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Pa. Meat Processing Workers Seek Order Forcing OSHA to Intervene to Protect Them from COVID-19 Contraction at Work

Three meat processing workers at a Dunmore, PA meat processing plant are asking a federal court to require Secretary of Labor Eugene Scalia and the Occupational Safety & Health Administration to use their authority to protect workers in imminent danger of serious illness or death caused by COVID-19. The workers in this action estimate as many as half the total workforce at the Dunmore plant have contracted the disease thus far.

In a [complaint filed today](#), the workers at the Maid-Rite Specialty Foods facility and Friends of Farmworkers, Inc. d/b/a Justice at Work, in its capacity as the workers' authorized employee representative, allege that Maid-Rite's practices endanger their safety on a daily basis. These practices include configuring the production line in such a way that workers cannot social distance, failing to provide cloth face coverings, failing to provide adequate hand-washing opportunities, creating incentives for workers to attend work sick, and rotating workers from other facilities in a way that increases the risk of spreading the virus.

They have also failed to notify all of the workers of the potential exposure to COVID because of their interaction with colleagues who have contracted the virus. All of this places workers in imminent danger of contracting COVID-19, and prompted the workers to petition the federal government to intervene immediately. The workers are asking the U.S. District Court for the Middle District of Pennsylvania to compel OSHA to abate the imminent dangers to workers at the plant.

The Maid-Rite plant in Dunmore produces pre-portioned frozen meat products for schools, universities, nursing homes, and military bases. It contracts with Fairfax County, Va. Public Schools, public schools in Orlando, Florida, the Ohio Department of Education, and the Harris County, Texas, Department of Education, among other entities.

While Maid-Rite does require workers to wear face masks, on only three occasions over the past several months has the company supplied workers with masks. The masks provided on those three occasions were thin and not reusable over multiple shifts doing meat processing work. The processing line continues to move at the same break-neck speeds during the pandemic as it did before, and Maid-Rite has not allowed workers more breaks to wash their hands or places to do so than it did before the pandemic began. This means workers are neither able to wash their hands as often as they should nor sufficiently distance from others in the facility's bathrooms. The speed of the line also makes it more difficult for workers to practice social distancing for the seven or more hours they stand on the line. Maid-Rite has not even placed markings on the floor along the line to assist workers with socially distancing as best they can.

Maid-Rite also incentivizes coming in to work, regardless of whether a worker is experiencing symptoms of COVID-19. It does so by offering a bonus for weekend work and by continuing to issue disciplinary points for calling in sick (six of which may lead to termination).

Employees are permitted to file health and safety complaints with OSHA through an authorized representative. Justice at Work of Pennsylvania, in its capacity as an authorized employee representative, filed a complaint about Maid-Rite with OSHA on May 19 because the workers feared retaliation by their employer. They continue to fear such retaliation and, therefore, will remain anonymous in this litigation.

In June, each of the three workers bringing today's complaint provided declarations to OSHA testifying to these conditions through Justice at Work of Pennsylvania. Two of the workers, Jane Does II and III, have contracted COVID-19 and believe they did so at the plant. OSHA has failed to respond to the pleas of these workers who submitted declarations in June. While OSHA enforcement actions typically take years, federal law offers a quicker approach for imminent crises such as the one currently unfolding at Maid-Rite. The Occupational Safety & Health Act empowers the Secretary of Labor to seek a court order to alleviate imminent dangers, and authorizes workers and their representatives to compel the Secretary to use that power. Justice at Work of Pennsylvania represents the workers and is in turn represented by Public Justice, Towards Justice, and Nichols Kaster, PLLP.

"If ever there were imminent danger in a workplace, the conditions at Maid-Rite's Dunmore facility represent it. It is time for federal government officials charged with protecting citizens from indifferent bosses to listen to what these meat processing workers are telling them," said David Muraskin, Litigation Director of the Public Justice Food Project and counsel in this legal action. "Secretary Scalia has repeatedly made a mockery of federal labor law, but the notion that he will allow Maid-Rite to treat food chain workers as sacrificial, rather than essential, is beyond the pale."

"Our clients have gone to work every day for the past 4 months fearing that they will contract COVID-19 because of Maid-Rite's inaction. They continue to work elbow to elbow with other workers on the production line even as the virus has run rampant through the plant. Maid-Rite simply cannot continue to do business as usual when its workers' lives and health are on the line. The imminent danger our clients and other workers face could be abated if Maid-Rite would just take some very basic steps. Because it has failed to do so, OSHA must step in to protect Maid-Rite's workers," said Liz Chacko, Deputy Director of Justice at Work.

"Secretary Scalia knows what the stakes are here: if COVID-19 enters the Maid-Rite plant, it will spread like wildfire, injuring and even killing the people forced to work under these conditions. Secretary Scalia also knows what the plant could do to minimize those risks: comply with OSHA's own guidance by allowing social distancing on the production lines and ensuring that no one is coerced to come to work while sick. But instead of doing his job and protecting workers, Secretary Scalia seems more interested in protecting the pocketbooks of wealthy meat-processing companies intent on forcing their workers to bear all the costs of this pandemic. We're proud to be working with the courageous workers who have stepped forward to hold their government accountable for not doing its job," said David Seligman, Director of Towards Justice.