BusinessManagement DAILY

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NLRB wants to settle troublesome joint employer issue with new rule

The National Labor Relations Board is considering enacting a rule to address the standard for determining joint-employer status under the National Labor Relations Act.

“Whether one business is the joint employer of another business’s employees is one of the most critical issues in labor law today,” said newly sworn in NLRB Chair John F. Ring.

“The current uncertainty over the standard to be applied in determining joint-employer status under the act undermines employers’ willingness to create jobs and expand business opportunities. In my view, notice-and-comment rulemaking offers the best vehicle to fully consider all views on what the standard ought to be,” Ring said.

The issue of joint employment has dominated the NLRB’s agenda for the better part of three years.

The problem: When an organization such as a temp agency supplies workers to a client organization, can the supplier and client be held equally liable for unfair labor practices?

Also implicated are the rights of people who work for franchisees of large corporations. Are franchisees and the parent company equally liable for labor law violations?

In 2015, the NLRB issued a strong pro-employee joint employer decision, known as *Browning-Ferris*. Business groups strongly objected, and mounted a vigorous campaign to overturn the ruling.

In December 2017, the board reversed itself with a pro-employer decision called *Hy-Brand Industrial Contractors*. But that ruling was tossed out due to an apparent conflict of interest involving NLRB member William Emanuel.

Ring declined to set a date when a joint employer rule might be issued.

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