

Permissible Coordinated Action by Employers in Labor Negotiations

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Evan Spelfogel, a Member of the Firm in the Labor and Employment practice, in the firm's New York office, authored an article in the *ABA Journal of Labor & Employment Law*, titled "Permissible Coordinated Action by Employers in Labor Negotiations." **Maxine Adams** assisted in the preparation of this article.

Following is an excerpt:

Competing companies occasionally cooperate in collective bargaining with a union. This may occur when weaker companies sign "me too" agreements to accept terms negotiated by an industry leader, or when several companies of relatively equal bargaining power join in multiemployer bargaining to bargain from strength or to avoid any individual company obtaining more favorable terms and conditions of employment. Typically such "multiemployer" bargaining requires the consent of all union and employer parties, leads to a single collective bargaining agreement with similar terms and conditions of employment, and, if carefully structured, is deemed to be an exception to antitrust restrictions on competing companies. There is, however, a lesser-known tactic, "coordinated bargaining," a company may utilize either to improve its collective bargaining position with a union that represents its employees and competing companies' employees or when the union refuses to consent to multiemployer bargaining. This alternative still preserves perceived bargaining advantages, aids in avoiding industry-wide strike-related shutdowns, and prevents antitrust problems.