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Amy Moor Gaylord Quoted in *Law360* on NLRB Joint Employer Rule

November 1, 2023

On October 26, the National Labor Relations Board (“NLRB”) finalized the much-anticipated joint employer rule, revising its legal test and basing the joint employer status on whether linked entities control any of seven “essential” job terms. In a subsequent article, Traditional Labor Law Co-Chair [Amy Moor Gaylord](#) was quoted by *Law360* discussing how the new rule may arise in bias litigation or EEOC actions.

“A lot of these cases come up in staffing agency [or] leased employee-type situations,” Gaylord said. “A lot of situations, it’s pretty clear that only the staffing company has the power to actually fire the employees ... But I think if you look at the NLRA [rule], you could say, “Well, but does the client customer effectively or indirectly have the ability to affect that employee being fired or that employee being disciplined?””

Whether or not litigants in bias cases ultimately use the NLRB’s rule to support an argument for joint employment, Gaylord said the EEOC might be prompted by the labor board’s new regulations to address the issue itself in the context of EEO laws it enforces.

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