



January 18, 2012

To: Mike Duke, CEO, Walmart
From: Daniel Lopez and co-workers, c/o Warehouse Workers United
Re: Mistreatment of Contracted Warehouse Workers in California's Inland Empire

We are calling on Walmart to adopt a Responsible Contractor Policy to ensure that its contractors live up to the letter and the spirit of Walmart's Statement of Ethics.

This complaint is the second attempt to raise these issues with Walmart's home office. The first attempt, a written letter from Warehouse Workers United to CEO Mike Duke dated October 25, 2011, was answered with a "Dear Customer" letter.

Walmart's Statement of Ethics covers contractors and suppliers of both goods and services. (Walmart Statement of Ethics, page 6). Walmart contracts with companies to provide it with logistics services, including warehousing. The workers in these warehouses, critical to the Walmart supply chain, deserve and demand that Walmart take responsibility for the actions of their contract logistics providers.

Warehouse operators that contract with Walmart are violating Walmart's ethical standards regarding health and safety, wage and hour, and non-retaliation (Walmart Statement of Ethics, pages 12, 13, 25).

1. **Health and Safety:** there are numerous examples of unsafe and unhealthy work environments in Walmart contracted warehouse operations, leading to widespread injuries and dangerous working conditions for warehouse workers. In August 2011, workers at NFI Industries, a third-party logistics provider in Chino, CA, which moves Walmart products, filed complaints with Cal-OSHA regarding excessive heat, dangerous speed quotas resulting in repetitive stress injuries, broken and defective machinery leading to dangerous incidents, and dust and chemical inhalation causing dizziness and nose-bleeds. In January 2012, Cal/OSHA's High Hazard Unit found serious violations of the labor code at NFI and cited them for a total fine of \$250,000, an unprecedented fine in the warehouse industry.
2. **Wage and Hour:** workers at Schneider Logistics, a major Walmart logistics contractor in Mira Loma, CA, filed a suit in Federal Court, in the Eastern District of California, against Schneider and two labor agencies contracted by Schneider in October 2011. The complaint details widespread wage-theft resulting from a piece-rate system for unloading containers, failure to pay employees for the time they actually worked and other violations of state and federal wage and hour law. While the case is pending, the District Court judge issued a preliminary injunction against both labor agencies and Schneider to remedy their payroll systems and wage and hour practices to avoid causing irreparable harm to the workers, indicating that there is substantial evidence that the payroll systems in question are illegal and have resulted in wages that these workers earned not being paid to them.
3. **Non-retaliation:** in both cases referred to above, workers who stepped forward to file complaints or legal action have been retaliated against, through firings, threats, captive audience meetings, demotions, reduced hours, changed shifts, and other punitive measures. There are pending Unfair Labor Practices filed with the National Labor Relations Board detailing these forms of retaliation.

In addition, the complaint in Federal court describes the impending firing of workers for asking about not being paid for all their work, something that is considered retaliation under the Walmart code of ethics and state law.

Finally, workers jointly employed by Rogers Premier, a labor agency, and Schneider were informed right after they cooperated with state officials relating to an inspection conducting by the California Department of Labor Standards Enforcement ("DLSE") which resulted in a citation for \$600,000 for recordkeeping violations alone and then filed the federal class action wage and hour lawsuit that they would be terminated on February 24, 2012. Further, workers have reported specific threats by Schneider management to retaliate against any worker who supports the efforts of these workers to seek redress for violation of their legal rights.

Warehouse managers have explicitly referred to Walmart as the reason why it would be impossible for the contractors to improve health and safety or wage and hour standards, citing Walmart's insistence on constantly lowering operating costs and its strong opposition to unionization amongst its employees. The health and safety and wage and hour problems outlined above are a direct result of the inability of workers to advocate for themselves due to their temporary and contingent status. Part of the solution to address these problems must include a path for these workers to be able to organize themselves and collectively bargain over the terms and conditions of their employment, or to not organize themselves if they so choose. That choice, a fundamental one for workers in the United States, is not presently an option, in practical terms, for these workers. Direct employment is a first and necessary step; an agreed upon system for employees to exercise their right to freedom of association is the second step. We call on Walmart to adopt a **Responsible Contractor Policy (RCP)**, a step many major corporations have taken, which would codify the language in Walmart's own Statement of Ethics and make it apply to all contracts into which Walmart enters.

We propose that the RCP include the following provisions, requiring Walmart contractors to:

- limit their use of temporary labor agencies to 10% of their total workforce and provide direct employment to 90% of the workforce;
- Provide for a path to permanent employment for all workers currently employed through staffing agencies based on a transparent seniority system for workers who are employed through such agencies;
- 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;
- Provide employees with a living wage, as defined by a regional market analysis of the cost of living;
- Provide decent benefits, including health insurance, paid holidays and sick days, and a retirement plan;
- Respect all federal, state and local wage and hour laws;
- Respect all federal, state and local health and safety laws;
- Recognize that freedom of association and collective bargaining are an essential ingredient for a productive workforce, and a commitment to implementing the least difficult means to union recognition as legally permissible;
- Provide a career ladder so workers can build a future at the company where they work.

We bring these issues to Walmart's attention in the spirit of constructive dialogue, with the sincere hope that Walmart will resolve these issues and live up to its commitment to be an exemplary corporate citizen. We look forward to discussing this matter with Walmart's appropriate officers at your earliest convenience.