



**Featured News**

**ALERT**

**National Labor Relations Board Rules that Employers May Not Offer Severance Agreements Requiring Employees to Broadly Waive Labor Law Rights**

On February 21, 2023, the National Labor Relations Board (the “NLRB”), an independent federal agency that protects employees from unfair labor practices, issued a decision in *McLaren Macomb* holding that employers may not offer employees severance agreements that require employees to broadly waive their rights under the National Labor Relations Act (the “Act”).

In particular, the NLRB held that it is a violation of the Act for employers to offer severance agreements that contain:

1. Confidentiality provisions preventing employees from disclosing the terms of their severance agreements, including the amount of their compensation or severance payments; and/or
2. Non-disparagement provisions preventing departing employees from making statements that are detrimental to the employer’s business or reputation.

This decision will impact most non-supervisory private sector employees and employers nationwide, regardless of union or non-union status. Although it is not clear whether this decision will apply retroactively to existing agreements, the NLRB’s six (6)-month statute of limitations will likely cut off liability for any agreements entered into prior to such time, regardless of retroactive applicability.

Although the NLRB decision is subject to appeal and may be vacated in the future, Employers should review and consider updating their employee severance and separation agreements in light of this ruling.

Please feel free to contact us with any questions or to discuss how this holding may impact your business.





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