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TESTIMONY BEFORE THE U.S. HOUSE
COMMITTEE ON EDUCATION AND THE
WORKFORCE

SUBCOMMITTEE ON HEALTH,
EMPLOYMENT, LABOR & PENSIONS

“REDEFINING ‘EMPLOYER’ AND THE
IMPACT ON GEORGIA’S WORKERS AND
SMALL BUSINESS OWNERS”

SAVANNAH, GEORGIA

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Good morning Chairman Roe, Congressman Allen, Congressman Carter, and distinguished members of the Subcommittee. My name is Fred Weir, I own four Zaxby's restaurants here in Georgia. Thank you for inviting me to testify on the new "joint employer" standard that frightens small business owners like me. This is a proposal that has almost unlimited destructive capacity, and it threatens to undermine how I run my business, as well as the jobs of many in our employee family.

I appear before you on behalf of the Coalition to Save Local Businesses (CSLB) and the International Franchise Association (IFA). The CSLB is a diverse group of locally owned small businesses like me, as well as associations and organizations that represent small businesses. The group is dedicated to protecting and strengthening all sectors of small business, which are now under attack by the National Labor Relations Board (NLRB), a regulatory body of five unelected Washington bureaucrats. The Coalition's goal is to maintain the current joint employer legal standard across federal and state statutes.

The IFA is a leading association member of the CSLB, and works to protect, enhance and promote franchising. In franchising today, there are more than 780,000 establishments across the U.S. that support nearly 8.9 million direct jobs, \$890 billion of economic output for the economy and three percent of Gross Domestic Product. IFA members include franchise companies in over 300 different business format categories, individual franchisees and companies that support the industry in marketing, law and other areas.

The new joint employer standard is aimed directly at the destruction of small businesses in my local community outside Atlanta, of the small businesses in this state, and in every state across the country. This statement may sound like a pretty good example of hyperbole – except that it is not hyperbole. It is true, it is happening now and only the United States Congress can stop this economic juggernaut.

Mr. Chairman, the title of this hearing is "Redefining 'Employer.'" Please forgive me, but saying "joint employer" redefines "employer" is like a Category 5 hurricane "redefines" the shoreline. No, Mr. Chairman, a Category 5 hurricane eradicates the shoreline and everything on it. And the new standard for joint employer proposed by the NLRB is specifically designed to do the same thing: eradicate franchising and irreparably damage every small business built on the franchise model.

Franchising is a method of doing business that has allowed hundreds of thousands of individuals who want to run their own businesses to realize that dream using their own sweat equity combined with someone else's concept. Franchising, as a method of doing business, is so successful because it is so repeatable. Franchising provides a pathway to prosperity for entrepreneurs, employees and communities in every corner of our country. I have seen franchising allow business men and women in my community to create and build businesses that they would otherwise never have had the opportunity to do.

I have been in the restaurant business all my life. I decided to become a Zaxby's franchisee because I recognized a great concept built around unique stores and a very exciting menu of chicken, salads and desserts that I knew would be successful. As I mentioned, I have four Zaxby's restaurants with 160 employees here in Georgia. And I operate other restaurants in other states as well.

I signed a franchise agreement with Zaxby's precisely because I would be the boss of the new business, implementing the Zaxby's concept. I know the restaurant

business, I know my own community, and I knew that the Zaxby's concept would be successful there. In Cherokee County where I have my restaurants, I do not distinguish between the success of my restaurants and the success of my employees. My goal in opening up my first franchise was to build something unique and special not only for my own family but the many team members who work for us.

It is no exaggeration that I treat all of my employees as if they were members of my family; because in my eyes, they are. Many on our staff have loyally worked for years with us because of this special relationship and culture we have worked hard to create. This culture is the reason many on our staff have stayed for so long. However, if franchisors and franchisees are defined as joint employers by the NLRB, I might lose control of the business and many decisions that are made on the local level by myself or managers who know and care for our team members would be lost. Please allow me to give you a few examples.

Our staff bring their best to work every day. They know I care about them and want them to succeed. When a high school student starts her first job at one of my Zaxby's restaurants, I make sure her parents are there at the orientation session. I want that young lady to see the pride in her parents' eyes as she begins her first job and learns what it means to be part of a community with a higher purpose. I want her to know that her job is not just a place to earn a paycheck, but also a community where she will collect the larger dividend of meaning in her life.

Sometimes my employees find themselves in very difficult personal circumstances at home, with a sick parent or child, or with other life challenges. One relatively young employee suddenly had a heart attack, and used up all his leave. We made sure he continued to be paid until he could resume a normal schedule.

Another employee, a single mom, suddenly faced her own mother's illness and needed time to care for her. She took the time, and we made sure she continued to take home a paycheck.

We offer scholarships to our employees, young and old, so they can enrich their education. We do these things because we would do them for our own families. We have employees who have been with us for years. They stay, not for the money. We all need to be paid, but our employees stay because this is where they want to be. This is where they want to live.

Mr. Chairman, the new joint employer proposal from the NLRB would drain the life from the hundreds of thousands of small businesses that operate just like mine. The new standard would force operational changes on the franchisor, and on franchisees. Since the NLRB appears determined to change the measure of who controls the business, the balance of control between franchisor and franchisee will have to change. The franchisor's magnified liability will mean substantially diminished control for the franchisee.

Decisions that are mine today will be the corporate franchisor's tomorrow. Today's culture of family and practices of a caring community will be replaced tomorrow by the corporate personnel manual. Maybe there is no room in the manual for parents at their daughter's orientation. Maybe there is no room in the manual for continuing a paycheck after leave is exhausted. There might not be room in the manual for helping the single mom whose mother is ill. Without any doubt, there will be fewer opportunities for new entrepreneurs who want to try to start their own businesses, and would have used the

franchise model to do so, but who find that the joint employer standard has shut down franchising as a pathway to prosperity.

The brave new world of a wide-open, nebulous joint employer standard is a bleak and desolate place. It is bleak because it rests on entirely wrong assumptions about how businesses, especially franchise small businesses, operate in towns and communities across this country. It is desolate because it deprives people – the entrepreneurs and risk-takers who start businesses and the individuals who find meaningful employment there – it deprives these people of a future and the opportunity for a better life.

This plea is not based on “politics” either to the right or left. I know beyond a shadow of doubt our business has solely been successful because of the amazing people who work for us and the decisions I have been able to make about our business culture. A new joint employer standard would fundamentally alter the way I operate and inhibit my ability to expand and prevent much of this from happening. That does not benefit the hard working people we now have on our team and prevents many others from joining our family and growing with us, creating even more jobs. The NLRB needs to leave the joint employer standard as it is.

Mr. Chairman, I ask that this Subcommittee, and your colleagues in the Congress, do everything you can to stop the NLRB. In fighting back, you will be helping to save local businesses like mine.

Thank you very much.