

NLRB Stance On 'Micro-Units' Sets Up Food Industry Fights

News

8.18.14

Steve Bernstein was quoted in the August 18, 2014 *Law360* article "NLRB Stance On 'Micro-Units' Sets up Food Industry Fights."

In light of Noel Canning, the NLRB in early July asked the 4th Circuit to send the Nestle case back to the agency for another look, and the appeals court on July 29 granted that request. With the case primed for another look by the NLRB, attorneys say the current board — which has a three-member Democratic majority — will likely stand by the decision that Nestle had violated federal labor law by not bargaining with a certified unit of maintenance workers.

But regardless of the outcome, attorneys also explained that the Nestle case highlights the impact on the food manufacturing industry of recent NLRB precedent allowing unions to seek to represent small bargaining units comprising a select group of workers, sometimes referred to as "micro-units." This precedent was originally laid out in the board's August 2011 ruling in Specialty Healthcare and Rehabilitation Center of Mobile.

"This industry is perhaps a little bit more vulnerable to the concept," said Steve.

He added that the food industry, along with the hospitality sector, tends to attract a high level of union organizing activity and that employees in those industries may often be grouped into a number of subclassifications based on their duties or work shifts.

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Steven M. Bernstein

Regional Managing Partner and Labor Relations Group Co-Chair

813.769.7513

Email