constitute nearly two-thirds of tipped workers. NAT’L WOMEN’S LAW CTR., RAISE THE WAGE: WOMEN FARE BETTER IN STATES WITH EQUAL TREATMENT FOR TIPPED WORKERS (Oct. 2016), available at <http://nwlc.org/resources/raise-the-wage-women-fare-better-in-states-with-equal-treatment-for-tipped-workers/>. Full-time earnings of \$14,500 at the federal minimum wage of \$7.25 leave a family of three thousands of dollars below the poverty line. NAT’L WOMEN’S LAW CTR., WOMEN AND THE MINIMUM WAGE: STATE BY STATE (Aug. 2016), available at <http://nwlc.org/resources/women-and-minimum-wage-state-state/>.

³ Eisenbrey, R. & Kimball, W., *The new overtime rule will directly benefit 12.5 million working people*, ECONOMIC POLICY INSTITUTE (May 17, 2016), available at <http://www.epi.org/publication/who-benefits-from-new-overtime-threshold/>.

⁴ Andy Puzder, “Obama’s Overtime-Pay Boomerang,” *Wall St. J.*, Mar. 25, 2014, <http://www.wsj.com/articles/SB1000142405270230425640457944981169873421>.

⁵ Jonathan Winslow, “Carl’s Jr. CEO says California tough on business,” *OC Register*, Nov. 11, 2014, <http://www.oregister.com/articles/puzder-641468-california-carl.html>.

⁶ Ben Penn, “Is Franchise Model a Recipe for Fast-Food Wage Violations?,” *BNA Daily Labor Report*, Sept. 13, 2016, <https://www.bna.com/franchise-model-recipe-n57982076930/>.

⁷ Winslow, *supra* note 5; Jordan Buie, “Trump’s Labor pick’s companies have faced multiple class-action lawsuits,” *USA Today*, Dec. 8, 2016, <http://www.usatoday.com/story/news/politics/elections/2016/12/08/andrew-puzder-labor-secretary-nominee/95172276/>.

⁸ Winslow, *supra* note 5; RESTAURANT OPPORTUNITIES CENTERS UNITED, SECRETARY OF LABOR VIOLATIONS? THE LOW ROAD BUSINESS MODEL OF CKE RESTAURANT INC.’S ANDREW PUZDER 4 (Jan. 2017), available at http://rocunited.org/wp-content/uploads/2017/01/PuzdersLaborProblem_Report_0117.pdf



[SECRETARY OF LABOR VIOLATIONS].

- ⁹ Dave Jamieson, "Donald Trump's Labor Pick Should Know Worker Safety Laws. His Company's Been Fined For Breaking Them," *Huffington Post*, Dec. 12, 2016, http://www.huffingtonpost.com/entry/andrew-puzder-workplace-safety_us_584f1709e4b04c8e2bb14947; SECRETARY OF LABOR VIOLATIONS, *supra* note 8, at 7.
- ¹⁰ Andy Puzder, "Why Restaurant Automation is on the Menu," *Wall St. J.*, Mar. 24, 2016, http://www.wsj.com/article_email/why-restaurant-automation-is-on-the-menu-1458857730-IMyQjAxMTE2NDI4NTgyMDUyWj.
- ¹¹ Andy Puzder, "Shunning ObamaCare," *Wall St. J.*, Jan. 13, 2015, <http://www.wsj.com/articles/andy-puzder-shunning-obamacare-1421192654>.
- ¹² Andy Puzder, "Government Can't Do It," *RealClear Politics*, Sept. 28, 2016, http://www.realclearpolitics.com/articles/2016/09/28/government_cant_do_it_131914.html; Puzder, *supra* note 10.
- ¹³ Kate Taylor, "The CEO of Carl's Jr. Doesn't Care If You're Offended by the Chain's Sexy Ads," *Entrepreneur*, May 20, 2015, <https://www.entrepreneur.com/article/246487>.
- ¹⁴ *Id.*
- ¹⁵ SECRETARY OF LABOR VIOLATIONS, *supra* note 8, at 11.
- ¹⁶ *Id.*
- ¹⁷ See, e.g., Equal Employment Opportunity Comm'n v. Hardee's Food Sys., Inc., d/b/a/ Hardee's Rest., Case No. 2:08-cv-00062 (M.D. Tenn., consent decree entered Aug. 31, 2009) (class of female Hardee's employees alleged sexual harassment, including unwanted sexual contact and physical assault, and retaliation, and that employer failed to take prompt, effective action in response to plaintiffs' complaints); Kloth v. Doro, Inc., Case No. 2007-cv-695, consolidated with Singsime v. Doro, Inc., Case No. 07-cv-00696 (E.D. Wis., settled 2007) (two female Hardee's employees alleged managers repeatedly subjected them to offensive sexual comments and unwanted sexual contact, and that store manager and district manager failed to take prompt, appropriate action when they complained).
- ¹⁸ Kate Taylor, "Fast-food CEO says he's investing in machines because the government is making it difficult to afford employees," *Business Insider*, Mar. 16, 2016, <http://www.businessinsider.com/carls-jr-wants-open-automated-location-2016-3>.
- ¹⁹ International Franchise Association. Board of Directors, <http://franchise.org/board-of-directors> (last visited Dec. 19, 2016); Letter to Senators Reid and McConnell in Opposition to S.3777, Paycheck Fairness Act (Sept. 21, 2010), available at <http://www.nam.org/Issues/Labor/Letter-to-Senate-on-Paycheck-Fairness-2010/>.
- ²⁰ Michael Tackett, "Long Battle Returned Abortion to High Court," *Chicago Tribune*, Jan. 15, 1989, http://articles.chicagotribune.com/1989-01-15/news/8902250670_1_abortion-view-reproductive-health-services-missouri-citizens.
- ²¹ *Id.*
- ²² Sarah Fenske, "Andrew Puzder, Trump's Pick for Labor Department, Was Accused of Abusing Wife," *Riverfront Times*, Dec. 8, 2016, <http://www.riverfronttimes.com/newsblog/2016/12/08/andrew-puzder-trump-pick-for-labor-department-was-accused-of-abusing-wife>.
- ²³ Gianna Jacobson & J.A. Lobbia, "Puzder v. Puzder: Prominent Anti-Abortion Warrior Has Had a Family Battle of His Own," *Riverfront Times*, July 26, 1989, <http://www.riverfronttimes.com/newsblog/2016/12/08/andrew-puzder-trump-pick-for-labor-department-was-accused-of-abusing-wife?page=2>.
- ²⁴ Marianne Levine, "Ex-wife of Labor nominee leveled abuse claims on 'Oprah,'" *Politico*, Jan. 10, 2017, <http://www.politico.com/story/2017/01/womens-groups-fret-puzder-nomination-233449>.

