

FORMER NLRB CHAIRMAN AND BOARD MEMBER, PETER SCHAUMBER, FORESEES A DRAMATIC SHIFT IN BOARD'S RULINGS UNDER OBAMA ADMINISTRATION AT INSIDE COUNSEL/FISHER PHILLIPS NATIONAL LABOR LAW SYMPOSIUM

News
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CHICAGO, IL (September 16, 2010) - Peter Schaumber, former Chairman and Board Member, National Labor Relations Board (NLRB), predicted that, if given the opportunity, many of the NLRB's significant Bush Board rulings are likely to be reversed under President Barack Obama's administration. Schaumber, appointed by President George W. Bush, told corporate in-house counsel of the potentially dramatic changes to American labor law during his Keynote Address at the Inside Counsel/Fisher Phillips National Labor Law Symposium on September 16, 2010.

Specifically, Schaumber pointed to the Board's most recent decision in *Independence Residences*, which gave effect to a pre-empted state statute to restrict an employer's anti-union activities and in *Eliason*, which reversed decades of Board law and opened the door to increased union secondary boycott activity.

"The Board is taking startlingly aggressive positions aimed at augmenting union power in an effort to make unionizing easier," said Schaumber, whose term ended in August. "The new majority appears prepared to take American labor law into uncharted waters."

Schaumber predicted that the free speech of employers to non-coercively oppose unionization during union organizing campaigns will be restricted and increased penalties will be levied against employers particularly for alleged violations during first contract bargaining. He said that while the Board cannot adopt specific provisions of the Employee Free Choice Act (EFCA) as has been feared, it can usher

in rules and decisions to establish fertile ground for the card-check process and that are consistent with EFCA's underlying principles.

"The Board doesn't exist in a vacuum," said Schaumber. "It's affected by the political climate in Washington."

During a panel discussion following the presentation, Charles Caulkins, Managing Partner of the Fort Lauderdale office of Fisher Phillips, a national labor and employment law firm, said: "The loud and clear message that we got from Mr. Schaumber is that significant changes are coming that will handcuff employers. It's important that we have methodologies in place that will enable employers to effectively operate in a rough field."

Schaumber lamented the politicization of the NLRB that has resulted from the change in the appointment process away from selecting a Board of "impartial government employees" as originally contemplated by Congress. He said the oscillations in Board law as party control changes create instability in labor-management relations and impugns the integrity of the Board as an impartial body.

Schaumber said that he hopes he can play a role in meaningful labor law reform and in affecting a positive change in labor-management relations now that he is back in the private sector.

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