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January 21, 2009

**CLIENT ALERT – THE EMPLOYEE FREE CHOICE ACT**

By now, we hope you are all aware of the pending legislation, The Employee Free Choice Act (EFCA). If you are a nonunionized employer, it is critical that you understand what this proposed law is about and ensure that you are ready for the significant impact it could have on your business.

The legislation would amend the National Labor Relations Act (NLRA) to change the way workers choose how to become part of a labor union. The proposed measure would end secret-ballot workplace elections and would allow union representation to be decided through a "card-check process." If the EFCA is enacted, employers will face a new procedure - mandatory recognition of a union if a majority of workers at a work site sign union authorization cards.

Another troubling aspect of the EFCA is how it would alter the collective bargaining process. Currently, following an election won by the union, employers and unions have an obligation to negotiate in good faith. If they reach an impasse, the employer does not have to reach a collective bargaining agreement with the union. One year after the original election, a union could be decertified if no contract was reached.

Conversely, the EFCA calls for an arbitrator to write a first contract when an employer and union cannot reach agreement after 120 days. Under the EFCA, an arbitrator would determine things like how to discipline employees and health care benefits. The arbitrator's decision on the collective bargaining agreement is binding.

The EFCA passed the House of Representatives in the last Congress and it is anticipated that the bill will be revisited by the new Congress. The House will likely pass the bill again; the question remains whether the legislation will pass the Senate. If it does, the new President will very likely sign the bill into law.

All nonunionized employers are well-advised to prepare for the EFCA. We encourage employers to engage in supervisory training, educating their managers on unions and their organizing efforts, as well as building positive employee relations. Poor communication and perceptions of unfair treatment are leading reasons why employees unionize. If you are one of our nonunionized clients who have not yet prepared for the ERCA, we encourage you to contact us and consider scheduling our Positive Employee Relations training.

We know there are many demands on businesses, but this is not an issue which you should ignore.

Sincerely,

Angela L. Thomas

Glenn R. Davis

We are in the process of converting to an electronic format for distribution of client alerts. If you did not receive this letter via email and wish to continue to receive our client alerts, please contact D'Ann Grob at [ldymclientalert@ldylaw.com](mailto:ldymclientalert@ldylaw.com) or by telephone at (717) 620-2424. Thank you.

The information herein reflects the views of the author. The information should be construed as general guidelines and not interpreted as legal advice.

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