

Legal claims: Are you leaving money on the table?

Unlocking cash flow can be especially difficult for restaurant operators right now. Taken together, inflation, rising interest rates and escalating wages are just some of the conditions creating cash constraints. As a result, restaurants must precisely manage their expenses – as well as scrutinize potential opportunities to release cash flow – so they can afford to invest in the ongoing development of their business.

There may be such opportunities hiding in your legal spending. If you're involved in, or are considering, a legal dispute that has merit, your legal claims may be an invisible asset you can access through an affirmative recovery program that accelerates your pending claims, judgments and awards and improves your liquidity. According to independent research commissioned by Burford Capital this year, two out of three general counsels said their companies had an affirmative recovery program – and agreed that their pending claims are financial assets that represent future cash flow. Yet at the companies where the programs exist, 25 percent of general counsels and half of CFOs say the programs need improvement.

In a QSR Magazine article, David Perla, co-COO at Burford Capital, said CFOs may be unnecessarily risking their own budget by overlooking the length of time it takes to file, settle, litigate, appeal and get paid. As a result, they could be incurring millions of dollars of spend and experiencing months or even years of delayed payment of damages suffered by them. “Even companies with robust recovery programs that can afford litigation may find that capital could generate a better return if invested elsewhere in the business,” he said.

Your affirmative recovery program should lay out a clear structure for pursuing recoveries and rely on data and input from finance and business units. Reassessing your program may make sense if your business is due a legal award – or if you have a history of avoiding litigation that has merit simply because of the potential legal costs involved. It may help you claim assets that you could put to work in your restaurant.



Foodservice CEO

ESG that delivers

Nowadays, a company's commitment to environmental, social, and governance (ESG) efforts is playing an increasingly significant role in its ability to attract investors, employees and customers. While increased pressure to meet ESG goals had led to some greenwashing – as well as skepticism about the level of some companies' commitments – businesses whose ESG practices are in close alignment with their goals and values stand to reap significant market benefits.

In the S&P 500, ESG factors have outperformed others in recent years. For example, RBC Capital Markets reported that S&P 500 companies with better ESG risk profiles have outperformed those with worse ESG risk profiles. Companies in the index with most improved ESG risk scores have outperformed those with the least improvement. Finally, within the S&P 500 Consumer Discretionary specifically, companies with stronger workforce ESG scores have outperformed those with weaker scores since 2011.

If improving your record on ESG is a priority for you – or in this era of rapid consolidation you're considering merging with another company and must blend your approaches to ESG – there are some steps you can take across your operation to ensure your ESG efforts reflect your values in favorable, accurate and transparent ways. Review all sources of waste in your operation and find ways to reduce it or reroute it. To bring greater precision to your food preparation and inventory management, conduct a food waste audit and adopt technology that can improve your consistency. Ensure your kitchen is using tip-to-tail cooking processes. Align with community partners who can put any additional food waste to use in your area.

Improve your sustainability by understanding the story of the items you source across your business. In an FSR Magazine report, Kari Hensien of the quality management vendor RizePoint advises operators to track which suppliers have environmental, sustainability and compliance certifications. When you know where your raw materials are coming from, who is processing them, and what practices they follow, you have a stronger, clearer story to share with guests. You can also discover more sustainable ways of sourcing and serving what you need. Sourcing more products from vertical farms, for example, can help you not only limit the pesticides used to grow

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Minimum wage hitting ballots in November

The minimum wage debate is a perennial topic of discussion in the restaurant industry, but at a time when there is added pressure on restaurant operators to recruit and retain staff – and also demonstrate to the world that they take care of their people – it has taken on elevated significance. In fact, minimum wage measures will be among the issues hitting ballots in November in Nebraska, Nevada, the District of Columbia and Portland, Maine.

One issue up for vote in some of these contests is the subminimum wage, also known as the tip credit. As described in a recent article in the New York Times, in all but eight states, employers can legally choose to pay workers who receive tips a subminimum wage – a rate that is as low as \$2.13 an hour in some places – as long as tips bring their earnings to the equivalent of the minimum wage in a pay period. Economists estimate that at least 5.5 million workers are paid in accordance with this model. The provision is an industry subsidy that has allowed employers to meet pay requirements more cheaply.

However, that could be changing in places such as the District of Columbia and Portland, where the tip credit is on the November ballot. In D.C., the District of Columbia Tip Credit Elimination Act of 2021 would eliminate the subminimum wage for tipped workers and increase their rate to match the standard minimum wage. (Employers in the District can currently pay tipped workers \$5.35 an hour, significantly below the \$16.10 hourly rate for nontipped workers.) It's legislation we may be seeing in other jurisdictions in future elections.



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ESG

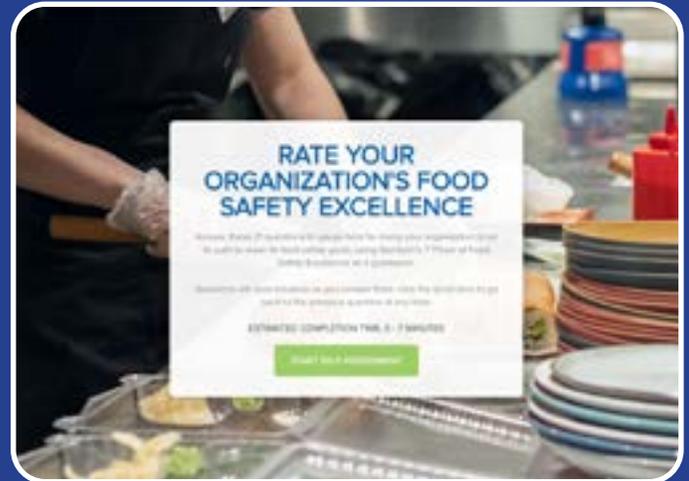
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the food you serve, but also support farms that consume dramatically less water than traditional farms use to grow the same food. Weaving more plant-based foods into your menu supports greater sustainability too. Approach your packaging with a similar low-waste mindset.

Track other restaurants that have launched successful ESG efforts. Hensien references Chipotle as one example of a restaurant that has launched bold ESG goals and committed to them. For instance, they committed to sourcing real ingredients with people, animals and the environment in mind. “They bought 35.7 million pounds of local produce – an investment of more than \$40.2 million in support of local food systems – and will continue relying on local, sustainable farmers,” she said. “They’ve also identified key water risk areas in their supply chain to inform their water conservation strategy.”

Finally, find ways to weave ethics through your business from top to bottom. Labor-friendly practices will help you attract and retain talented people who believe in your brand and are able to share it with your guests every day. Having an ethical story will give new guests a reason to try your food and returning guests good reasons to keep coming back.

How does your food safety program score?



Your food safety program can't be static. Evolving health risks, new staff and changing employee roles all make it important for restaurants to regularly track their adherence to – and communication of – their food safety procedures. Having an understanding of how you're performing between inspections can help you adjust your training practices and even give you an opportunity to improve employee engagement by rewarding those who uphold your best practices (not simply penalizing those responsible after a food safety incident occurs). Steritech developed a quiz to help operators get a snapshot of how they are performing when it comes to food safety. It may serve as an extra tool to help you monitor what you do well and where you have room to improve.