

U.S. REPRESENTATIVE  
**GLENN GROTHMAN**  
*Wisconsin's 6th District*

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**Grothman: Joint-Employer Standard Leads to Fewer Small Businesses, More Lawyers**

(Washington, D.C.) – Congressman Glenn Grothman (R-Glenbeulah) today examined the growing threat to small businesses posed by the National Labor Relations Board’s (NLRB) expanded definition of the joint-employer standard during a House Education and the Workforce hearing.

Witnesses at the hearing included small business executives, employment lawyers and professors.

**Excerpts of Grothman’s remarks**

*“I think one of the joys of owning a business is the freedom to say ‘I’m my own boss’[...] Does this joint employer standard, does it give you more or less freedom? Are you more or less your own boss?”*

Excerpts of witness answer from Jerry Reese, director of franchise development at Dat Dog: “With this uncertainty, you have less freedom, in my opinion. And before this committee over the last two years, you’ve had ten franchisees talk about this standard and how it is negatively affecting them and their ability to own their own business.”

Roger King, senior labor and employment counsel for HR Policy Association: “Let me give you an example. You know, this is a large business, but I want to just say this for the record: from a

large business perspective, we fully adopt the concerns of our small business brethren and franchisers/franchisees. But this is a problem for big business, too. That said, your question is an excellent one because one of our member companies required of its supplier to furnish to the suppliers' employees a minimum number of sick days. This company, in fact, had been invited to the Obama White House and had been praised for its social responsibility. As a result of that good deed, the NLRB turns around and finds it to be a joint employer. Freedom? No. Why don't we have more freedom for employers to offer benefits? This makes no sense."

*"I mean, one thing that's a problem for all businesses, in addition to doing what you want to do, you know whatever your business is – retail, restaurant, whatever, you've got to worry about other laws. Does this make your life more or less complicated? Or I'll put it another way, does this standard make it more or less likely you will be paying bills to lawyers?"*

All: "More. More likely."

Mr. King: "Congressman, I can tell you, I was in private practice for 25 years. This type of question started to reoccur and reoccur. Here we are spending these thousands and thousands of dollars on law firms that, frankly, should be spent on job creation, on better benefits, better pay, etc. This is a waste of our national resources."

*"You wonder why our standard of living isn't higher. You've got this huge albatross, this sea of lawyers out there that our society has to pay for.*

*"I know every business wants to operate efficiently, and I'm not going to talk about wages. I'm just saying as far as efficiency, is this going to maybe dig into the efficiency of franchisees, which ultimately will drive up the cost of everything?"*

Mary Thompson, chief operating officer at Dwyer Group: "Yes, it will dig into the efficiency just using the job descriptions. Our franchisees wanted to get those job descriptions faster and it took us months and months longer than what they were waiting for."

*"I think it's good if we have more businesses, particularly small businesses, because a lot of times franchise results in a lot of small business. Which is a good thing. I wish we had more small businesses in America, I think it is kind of a shame that, over time, you get these multi-national type things. What effect will this have on the ability for more small businesses to open up [...] make it tougher to you know, start on the ground floor and you know, open up a restaurant or opening up a packaging company or whatever?"*

Mr. Reese: "It will make it tougher because there is no permanent clarity. There is no blueprint to starting the business in the right way, franchised or not. We want to comply with the law as a small business."

*"Thanks much. Less small business, more lawyers."*

Click [here](#) to view Grothman's full remarks (beginning at the 2:10:20 mark).

## **Background**

In August 2015, the NLRB expanded the joint-employer standard to define joint employers as those who have direct or indirect control over employees. Under the new joint-employer standard, employers who contract with a separate company can share control over that company's workforce.

For example, the standard allows franchisers to control and heavily monitor franchisees, including in the areas of hiring, firing and other day-to-day operations, creating unnecessary burdens for franchisees.

In June, The Trump administration's Department of Labor rescinded the Obama administration's guidance on the joint-employer standard. The 2015 NLRB ruling is also being challenged in court.

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*U.S. Rep. Glenn Grothman is serving his second term representing Wisconsin's 6th Congressional District in the U.S. House of Representatives.*