

Why Corporations Choose Lawlessness To Fight Unions



Sonali Kolhatkar

05-19-2024 ~ *Workers at companies like Apple and Starbucks face armies of union-busting lawyers advising employers to repeatedly violate labor laws.*

Workers in Towson, Maryland, have earned the distinction of becoming the [first Apple retail workers in the nation](#) to vote to strike over failed union negotiations with their employer. The approximately 100 Apple workers were also the first in the nation to successfully form a union. They did so in 2022, as the [Coalition of Organized Retail Employees](#) (CORE), joining the International Association of Machinists and Aerospace Workers (IAM). [Two-thirds](#) of the store's workers voted to join the union, a resounding success at a company that has long staved off union activity.

Apple could have embraced the Towson store union, respecting the legal right of its workers to bargain collectively for their rights. Instead, the company chose a depressingly familiar path of using its economic power to break labor laws and resist the union at all costs.

Among Apple's earliest tactics, a bold one even by corporate standards, was to offer [all but the Towson store workers](#) new educational and medical perks, saying that the nascent union would have to negotiate for those perks while nonunion workers would be able to enjoy them immediately. The IAM CORE members claimed it was a "[calculated](#)" move by Apple, timed just ahead of a second retail

union vote at a store in Penn Square, Oklahoma, ostensibly as a warning to those workers, and any others considering union drives, that they could lose out. The National Labor Relations Board, which under President Joe Biden has tended to adhere to its mandate by [actually protecting workers](#) more often than not, [accused the company](#) of violating the workers' labor rights. Luckily, the bid failed and a majority of Penn Square's Apple workers [chose to unionize](#).

Apple's ugly maneuver echoed that of [Starbucks](#) corporation a year later. The coffee giant increased hourly pay for all but its union workers. The [NLRB](#) also ruled against Starbucks.

Both Apple and Starbucks may have learned such machinations from [Littler Mendelson P.C.](#), the notorious union-busting firm that both corporations have retained to counter worker organizing. Starbucks alone has made use of the services of [110 of the law firm's attorneys](#) to aggressively resist organized labor at their stores. A former National Labor Relations Board attorney Matthew Bodie called the massive army of anti-union lawyers "unprecedented." On its [website](#), Littler boasts of the work it has done to "shape workplace practices in a direction that is favorable to employers."

Union busting is lucrative, raking in [more than \\$400 million in revenues](#) a year for anti-union law firms like Littler Mendelson and [Morgan Lewis](#) (which is Amazon's go-to union buster). It's no wonder that a large part of their work is advising corporate employers on how best to break laws. Starbucks, for example, is a [repeat offender](#). And so are [Apple](#) and [Amazon](#).

The practice of labor law violations in countering unionization is so widespread that the [Economic Policy Institute](#) found in 2019 that "Employers are charged with violating federal law in 41.5 percent of all union election campaigns." Given that these are officially deemed violations that have gone through the process of reporting and adjudicating, the number is likely an underestimate.

The reason these major corporations choose lawlessness is that often it works to their benefit. A company like Apple may well see millions of dollars toward union-busting lawyers as money well spent. After all, breaking the law costs very little, with [fines for labor law violations](#) capped at meager amounts. There are likely cold, hard calculations behind the [cost-benefit analysis](#) of breaking labor laws versus allowing workers to organize for what they want.

Even though workers in [two Apple stores](#) have successfully unionized, Apple prevailed in Short Hills, New Jersey where workers organized under the Communications Workers of America (CWA) and [failed](#) to win a union vote. Ahead of the vote, CWA [accused](#) Apple of illegal anti-union retaliation against one of the Short Hills employees leading the union drive. To Apple, such illegal behavior was likely worth the price. While individual employees have their livelihoods at stake, the company has nothing to lose but a few thousand dollars.

It's not just about money but also power (which ultimately translates into more money). Workers wanting union representation aren't just fighting for better pay and benefits but for humane treatment. Corporate profiteering is built on worker insecurity, the ability to hire and fire at will, and offering unpredictable shifts that best serve the company. Indeed, [shift scheduling](#) is a key sticking point in IAM CORE's negotiations with Apple for its Towson store workers who voted to strike.

There are good reasons why corporations fight unions: hundreds of studies point to the negative [impact](#) that unions have on corporate profits. Conversely, there is a [clear correlation](#) between unions and higher wages, benefits, and worker protections. Even more encouragingly, unions lead to better wages [even for non-union employees](#), putting upward pressure on employers to compete with unionized workers.

Many modern corporate employers who fight unions market themselves as having [liberal values](#) and being pro-worker. Apple [touts itself](#) as one of the biggest job creators in the U.S., responsible for 2 million jobs in all 50 states, and boasts that "unlike with many companies, both full- and part-time employees are eligible for such benefits as health insurance, matching retirement contributions, and an employee stock purchase plan."

But, when forced to live up to their stated ideals, such corporations transform into profit-hungry gangsters. "Progressive-branded companies therefore offer free, built-in leverage to worker organizing campaigns," wrote labor journalist [Hamilton Nolan](#). "There is nothing that will force an employer to live up to all the stuff it said about caring for employees faster than a demand for union recognition."

Some companies choose to lean into their stated liberal values, most notably [Ben and Jerry's ice cream](#), which refreshingly decided to embrace the newly formed

Scoopers United union instead of unleashing union-busting law firms on its workers.

Even Microsoft, a major tech company that has a history of being what the New York Times called a “[poster child for corporate ruthlessness](#),” is seemingly choosing the path of union acceptance. The company’s vice chair and president, [Brad Smith](#) announced in 2022 that Microsoft would work collaboratively with unions.

The Times [speculated](#) that Microsoft’s decision to embrace unions was an attempt to appease the pro-labor Biden administration ahead of a corporate acquisition of a video game company. Regardless of its reasoning, working with organized labor instead of against it is [good for society](#), even if it’s bad for individual corporate bottom lines.

The good news is that in spite of union membership rates continuing to [drop precipitously](#), the percentage of people who see unions in a favorable light has [increased to 71 percent](#), and among young people a whopping 88 percent. The number of workers [petitioning](#) to join unions has jumped, as has strike activity. The only thing standing in the way of converting the union dreams of Apple workers and others into reality is corporate willingness to break labor laws.

By Sonali Kolhatkar

Author Bio: Sonali Kolhatkar is an award-winning multimedia journalist. She is the founder, host, and executive producer of “[Rising Up With Sonali](#),” a weekly television and radio show that airs on Free Speech TV and Pacifica stations. Her most recent book is [Rising Up: The Power of Narrative in Pursuing Racial Justice](#) (City Lights Books, 2023). She is a writing fellow for the [Economy for All](#) project at the Independent Media Institute and the racial justice and civil liberties editor at [Yes! Magazine](#). She serves as the co-director of the nonprofit solidarity organization the [Afghan Women’s Mission](#) and is a co-author of [Bleeding Afghanistan](#). She also sits on the board of directors of [Justice Action Center](#), an immigrant rights organization.

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