

'Sham' Unions, Real Lawsuits

News

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The article, "'Sham' Unions, Real Lawsuits," featured on *HR Executive Online*, discussed how a nearly forgotten provision of federal labor law has come back to haunt wireless carrier T-Mobile.

Steve Bernstein provided commentary on Section 8(a)(2) of the National Labor Relations Act which states an employer can't set up its own union or support one that hasn't been freely chosen by a majority of employees.

"Back in the 1940s, it was commonplace for companies to establish a substitute union" to combat organizing efforts, said Steve.

As a result of such cases, however, in the 1990s "there was greater sensitivity to this -- businesses were a little more cautious," he said. "But there's been a dearth of activity since then, and employers have been lulled into a false sense of security. They've gotten a little sloppy."

There are no simple rules to keep companies out of trouble, Steve said. "It's never any one thing," he added. "It's the totality of circumstances" that would matter to an administrative law judge.

"A lot of employers assume they've established a committee that passes muster," Steve said. "But the closer you look, the more questionable it gets."

To read the full article, please visit [*HR Executive Online*](#).

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