

UFC Enters NLRB Independent Contractor Cage Match

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Yesterday, mixed martial arts fighter, Leslie Smith, [filed an unfair labor practice charge](#) against the entity dba Ultimate Fighting Championship (UFC). Smith is a well-known mixed martial arts fighter in the featherweight class. Her only loss is to Cris Cyborg, the current UFC featherweight champion who has been recognized by some as the best female mixed martial arts fighter in the world. Now Smith is coming to blows with UFC over the non-renewal of her contract. Smith's unfair labor practice charge alleges the non-renewal of her contract was retaliation for her engaging in protected concerted activities under the National Labor Relations Act (NLRA). Smith has been at the forefront of efforts to unionize UFC fighters. She was instrumental in launching [Project Spearhead](#), which is a "fighter-led" organization promoting "the process of moving toward unionizing all professional mixed martial artists." The website's slogan is "Forward Through Solidarity" and it provides a link for fighters to download a union authorization card. Project Spearhead is an outgrowth of another unionization effort by fighters that suddenly lost its punch after a confidential list of fighters supporting the effort leaked to the media. However, Smith, who is listed as Project Spearhead's President, has kept that fight going. An initial hurdle to Smith's unfair labor practice charge is whether UFC fighters are employees or independent contractors. The NLRA only covers "employees." Smith's charge alleges that UFC "misclassifies" fighters as independent contractors. Smith's charge also alleges that the mere misclassification of an employee as an independent contractor is itself a violation of the NLRA. As previously reported this issue is currently before the NLRB and as the request for public briefing deadline ended on April 30, a decision should be issued relatively soon (See blogs from [April 13](#) and [February 19](#)). Issues related to whether individuals are independent contractors or employees is not a new issue for the NLRB. In [July 2017](#), the NLRB held that junior high and high school lacrosse referees who provided services through an association were employees, not independent contractors. The allegations in Smith's charge will rely on areas where the UFC exerts control over fighters. If Smith's charge can clear this "coverage" obstacle, she will still need to prove that UFC in fact retaliated against her. Her charge sets up a cage match legal fight that may have significant consequences for the UFC, UFC mixed martial arts fighters, and Project Spearhead's efforts to organize those fighters. Stay tuned.

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