



Starbucks Union Activity, Other Organizing Updates and More

New York City's "Just Cause" Law for Termination on Appeal

UNION ACTIVITY – MORE TO REPORT

In our last issue we discussed the unanticipated rise in unionization efforts occurring nationwide—that is derived at least in part from COVID-19. The pandemic's upheaval of the traditional working environment and increased unemployment rates has *spawned anti-management thinking amongst employees at several high-profile workplaces*. Increased digital connectivity is also linked to the new flurry of activity.

GRASSROOTS MOVEMENT

This uptick in unionization is described by union attorneys we know as a grassroots movement of employees who are **30 years old or younger**. We are told that most of these actions are **not sponsored or organized by the AFL-CIO**; rather, they are initiated at the local workplaces themselves. For instance, over 250 Starbucks shops have filed petitions for elections with the NLRB, and 54 of those have had successful results. Similarly, fiber contractors in Kansas City successfully [voted](#) to unionize their small office in March becoming the first workers with collective bargaining rights within the new one year-old Alphabet Workers Union. Workers at an Amazon warehouse in New York City recently [voted](#) to form the first union at the second-largest U.S. private employer and joined the Amazon Labor Union. Similar **spikes in union activity have occurred at Apple, Chipotle, and Trader Joe's**.

PRO-UNION POLITICS

Unionization is believed to be easier today due to pro-union politics. President Biden, vowing to be the “**most pro-union president ever,**” has filled the NLRB with people beholden to the interests of organized labor in an effort to deTrumpify the NLRB. As discussed in our last Eye, Biden has also taken aim at captive audience mandatory meetings. Earlier this year, the [president met with 39 national labor leaders](#), including Christian Smalls, the head of the Amazon Labor Union, sending a powerful pro-union message to employers. **It should not be surprising that Unions have [won more elections](#) in 2022 than they have in nearly 20 years.**

WHAT SHOULD EMPLOYERS DO?

Based on the current popularity of Unions, pro-union politics and the momentum caused by recent successes in union activity, employers should brace themselves and **assess how they would handle a union campaign/election**. In particular, employers should expect a return to Obama-era NLRB rules which represented an attempt to restore the rights of organized labor. For example, at the beginning of last month the [NLRB proposed a rule](#) that expands the meaning of joint-employer which would make more staffing companies and their clients vulnerable to elections and representation.

Employers relying on employees provided through third party vendors should carefully **examine their service contracts**, focusing on the language reserving the right to directly or indirectly control terms and conditions of employment. We are well-equipped to help you navigate through these and other legal and strategic considerations governing the union representation process, unfair labor practices, and collective bargaining.

MORE PRO EMPLOYEE LAWS FROM OUR NEIGHBORS

In New York City, The Wrongful Discharge Law makes it much more difficult for fast-food restaurant chains with 30+ locations to terminate workers. The law, established in January 2021, prevents covered employers from firing workers without “just cause,” which is language often found in union contracts. The Restaurant Law Center, a legal affiliate of the National Restaurant Association, challenged this law earlier in the year, but its case in U.S. Federal District Court [was dismissed](#). The case is now on appeal at the Second Circuit awaiting oral argument since briefs have been filed. We’ll keep you posted on the Second Circuit’s ruling, which will likely address Federal pre-emption as well as Commerce Clause issues.

If you have concerns about this or any other workplace or litigation issue, please contact David Ryan at david.ryan@ryan-ryan.net or by telephone at 860.460.7139 (mobile) or 203.752.9794 (office). www.workplacelawyer.com