

HOW HAVE DEALERSHIPS FARED IN FIGHT AGAINST UNION “QUICKIE” ELECTIONS?

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The National Labor Relations Board’s (NLRB) “quickie” election rules took effect on April 14, 2015, substantially expediting the union election process. Among other things, the new rules cut the time period between representation petition and election in half, and require employers to provide expedited disclosure of worker phone numbers, email addresses and other personal information to unions.

These new rules have been a source of contention for many employers that have been forced to prepare for significant changes in union-organizing tactics. Fisher Phillips has conducted its own review of union petitions filed against dealerships in the last year. While an analysis of the first six months of union activity following the new rules established that unions as a whole are benefiting significantly from the changes, the same may not be true when it comes to dealership elections.

Summary Of Findings

Interestingly, only 30 petitions were filed against dealerships in 2015, which is down considerably from a five-year high of 42 petitions in 2014. Perhaps of more interest: the frequency of petitions filed against dealerships slowed after the April 14, 2015 inception date, with more than 30% of the 2015 petitions filed in the first quarter of the year.

In addition to the number of petitions slowing after the new rules kicked in, the percentage of union victories trended down after the “quickie” election rules took effect. There were six elections that occurred under the old rules, with victories for unions in four of the six, for a 67% union-win

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rate. There were 12 elections that occurred under the new rules, with victories for unions in seven of the 12 elections, or a 58% union-win rate.

In total, the 30 petitions yielded only 11 union victories. Management emerged victorious in seven elections, while there were nine withdrawn petitions, one dismissal, and two blocked elections. Not surprisingly, the overwhelming majority of these petitions were filed in the three states that consistently see the most dealership union activity: California, Illinois, and New Jersey.

Although dealerships seem to have dodged much of the punch that the “quickie” election rules packed in 2015, they did not go completely unscathed. First, elections are occurring faster than ever. In fact, they occurred about eight days faster from the effective date through the end of the year (26.3 days from April 14 through December 31 vs. 34.2 days from January 1 through April 13), and occurred 14 days faster than a year ago (26.3 days vs. 40.3 days during the same period in 2014). Finally, the percentage of dealership victories continued to trend downward in 2015, with a 38.9% victory rate compared to a 42.4% victory rate in 2014.

Prepare For The Future

While the true effect of the new “quickie” election rules may not have impacted dealerships as hard as some other industries, you need to ensure that you are proactive rather than reactive in this area. You should prepare today for a potential wave of new petitions tomorrow.

It is critical that you take the time to properly train your supervisors to look for the early warning signs of potential union activity, and ensure that these same supervisors understand the labor laws governing the union election process.

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