

TESTIMONY OF CLINT EHLERS
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Before the

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON EDUCATION AND THE WORKFORCE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS

“Expanding Joint Employer Status: What Does it Mean for Workers and Job Creators?”

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Chairman Roe, Ranking Member Tierney, and members of the Committee, thank you for inviting me to testify today on the impact that an altered joint employer standard will have on franchise businesses such as mine. My name is Clint Ehlers, and I am the owner and operator of two FASTSIGNS locations – one in Lancaster, Pennsylvania and the other in Willow Grove, Pennsylvania. I appear today on behalf of the International Franchise Association.

The recent announcement by the National Labor Relations Board (NLRB)’s Division of Advice to allow complaints to proceed against McDonald’s Corporation and its franchisees worries me a great deal. My concern is not that I will be charged with any labor violations, but that my franchisor, in response to the NLRB’s changing long-standing joint employer standards, will take measures to protect itself that will end up reducing my autonomy as a franchise owner.

I opened my first FASTSIGNS store in Culver City, California in 2007 where we quickly grew that location to one of the top centers in the nation with 10 employees. We sold that center in October 2012 and moved to Pennsylvania, where we purchased a FASTSIGNS franchise in Willow Grove in March 2013 and FASTSIGNS of Lancaster in February 2014. We currently have 14 full-time employees and 2 part-time employees, and I am hoping to expand my operations in the coming years.

In 2006 I left a 17-year career in advertising and strategic marketing to fulfill my dream of becoming an entrepreneur and small business owner. I spent over 3 months researching different types of businesses and industries, both independently-owned and franchised. The franchise model appealed to me greatly because this was the first business I was going to invest in personally and I wanted to make sure that I had the support, brand name recognition, and value to make a wise investment of my family's savings. After looking at the widely varied franchise opportunities, we decided to invest in FASTSIGNS. Not only was FASTSIGNS the leader in the sign and graphics category, but it also had an excellent team of dedicated professionals with one goal in mind – to help make my business as successful as it could be. FASTSIGNS offered me the opportunity to capitalize on the strength of the brand, its brain trust of corporate employees and their buying power. In addition, they offered me the freedom to own my own business and the ability to make my own decisions – to bet my future on myself and my abilities. But most importantly, owning my own business gives me the responsibility to be a steward of my resources and impact the lives of my employees as well as the members of the communities in which we operate.

The Franchise Model – A Framework for Strong Brands and Small Business Success

As Ms. Monson alluded to in her testimony, in order to understand the impact the NLRB's announcement could have on franchises such as mine, it is essential to understand the fundamental separation of responsibilities of franchisees and franchisors. Every franchise system has brand standards that maintain the quality of products and services, and the strength of the FASTSIGNS brand has helped my business succeed from the day I opened the doors. However, brand standards do not extend to franchisee employment practices and policies. While FASTSIGNS supports franchise owners in providing high-quality products to customers, it is the franchisee that manages the day-to-day

operations of the business, including hiring and firing, wage rates, benefits, work schedules, and working conditions.

FASTSIGNS, like other franchisors, supports its franchisees in a variety of ways. When opening a new location, it provides essential training in creating impactful visual communications for clients. It gives suggestions for site selection based on the experiences of franchisees in similar locations. It provides lists of high-quality suppliers, and often is able to negotiate excellent rates for needed inventory items to help franchisees keep our costs down. Perhaps most importantly, it monitors product quality and customer sentiments. The reason I support this type of monitoring by my franchisor is not because it needs to keep *me* honest; rather, I feel comfortable knowing that FASTSIGNS will take action to correct poor standards and product quality at *other* stores, where a bad experience could keep a customer from patronizing *any* FASTSIGNS franchise again. These standards are for the collective good of the system, and they are good for each individual franchise that benefits from a strong brand.

The brand management role, like I just described, belongs to the franchisor. The role of daily management of a franchise location, however, falls to franchisees like me, and decisions regarding these operations are mine, and mine alone, to make. It is my decision to pay my hourly employees a fair wage. I pick the health insurance plan that I offer my workers. When they need flexible schedules to manage other obligations, I am the one who personally works with employees to set schedules that work for the business and for the individual. For example, I recently had a full-time employee who was struggling to manage childcare for his 12-year-old son over the summer. After sitting down with him, we were able to re-work his scheduled hours on some days to accommodate summer camp, and on other days we decided that he could bring his son to work. In fact, we eventually hired his son to do various things like sweeping, cleaning, taking the trash out, etc. This allowed us as a company to teach a young man the value of hard work through a summer job while exposing him to the daily operations of a

thriving business. In addition, we were able to show a valued employee that we are more than a company focused on profits – we are a business dedicated to serving our clients and our employees. This is the type of action that only an independent small business owner can take to address this issue. None of these actions I just mentioned involves my franchisor.

If a large corporation were presented with a similar workforce management challenge, it would most likely consult its human resources teams to determine the company's policies. And if the FASTSIGNS franchisor were truly a joint employer of my workers, I would need to consult FASTSIGNS before making these special arrangements with my employee. This is just one small reason I would not want FASTSIGNS to be involved in the day-to-day management of my business, or play any role in my traditional employer functions. The fact that I am the one responsible for this type of decision helps me run my business with flexibility and efficiency. I do not want or need a corporation to fall back on for this type of help. What I need most are policies that will enable me to manage my employees and my business in ways that will allow us to grow and succeed.

The Impact of a New Joint Employer Standard on Franchise Owners

Last month, the National Labor Relations Board's Division of Advice made the decision to allow unfair labor practice complaints against individual franchise owners to proceed with McDonald's Corporation also named as a defendant. It claimed that McDonald's is a joint employer of its franchisees' employees, and as such it was jointly liable for its franchisees' transgressions. To the casual observer, this could appear to be a good thing for a franchise owner like me –that if I screw up, my franchisor will be there to support me. Not only is this incorrect, but it reflects a fundamental misunderstanding of a franchise owner's motivations for starting a franchise business.

In almost every other aspect of my business, I am considered an independent owner. I have my own accountants, and I file my own taxes. I assume the financial risk when I start a business and take out business loans for working capital. Similarly, if I were to get into any legal trouble, I would need to hire my own attorney. FASTSIGNS would not, and should not, participate in legal disputes involving only my franchise.

I bought a franchise so that I could run my own business, not so that I could be a part of someone else's. I take pride in my successes, and hold myself accountable for my failures. I do not merely seek to imitate another location; I work diligently to earn new business, build lasting relationships with customers, and integrate my business into the local community. The real impact of a new standard that considers my franchisor the joint employer of my workers is that I will have less independence and less control over the business that I worked so hard to build. And since I would no longer be an independent owner, my business would be worth less.

If franchise owners have less independence and control, they can also expect lower profits. If profits are lower, there will be less demand from entrepreneurs to start franchised businesses. If fewer new locations open, the brand does not realize its growth potential. And that hurts each individual franchise owner in the franchise system. Similarly, if fewer entrepreneurs wish to start franchise businesses, my business is less valuable if I were to sell the business upon my retirement. A revised joint employer statement will result in fewer new franchised businesses, at a time when our economy is thirsty for growth and expansion.

Conclusion

I hope my testimony today has helped the members of this subcommittee better understand the perspective of franchise small business owners who operate businesses on almost every Main Street in America. My motivations are simple and my intentions are sincere – I take great pride in my independent franchise small business, and I hope to succeed for my family, my employees, and my community. I cannot imagine what I would do if I were stripped of my independence because a different business owner, hundreds of miles away, is facing a lawsuit that has nothing to do with me. If the NLRB's joint employer determination is upheld, franchise owners everywhere would lose their autonomy. The purpose of this proposal seems not to be to increase the accountability of the franchise owners who are most responsible for employment decisions, but rather to find deeper pockets to pay higher damages from potential lawsuits. That's wrong and should not be allowed.

I thank you for inviting me to testify before you today, and look forward to answering any questions you may have.