

NLRB Settles Noncompete Regulatory Action

Publications

May 2024

By: Brent Caslin

In May 2023, the General Counsel of the National Labor Relations Board (“NLRB”) published a memorandum stating that an employer who requires a nonmanagerial/nonsupervisory employee to sign a noncompete agreement violates Section 7 of the National Labor Relations Act (except in certain narrow circumstances). The General Counsel’s memorandum instructed the NLRB’s regional offices to seek out unfair labor practice charges against employers who utilize overbroad noncompete requirements.

In what appears to be a test case following the General Counsel’s memorandum, the regional director of the NLRB’s Region 9 office in Cincinnati, Ohio brought charges in September 2023 against a spa/cosmetic-and-medical business that required certain low level employees to sign an agreement that contained two year noncompete and non-solicit provisions, along with a promise to repay the employer for training that the employee received if the employee departed within two years of being hired. Harper Holdings, LLC d/b/a Juvly Aesthetics, Case No. 09-CA-300239. In October 2023, Harper Holdings moved to dismiss the charges against it, arguing among other things that there was no legal precedent for the NLRB’s position, that employers have legitimate business reasons to utilize noncompete arrangements, and that the NLRB’s position was contrary to decades of Ohio law regarding noncompetes.

The NLRB announced a settlement of the dispute on February 6, 2024. As part of the settlement, according to the NLRB’s announcement, Harper Holdings “agreed to rescind the unlawful policies, cease its demands for training repayments, to pay more than \$25,000 in monetary relief to two employees affected by the Employer’s unlawful discharge and withholding of benefits, post a remedial Notice to Employees across all of its facilities in the United States, and post a copy of the Notice to its Slack messaging application.”

This article is available in the Jenner & Block Japan Newsletter. / この記事はJenner & Blockニュースレターに掲載されています。

Related Attorneys

**Brent Caslin**

Partner

bcaslin@jenner.com

+1 213 239 5150

Related Articles

Jenner & Block Japan Newsletter | May 2024

Related Capabilities

Japan Practice

Trade Secrets and Restrictive Covenants

© 2026 Jenner & Block LLP. Attorney Advertising. Jenner & Block LLP is an Illinois Limited Liability Partnership including professional corporations. This publication, presentation, or event is not intended to provide legal advice but to provide information on legal matters and/or firm news of interest to our clients and colleagues. Readers or attendees should seek specific legal advice before taking any action with respect to matters mentioned in this publication or at this event. The attorney responsible for this communication is Brent E. Kidwell, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654-3456. Prior results do not guarantee a similar outcome. Jenner & Block London LLP, an affiliate of Jenner & Block LLP, is a limited liability partnership established under the laws of the State of Delaware, USA and is authorised and regulated by the Solicitors Regulation Authority with SRA number 615729. Information regarding the data we collect and the rights you have over your data can be found in our Privacy Notice. For further inquiries, please contact dataprotection@jenner.com.

Stay Informed

