



## NLRB GC Changes Arbitration Rules for Employers, Unions

News

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Steven Bernstein was quoted in *Corporate Counsel* on February 23, 2015. The article “NLRB GC Changes Arbitration Rules for Employers, Unions” examined a new memorandum from NLRB general counsel Richard Griffin Jr. which builds on a recent board decision in *Babcock & Wilcox Construction*, outlining new guidance for when unions and management can arbitrate their way out of conflicts.

Steven was quoted on his take of the new guidance groundwork laid by the board in the *Babcock* case.

“To me, this is just a step in that continuing spectrum, down the road of expanding on NLRB jurisdiction,” Steven told CorpCounsel.com.

The new test and the changing burden of proof likely will make arbitration deferrals harder to come by. “For attorneys, in-house and outside counsel, traditionally they’ve gone to bed with the peace of mind of knowing that in the context of a collective bargaining agreement, matters that should be arbitrated get arbitrated,” said Steven. Not anymore. According to Griffin’s memo, the new rules will go into effect for collective bargaining agreements executed after *Babcock* was decided.

Steven believes that given the new standards in play, companies negotiating with unions should try and ensure language is included that explicitly allows arbitrators to step in. “I think it’s going to cause employers to really focus on the language they are negotiating in their collective bargaining agreements. To me this is what it’s all about,” he said. Also, he added, companies should remain wary of the NLRB’s rules and decisions down the line, as at least in the near future it’s likely the board will continue to expand its power and purview.

To read the full article, please visit [Corporate Counsel](#).

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