

NLRB Challenges Brought on By Termination of GC Robb

By Stephanie Olivera Mittica

In response to President Biden's bold decision to terminate former General Counsel Peter Robb in January, employers have begun to raise legal challenges regarding the Biden Administration's authority to oust Peter Robb. At the heart of the issue is that while the National Labor Relations Act defines the terms in which a president may remove board members, it does not speak to the president's authority to remove the general counsel.

Though it was anticipated that employers would raise these challenges relative to new NLRB cases brought by acting General Counsel Peter Sung Ohr, employers are also raising these challenges in already pending cases initially brought by Robb.

The effect of these challenges is yet to be determined but for now will – at minimum – act as an impactful delay tactic. It is expected that these challenges will continue to rise and will significantly impact the time and resources of the NLRB and all parties involved.

While these legal challenges will likely continue, President Biden recently nominated Jennifer Abruzzo, formerly the second ranking NLRB prosecutor under the Obama Administration, to serve as the new General Counsel of the NLRB. Abruzzo's confirmation may be contentious, as well, also due to the bold decision to terminate former General Counsel Peter Robb.

Roetzel will continue to monitor developments in this area. For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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