

How does the recent NLRB memo affect Texas non-competes?

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1

Consider a sample Texas non-compete

- ❖ Employee can work for a competitor
- ❖ But can't take his customers with him
- ❖ And can't recruit employees from his former employer

Section 7

- ❖ “Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection . . .” (emphasis added)

Section 8(a)(1)

- ❖ It is an unfair labor practice for an employer “to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.”

Who is an “employer”?

- ❖ “includes any person acting as an agent of an employer, directly or indirectly . . .”

5

Who is an “employee”?

- ❖ “but shall not include . . . any individual having the status of an independent contractor, or any individual employed as a supervisor . . .”

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