

Multi-Location Retail Store Not 'Appropriate' for Union Bargaining

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The National Labor Relations Board ("NLRB" or "Board") recently held that a proposed bargaining unit of 32 Connecticut stores of Sleepy's Inc. ("Sleepy's") was not an appropriate multi-location bargaining unit. The decision, by board members, Leibman and Schaumber, provides insight into how a retailer's operations can impact the scope of a bargaining unit, should organizing efforts take place.

Sleepy's Inc. is a bedding retailer, with approximately 700 stores, located primarily in the Northeast. Each store is generally staffed by only one employee each workday. Union organizing efforts took place at many Sleepy's locations in Connecticut. After the ordinary administrative process, the Board's regional director certified a proposed bargaining unit of 32 stores and approximately 62 employees.

The primary basis for the regional director's decision was his conclusion that this was a "distinct Employer-designated geographical grouping of stores, all of which are under the direct supervision of [the same regional manager]." The employer appealed this decision to the Board in Washington, D.C., which overturned the regional director's decision.

While management structure is a significant factor in the Board's unit determinations, it is hardly a good union-avoidance strategy. If a company is structured in a way to suggest that only large multi-location units are appropriate, unions will likely focus on organizing individual stores. Preventing union organizing at this level may best be handled through store manager training. Where it is more likely that a few large stores in a geographic area would be targeted as a unit, avoidance efforts may be directed at implementing pro-employee policies; keeping communications open, honest and free flowing; and making sure that wages and benefits are competitive for the industry and locale.

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