

Alert: Employers: Good Reason to Review Your Separation Agreement Forms

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On February 21, 2023, the National Labor Relations Board issued a significant decision that overruled the Board's own prior decisions and held that an employer violated the National Labor Relations Act by offering discharged employees severance agreements that included commonly-used confidentiality and non-disparagement provisions. *McLaren Macomb and Local 40 RN Staff Council, Office and Professional Employees, International Union (OPEIU), AFL-CIO*, 23 WL 2158775 (Feb. 21, 2023).

While this ruling has been widely criticized by employers and business groups and could be overturned, it represents a stark change in the law. Based on this development, it is now prudent for employers to review their separation or severance agreement forms with counsel. Language changes to the agreement forms may help to avoid a negative ruling as experienced by the employer in *McLaren Macomb*. Moss & Barnett employment law attorneys are available to advise employers on these and other issues.

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