Press Release

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WLF Urges National Labor Relations Board To Keep Joint-Employer Rule

(*In re Standard for Determining Joint-Employer Status*)

"The joint-employer rule benefits workers, employers, and local governments."
—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged a federal labor regulator to stay the course and not rescind a recently promulgated rule that would give employers added clarity about when they will be considered joint-employers. In formal comments filed with the National Labor Relations Board (NLRB) WLF explains that rescinding the rule is inconsistent with the common law, would hurt employees, deplete state coffers, and damage vulnerable businesses in an already uncertain economic climate.

Two years ago, the NLRB promulgated a joint-employer rule. That final rule tracks the common-law understanding of joint employment. From the time that the National Labor Relations Act (NLRA) was amended in 1947, courts have consistently held that actual control is necessary to be considered an employer for NLRA purposes. The proposed replacement, on the other hand, relies mostly on administrative decisions and the Restatement (Second) of Agency, which do not contribute to the common law.

WLF's comments explain the consequences of not keeping the final rule. The Department of Labor's former chief economist has said that the rule would lead to increased economic growth and taxes, without any negative externalities. Rescinding the rule will have the opposite effect. Beyond that, franchisors are less likely to provide human-trafficking and sexual-harassment training to franchisees' employees; doing so could lead to their being considered a joint employer. WLF therefore urges the NLRB to not rescind the joint-employer rule.

Celebrating its 45th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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