

Trump's labor pick kept workers in pain

Michael Felsen

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President Donald Trump has had poor luck with labor secretaries.

His first nominee, fast-food mogul Andrew Puzder, came under fire for his own labor practices, including hiring an undocumented immigrant as a housekeeper, and was forced to withdraw his nomination when it became clear the Senate would not confirm it.

Trump's next pick, Alex Acosta, had to resign in mid-July over his handling of Jeffrey Epstein's sex crimes prosecution when he was U.S. attorney in Florida more than a decade ago.

And now Trump is poised to nominate Eugene Scalia, whose anti-regulatory advocacy two decades ago helped fuel today's opioid epidemic.

Scalia, the son of the late U.S. Supreme Court Justice Antonin Scalia, was recognized by the Wall Street Journal for having "devoted almost a decade to representing corporate clients fighting rules put in place by the Obama administration that were designed to protect employees in the workplace" — a curious attribute for a future labor secretary.

In fact, Scalia's anti-regulation record stretches back at least another decade.

In 1993, the Occupational Safety and Health Administration began work on a new ergonomics standard to address hazards that cause work-related musculoskeletal disorders (WMSDs), a wide range of injuries including carpal tunnel syndrome, back pain and tendonitis. Automakers, garment factories, office environments, and meat-packing and poultry plants were seeing alarming rates of disabling WMSDs. So OSHA set out to require employers to implement a new standard to reduce these injuries.

But industry lobbyists bemoaned the costs and derided OSHA's efforts as over-regulation. Side-stepping supportive studies, including a 1997 General Accounting Office report finding that "hundreds of thousands of workers each year suffer from MSDs" and would benefit from workplace ergonomics programs, industry naysayers fought its development tooth and nail.

One of their champions was Eugene Scalia, a labor and employment attorney in Washington, D.C., who went on to work for the Department of Labor under President George W. Bush. Scalia helped lead the assault on the ergonomics regulation, ridiculing it in a report for the conservative Cato Institute as a "folly" based on "thoroughly unreliable science."

OSHA nevertheless promulgated the new standard in the waning days of the Clinton administration. Built on a decade of research and analysis, hearings and debate, it would apply to 6.1 million workplaces covering more than 102 million workers; OSHA estimated it would, over the next 10 years, prevent 4.2 million work-related musculoskeletal injuries.

But just months after the standard's January 2001 effective date, Congress passed and President George W. Bush signed the rescission resolution, invalidating the standard and barring OSHA from ever issuing a substantially similar one. Dead. And buried.

Why should we care?

Because the scourge of WMSDs that this regulation was designed to mitigate hasn't subsided. The Bureau of Labor Statistics reports that musculoskeletal injuries are the nation's most prevalent occupational injury, totaling, in 2017, 34% of serious nonfatal occupational injuries and illnesses in manufacturing. That's almost 350,000 cases in one year.

Each of these cases involves often severe, debilitating, long-term pain that is frequently managed with opioids. A recent American Industrial Hygiene Association paper notes, "Although many factors have contributed to the opioid crisis, the role of workplace musculoskeletal injuries has been overlooked."

Industry opposition to the ergonomics standard led to unabated painful musculoskeletal injuries, numbering hundreds of thousands each year. Those debilitating injuries fed the high incidence of opioid prescription, contributing undeniably to the crisis we face today.

In 2017 alone, opioids were involved in 47,600 overdose deaths, according to the Centers for Disease Control and Prevention. How many of these deaths would have been prevented had a vigorously enforced ergonomic standard been permitted to survive?

Eugene Scalia was at the forefront of those actively fighting that ill-fated regulation two decades ago. Workers, their families and their communities now bear the awful consequences.

That's not the best credential for a future labor secretary.