

SEPTEMBER 14, 2023 | IN THE PRESS

## Eric J. Conn and Mark Trapp Featured in Washington Legal Foundation's "OSHA Proposes Rule that May Allow Union Organizers and Plaintiffs' Attorneys to 'Walk Around' Workplaces"

The following is an excerpt from the article:

In January 2023, OSHA stated its intention to "clarify" the right of even non-union workers to specify a union representative "to accompany an OSHA inspector during the inspection process/facility walkaround, regardless of whether the representative is an employee of the employer[.]" Consistent with this stated intention, last week OSHA unveiled a [Notice of Proposed Rulemaking](#) (NPRM) that would greatly expand the scope of non-employees—particularly union representatives—to participate in workplace walkarounds conducted as part of OSHA enforcement inspections.

Titled "[Worker Walkaround Representative Designation Process](#)," the NPRM proposes to amend the existing regulation governing the participation of third parties as employee representatives in OSHA inspections. The NPRM seeks to change two key components of that existing regulation, found at [29 CFR § 1903.8\(c\)](#).

First, the NPRM would change the existing language which, under most circumstances, limits the representative to individuals who are employees of the employer, to now allow non-employee third parties to act as representatives. For example, the current regulation begins by stating that "[t]he representative(s) authorized by employees **shall be an employee(s)** of the employer." The proposal would change this language to read: "The representative(s) authorized by employees **may be an employee** of the employer **or a third party**."

[Click here to read the full article in Washington Legal Foundation.](#)