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New York's Richard Reibstein Quoted by Law360 on NLRB's Proposed Rule Revising Joint Employment Framework

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Richard Reibstein

Richard Reibstein, co-head of Locke Lord's Independent Contractor Misclassification and Compliance Practice, was quoted by Law360 on the proposed rule by the National Labor Relations Board (NLRB) that would revise its test for determining whether linked entities can be deemed joint employers under the National Labor Relations Act, and what, if any, impact this proposed regulation may have on other federal agencies, including the Equal Employment Opportunity Commission. The proposed rule would expand the circumstances in which franchisers and businesses using workers hired by third parties can be held jointly liable for violations of federal labor laws.

As Reibstein notes, the test used for joint employment under Title VII of the Civil Rights Act and other anti-discrimination laws "have been developed by the courts over many decades." He added, "While some of the factors determining joint employment may overlap between the test used by the NLRB and the test used by the courts in discrimination cases, they are two separate tests." Reibstein concluded, "The NLRB's recent proposed regulation is highly unlikely to be relied upon by a court in a discrimination case alleging joint employment."

Read the full Law360 article here (subscription may be required).

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