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December 8, 2011

Re: Compliance Alert: NLRB Notice Posting

Dear Colleague:

As a firm, we strive to keep our clients apprised of significant changes in the law. We are writing to make sure you are aware of an important labor law development that will affect virtually every private employer covered by the National Labor Relations Act (“NLRA”).

Effective January 31, 2012, absent a court stay or extension, the National Labor Relations Board (“NLRB”) will require employers to post an official government notice advising employees of their legal rights under the NLRA. The notice must be placed where other employment notices are customarily posted, as well as on a company’s “intranet or internet site if the employer customarily communicates with its employees about personnel rules or policies by such means.” Among other things, the notice (1) informs employees of their right under the NLRA to unionize and/or engage in other “protected concerted activity” unrelated to union organizing, (2) lists examples of unlawful employer conduct, (3) provides information for employees on filing charges against an employer, and (4) offers contact information for the NLRB. There are significant remedies for noncompliance.

There are numerous potential ramifications resulting from the new posting requirement. For example, the notice mentions “protected concerted activity,” a right covered by the NLRA. In 2011, the NLRB has expanded its focus on employer policies and practices relating to this NLRA right. Therefore, it is important for employers — whether fully unionized, partially unionized or union-free — to determine now whether any of their HR policies inadvertently could violate the NLRA based on these new interpretations. If you have not had your employee handbook and other workplace policies reviewed by counsel for NLRA compliance in the past few months, we recommend that you do so. Policies that have come into question include, but are not limited to, confidentiality, social and other media, codes of conduct, non-harassment, related investigations, discipline, electronic communications and solicitation/distribution.

It is our goal to ensure you are aware of the NLRB’s new posting requirement and its ramifications so that your organization can comply. Also, in keeping with our preventive practice, we have suggestions for our clients regarding additional legal steps you may wish to consider taking before January 31st as part of a broader compliance program. If you have questions about the NLRB Notice posting, what is required to comply with the law or a broader compliance program, please do not hesitate to contact the Jackson Lewis attorney with whom you regularly work or our Labor Practice Group leader Philip B. Rosen at (212) 545-4001 or rosenp@jacksonlewis.com.

Very truly yours,

JACKSON LEWIS LLP