



NLRB: Back in Business

News

7.31.13

With the recent Senate confirmation of five nominees, the National Labor Relations Board (NLRB) is fully staffed for the first time in a decade.

The lack of a quorum in the NLRB has been a subject of controversy in recent years, however, now the board is expected to move ahead both in rulemaking and in handing down decisions that will impact union and non-union workplaces alike.

Tampa Partner Steve Bernstein was quoted in several national media outlets about the new NLRB and what it could mean for employers.

In the *Bloomberg Businessweek* article “Labor Board Republicans Seen Giving Employers Dissenting Voices” Steve said that the board, which now has two Republican members after months of being led by Democrats, will at least consider a business agenda.

“For the first time in quite a while, you’ll have the prospect for real dissent. Dissents are very valuable for the courts on appeal because they have an opportunity to perhaps gauge both sides of an issue more effectively.”

In another article in the same publication he noted that it’s possible, though unlikely, that the new board will try to ratify past decisions that are not pending in appeals courts.

In the *Law360* article “[6 Items On The New NLRB Agenda](#)” Steve said: “Historically, when the board operates with a full complement of five members, they seem more willing to embrace more controversial notions and are more emboldened to blaze a path consistent with their initial objectives.

The reason for that is that when a five-member board makes a controversial decision ... and two members are able to voice their dissent, the board members are less vulnerable to claims that they ramrodded their ideology through.”

In the *SHRM Online* article “[NLRB: Back in Business](#)” Steve predicted that one of the areas the new board will challenge is employee handbooks.

He noted that items he expects to be scrutinized include vague or ambiguous language; broad categories of prohibited or required conduct; language compelling employees to confine their concerns to management; and solicitation restrictions extending beyond working time and working areas.

Please reach out to our [Media team](#) for any news inquiries.

Related People



Steven M. Bernstein
Regional Managing Partner and Labor Relations Group Co-Chair
813.769.7513
[Email](#)