

HOW EMPLOYERS CAN FIGHT 'MICRO-UNITS' AT THE NLRB

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[Steve Bernstein](#) was quoted in the August 5, 2014 *Law360* article "How Employers Can Fight 'Micro-Units' At The NLRB."

The National Labor Relations Board last week rejected a bargaining unit of Bergdorf Goodman workers that the retailer called "fractured" and arbitrary, shedding some light on what might sway the NLRB in future bargaining unit battles and underscoring five potential unit deficiencies that attorneys say could be used to challenge so-called "micro-units."

Although questions linger, the NLRB's recent decision took a step toward clarifying exactly what employers can argue to knock out a petition to organize a too-narrow faction of the workforce.

The Bergdorf decision in particular provides potentially valuable insight into what types of groups won't stand up to the NLRB's scrutiny, as it noted several factors that played a role in the board's 5-0 conclusion that the unit was inappropriate.

"This is the first time where the NLRB has gone on record as indicating that certain factors are going to be taken into account when assessing the vulnerability of a petition," Steven Bernstein said.

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