

RECENT DEVELOPMENTS AND A LOOK AHEAD UNDER THE NATIONAL LABOR RELATIONS ACT

Rod Tanner
John Jansonius

24th Annual Labor and Employment Law Conference | June 12-13, 2017 | Austin, Texas

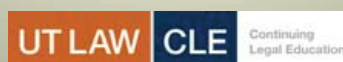


The NLRB: End of the *Pearce* Era During Trump's First 100 Days?

- Sort of.
- The New Chairman, as of April 24, 2017, is Philip Miscimarra.



- Self-Described “Loneliest Man In Washington.”





Philip A. Miscimarra
Chairman



Mark Gaston Pearce



Lauren McFerran



Vacant



Vacant

November 4, 2017

- Significance: Term of NLRB General Counsel Richard Griffin Expires.



- What this means for labor law and for employers?
- Rumor Mill about possible nominees.

BFI In The D.C. Circuit

- *Browning-Ferris Industries of California v. NLRB*, Nos. 16-1028 and 16-1064 (D.C. Circuit Court of Appeal)
- Argued: March 9, 2017
- Panel: Judges Patricia Millet, Robert Wilkins, and Raymond Randolph

Joint Employer Test

- *Browning-Ferris Industries*, 362 NLRB No. 186
 - New, more inclusive standard
 - *First*, is there common-law employment relationship?
 - *Second*, does putative employer possess sufficient control over employees' essential terms and conditions of employment for meaningful bargaining?
 - No longer necessary to *exercise* authority; just *possess*
 - Indirect control over employees may now be sufficient to show joint employer status

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Recent Developments and A Look Ahead Under the National Labor Relations Act

Also available as part of the eCourse

[2017 Labor and Employment Law eConference](#)

First appeared as part of the conference materials for the
24th Annual Labor and Employment Law Conference session

"Recent Developments and A Look Ahead Under the National Labor Relations Act"