

LATSHA DAVIS & MCKENNA



ATTORNEYS AT LAW

PLEASE REPLY TO: Mechanicsburg
WRITER'S E-MAIL: gdavis@ldylaw.com
athomas@ldylaw.com
djameson@ldylaw.com

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CLIENT ALERT – NLRB ELECTION RULE

Dear Client:

The National Labor Relations Board (NLRB) has adopted a final rule amending its election case procedures. According to the NLRB, the rule is meant to reduce unnecessary litigation and delays. It is due to take effect on April 30, 2012.

The rule is primarily focused on procedures followed by the NLRB in cases where parties cannot agree on issues such as whether the employees covered by the election petition are an appropriate voting group. In such cases, the matter goes to a hearing in a regional office and the NLRB Regional Director decides the question and sets the election. Going forward, the regional hearings will be limited to issues relevant to the question of whether an election should be conducted. The hearing officer will have the authority to limit testimony to relevant issues, and to decide whether or not to accept post-hearing briefs. All appeals of regional director decisions to the Board will be consolidated into a single post-election request for review. Parties can currently appeal regional director decisions to the Board at multiple stages in the process. Finally, the rule makes all Board review of regional directors' decisions discretionary, leaving more final decisions in the hands of career civil servants with long experience supervising elections.

The rule significantly limits what issues and how an employer can appeal in a union election. Lawsuits have already been filed challenging this latest rule by the NLRB. It is another very pro-union action by the NLRB. Chairman Mark Gaston Pearce and Member Craig Becker voted in favor of the rule, while Member Brian Hayes dissented. Mr. Becker's term expires December 31, 2011. After that date, the Board will only have two members and by recent Supreme Court ruling will be unable to pass any further rules unless additional appointments are approved.

If you have any questions about the new rule or any other employment or labor law issue, please contact Angela Thomas or Glenn Davis at (717) 620-2424.

Sincerely,

Glenn R. Davis

Angela L. Thomas

Daniel R. Jameson

The information herein reflects the views of the author. The information should be construed as general guidelines and not interpreted as legal advice.

1700 Bent Creek Boulevard, Suite 140 ● Mechanicsburg, PA 17050 ● (717) 620-2424 ● FAX (717) 620-2444

350 Eagleview Boulevard, Suite 100 ● Exton, PA 19341 ● (610) 524-8454 ● FAX (610) 524-9383

3000 Atrium Way, Suite 251 ● Mt. Laurel, NJ 08054 ● (856) 231-5351 ● FAX (856) 231-5341

Maryland Telephone: (410) 727-2810