

Chamber of Commerce Lawsuit Pushes Back NLRB Joint-Employer Rule Start Date Again

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On February 22, 2024, a judge in the Eastern District Court of Texas [issued a stay](#) which will delay the effective start date of the National Labor Relations Board's ("NLRB") new joint-employer rule by 14 days, from February 26, 2024 to March 11, 2024. We [previously reported](#) on this lawsuit filed by the United States Chamber of Commerce ("Chamber"), which alleges that the NLRB's new joint-employer rule is unlawful and should be struck down because it is "arbitrary and capricious." The judge's order states that a full opinion explaining the judge's reasoning on the stay is forthcoming. [However, earlier this month, the judge in this case expressed skepticism on the NLRB's new rule, stating that that the rule "seems to create a lot more uncertainty, or at least opportunity for disagreement in practice."](#)

The NLRB [has already moved](#) the start date of its new joint-employer rule once voluntarily, from November 16, 2023, back to February 26, 2024. The most significant aspect of this rule is that an entity may be found to be a joint employer controlling the essential terms and conditions of employment whether or not such control is ever exercised ("reserve control") and without regard to whether any such exercise of control is direct or indirect ("indirect control"). After it was announced, the rule attracted scrutiny from pro-business groups like the Chamber and the Board reported on October 26, 2023 that the rule received [over 13,000 comments](#) after it was initially published.

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