

The Developments of the Concepts of Labor and Employer under the Judicial Opinions

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Abstract

With the amendment of labor law, in particular, Labor Standards Act has amended some provisions in 2015, 2016, 2017 and 2018. And the newly amended Labor Union Act, Collective Agreement Act, and Act for Settlement of Labor-Management Disputes, have been implemented since 2011, there are many important judicial opinions in recent years.

Due to the variety of business types and organizations, employment, and the diversification of labor patterns, it is increasingly difficult to identify the labor and employers in labor law, and practical disputes are constantly emerging. For example, is a worker whom Labor Standards Act is not apply to a non-labor law worker? Is the employer in the labor law limited to the parties to the labor contract? The concept of the worker and the concept of the employer are the old issues in labor law but always facing new challenges.

Therefore, this essay focuses on how to identify the concepts of the worker and the employer in the labor law and respectively introduces the civil judgment of the court, the administrative judgment of the administrative court, the decisions on the Unfair Labor Practices of the Board for Decision on the Unfair Labor Practices, and Judicial Yuan interpretation, to keep abreast of the latest developments in practical insights on these important issues of labor law.

Keywords: Labor Standards Act, Labor Union Act, Collective Agreement Act, Act for Settlement of Labor-Management Disputes, the concept of the worker, the concept of the employer, unfair labor practices

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