

## In The News

# Akerman Partner Scott Silverman Addresses NLRB Challenge for Employers Regarding Confidentiality and Non-disparagement Provisions in Severance Agreements

March 2, 2023

The National Labor Relations Board recently handed down a decision prohibiting employers from asking employees to sign a non-disparagement and confidentiality agreement as part of a severance package, giving employees the ability to publicly air grievances against their former employers. Labor and employment partner [Scott Silverman](#) explained to the *Tampa Bay Business Journal* what this rule reversal means for employers and offered recommendations on how they can protect themselves.

*Tampa Bay Business Journal* wrote, “The removal of non-disparagement and confidentiality agreements would make employers more vulnerable to public criticism, Silverman said. Although, publishing recklessly or maliciously untrue statements is still unlawful, and employees can be restricted from sharing confidential trade secrets or proprietary information, he said.”

“Severance agreements will continue to provide a key legal protection for employers against lawsuits, however. Severance packages are transactional: an employer financially compensates an employee who

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agrees to a signa general release, or to never sue. The NLRB did not touch that provision in the recent decision, Silverman said.”

“Employers may still find it in their best interest to enter severance agreements for that legal protection, even though they may be exposed to reputational harm if an employee chooses to make disparaging statements, Silverman said.”

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