What Behavioral Psychology Has to Do With Union Avoidance: Reflections From a Labor Lawyer

October 19, 2017

As a traditional labor lawyer, I spend a great deal of time traveling the country to assist clients, and I spend a lot of that time in airports and on airplanes reading. On a recent trip, I read The Undoing Project: A Friendship That Changed Our Minds by Michael Lewis, which discusses the research two psychologists conducted on the psychology of decision-making. The research, which concluded that people often err when making decisions despite access to information that should help them, got me thinking about how employees act in the face of union campaigns.

The Thought Experiment

As a part of one project, the psychologists asked thousands of people across diverse educational and socio-economic strata to answer two questions. The questions present two scenarios and require you to choose one. The answers to these questions—both your own and those of the average person—might surprise you. From a traditional labor relations perspective, the answers might tell you an awful lot about companies that maintain positive, union-free working environments.

Question One: (a) I flip a coin—heads you win $1,000; tails you win $0; (b) I give you $400 right now and do not flip the coin. Which scenario did you choose?

Question Two: (a) I flip a coin—heads, you lose $1,000; tails, you lose $0; (b) you give me $400 right now not to flip the coin. How did you answer?

The Results of the Experiment

Most people overwhelmingly answer "b" to the first question and "a" to the second question. They take the sure thing of the $400 win rather than the coin flip to win $1,000, and gamble on the coin flip rather than give $400 away. The “expected value” of the bet is $500 on the first question and a negative $500 on the second question. From an economically rational perspective, people should give the opposite answer to both questions. There is more economic utility in gambling on the first flip and paying the “insurance” on the second flip, but most people don’t behave that way. People become risk seekers when they have two potentially negative outcomes, but are generally risk averse when they have two potentially positive outcomes. There are all manner of reasons for this: the economic positions of the actors, the immediate need for money, etc. Generally, psychologists found people have a “greater sensitivity to negative rather than positive changes.” For most people the happiness in getting something is outweighed by the unhappiness involved in losing the same thing.
I have posed these questions in seminars, workshops, and meetings for about a year now, and my own anecdotal surveys confirm these outcomes.

Positive Employee Relations?

How can we apply these predictions about human behavior to positive employee relations? What I have seen in my own practice is that a good company may be able to insulate itself, to some degree, from union organizing by being a better company. When employees are faced with the potential for a winning gamble or a sure, positive outcome, they are more likely to choose the sure, positive outcome—even if the potential of the gamble might sound better at first blush.

Take, for example, a typical union sales pitch that promises increased wages and benefits, better working conditions, and, overall, an improvement in the quality of life. This pitch might sound attractive to employees. But if a company already provides competitive wages and benefits and a good working environment, the company has, in effect, recreated the conditions for the psychologists’ questions. The choice is straightforward: a risky gamble that may result in something more, something less, or something exactly the same as what employees already have, or maintaining (and not unsettling) a sure, solid, work environment. Most people will take a sure benefit (i.e., the already good, positive workplace) rather than gamble on the promises made in a typical union organizing drive.

If a company creates a situation in which the arguments become a choice between two negatives—a known bad or indifferent company with mediocre benefits and poor leadership versus a risky newcomer union with a promising scheme—a set of variables akin to those found in question two are now in play. The company will likely argue that collective bargaining is not a sure thing, that work stoppages are a fact of life, and that unions are questionable organizations. But in this case, the company will now be arguing for the lesser of two potentially negative outcomes—a mediocre work environment versus a potentially worse one. Generally, people are more likely to gamble when faced with two bad options. In my mind, that translates to a situation in which employees are more likely to gamble on union representation.

Conclusion

The moral of the story is clear. Union organizing drives can be affected by whether employees are faced with a choice between the gamble of union representation and a work environment that’s either positive or negative. Creating a positive culture of teamwork, respect, and collaboration is key to success before organizing begins. Create environments where employees feel valued and heard and you might be able to avoid the coin flip.