



## CLIENT ALERT

### NLRB Issues New Election Rule Regulations – the Quickie Election Rule

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For retailers the primary labor organizing risk comes from warehouse workers, dock employees and long-haul drivers. With that in mind, retailers need to be mindful of the rule passed by the December 15, 2014. That rule, sometimes referred to as the “quickie election” or “ambush election” rule expedites the union election process whereby the union files the petition for an election to become the exclusive bargaining representative of a unit of workers (*i.e.*, warehouse workers).

This rule is designed to reduce the time in which the election takes place so that the employer has less ability to marshal its information to contest the organizing campaign in the following ways:

- Shortens the time between a union’s filing of the organization petition and the holding of any pre-election hearing. Currently, the general time period from the filing of the petition to the representation election is approximately five to six weeks. The final rule will likely shorten that time period to approximately *two to three weeks* which will give a competitive advantage to the union.
- Limits issues to be litigated at a pre-election hearing to questions concerning the appropriateness of the unit and defers disputes over voter eligibility until after the election;
- Requires employers to file position statements on a variety of issues before the hearing;
- Expands the information that employers must give unions during the campaign to include e-mail addresses for workers in the bargaining unit as well as telephone numbers; and
- Renders post-election reviews by the Board discretionary.

In the NLRB’s opinion this new rule removes “unnecessary barriers to the fair and expeditious resolution of representation cases” by making procedures simpler, “more transparent,” and uniform across a variety of regions. Make no mistake, however, this rule will limit the employer’s ability to effectively communicate with its workers concerning the presence of the union in its workplace. Specifically, employers will have less of an ability to communicate with the workers, gather, and consider information about the union. This Rule will also limit the ability of workers within the unit targeted by the union to gather information and educate themselves about what union representation will mean for them.

**Lesson For Employers:** The passage of this rule makes it incumbent on retail employers to be mindful of activity that suggest the possibility of union organization – such as unusual gatherings of workers; or groups of workers raising concerns about wages, benefits, or other terms and conditions of employment. Expect challenges by Chambers of Commerce and similar organizations to this “quickie” election rule.

*As always, please feel free to call us if you have any questions or comments concerning this Alert.*