

# CLIENT BULLETIN

March 20, 2017



Client Bulletin #608

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## Good news for franchisors from the U.S. Department of Labor?

By Jeff Rosin,  
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We write to alert our clients and contacts about some positive comments made by the acting Solicitor General pertinent to franchise entities. Specifically, as reported today in Law 360, acting Solicitor General Nicholas Geale stated in public remarks on March 17 that the U.S. Department of Labor is going to “listen to the regulated community a little more” and focus on compliance before initiating enforcement actions.

This comment seemed to have particular relevance to franchise entities, who exist within one such regulated industry. Indeed, Mr. Geale also said that he would not want to see the agency bringing enforcement actions on a legal theory of joint employer liability based on a franchisee-franchisor relationship:

I do believe that the attempt to expand this [joint employment theory] to the franchisee-franchisor relationship is unlikely to be successful, just based on legal precedent. Nor do I think that would be a good use of the solicitor’s resources to attempt to bring those sorts of cases. But again, that is a matter that will come before the secretary and I will defer to his likely discretion on the issue of what sorts of enforcement and/or regulatory policies would be appropriate in the context of a joint-employer concept.

The nominee for Secretary of Labor is R. Alexander Acosta, who comes from a background suggesting he, too, will have more moderate views than his predecessor, Thomas Perez.

With franchise entities having come under attack in recent years, and with standards of joint employment liability for franchise entities still uncertain in some of the highest courts in the nation, Mr. Geale’s comments are a reason to hope that franchise entities will be able to stem the tide, if not turn it, of lawsuits and government enforcement actions that have alarmed the industry.

We will keep you up to date on further developments as they arise. Please do not hesitate to contact any member of our **Franchise Industry Group** if you have questions.



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