

# RECENT DEVELOPMENTS UNDER NATIONAL LABOR RELATIONS ACT

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23rd Annual Labor and Employment Law Conference | May 3-4, 2016 | Austin, Texas



## Current Board Members



Mark Gaston Pearce,  
Chairman

Term Exp. 8.27.18



Kent Hirozawa

Term Exp. 8.27.16



Philip Miscimarra

Term Exp. 12.16.17



Lauren McFerran

Term Exp. 12.16.19

## **Continuing Impact of *Noel Canning***

*NLRB v Noel Canning*, 134 S. Ct. 2550 (2014)

- Most, but not all, nullified decisions have been ratified by the Board

Partial invalidation of Lafe Solomon's tenure as Acting General Counsel (January 5, 2011 – November 4, 2013)

## **Expedited Election Rules**

Significant changes effective April 14, 2015:

- Hearings and reviews of RD rulings
- Position statements
- List of eligible voters
- Electronic filing

Electronic signatures accepted for union authorization cards – *GC Memo 15-08 (Revised)*

## **Impact of Expedited Election Rules**

- Board released data from 4.15.2015 – 1.15.2016
- Election petitions filed: 2,020  
Decreased 3.7% from same period last year (2,097)
- Median days between filing and election: 24  
Decreased 37% from same period last year (38)
- Elections blocked by ULP charges: 82  
Decreased 43% from same period last year (144)
- Unions success rate unchanged

## **The Persuader Rule**

- DOL's long anticipated Persuader Rule published on March 24, 2016
- Up to 87 percent of employers engage consultants to counter union organizing campaigns, but DOL received very few reports for attorneys and consultants due to "advice" exemption to employer disclosure requirements under LMRDA
- New rule narrows the exemption – any activities that go beyond plain meaning of advice must be reported

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## Title search: Recent Developments Under the National Labor Relations Act

First appeared as part of the conference materials for the  
23<sup>rd</sup> Annual Labor and Employment Law Conference session  
"Recent Developments Under the National Labor Relations Act"