



## BLOGS

Legislation and Rulemaking

# NLRB Moves to Voluntarily Dismiss Joint Employer Rulemaking Appeal

In July 2024, the National Labor Relations Board (NLRB) withdrew its appeal of a March 2024 federal district court decision striking down the NLRB's 2023 joint employer rule. In that decision, the Eastern District of Texas vacated the 2023 Rule after finding that the NLRB's decision to rescind the 2020 rule was "arbitrary and capricious." *Chamber of Commerce v. Nat'l Labor Relations Board*, No. 6:23-cv-00553 (E.D. Tex. Mar. 8, 2024).

In July 2024, the National Labor Relations Board (NLRB) withdrew its appeal of a March 2024 federal district court decision striking down the NLRB's 2023 joint employer rule. In that decision, the Eastern District of Texas vacated the 2023 Rule after finding that the NLRB's decision to rescind the 2020 rule was "arbitrary and capricious." *Chamber of Commerce v. Nat'l Labor Relations Board*, No. 6:23-cv-00553 (E.D. Tex. Mar. 8, 2024). A discussion of the court's ruling can be found in Lathrop GPM's full client alert here: <https://www.lathropgpm.com/insights/federal-court-vacates-2023-nlr-b-joint-employment-rule-and-reinstates-2020-rule/>

The NLRB appealed the district court's decision to the Fifth Circuit Court of Appeals. However, on July 19, 2024, the NLRB moved to dismiss its appeal. The NLRB asserted that the 2023 Rule met the procedural and substantive requirements of the Administrative Procedure Act and the National Labor Relations Act, despite the district court finding otherwise. Nonetheless, the NLRB sought to dismiss the appeal, reasoning that (1) the NLRB needed to further consider the issues identified by the district court in the March 2024 order and (2) the NLRB has several rulemaking petitions on its docket that raise similar joint employer issues.

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