

NLRB Finds Symphony Orchestra Musicians “Employees” and Makes way for Petition

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On December 27, 2011, the National Labor Relations Board found that musicians at three different symphony orchestras in Pennsylvania, Massachusetts, and Texas were “employees” and not “independent contractors.” In reaching this decision, the Board found that though musicians have some control over their work, once they are selected, orchestra management has great control over the musicians in terms of their work hours, payment schedules, dress codes, and standards of behavior. This ruling overturns the Regional Director’s 2007 Decision and Order in which she found that the musicians in the petitioned-for bargaining unit were independent contractors, and the dismissal of the representation petition. By virtue of the new rulings, the employees may now proceed with their petitions.

Misclassifying workers as “independent contractors” when they should be “employees” can be costly for employers.

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Topics

National Labor Relations Board (NLRB), Independent Contractors, Misclassification