

Biden Administration Names Peter Sung Ohr as Acting General Counsel of the NLRB

By Amanda M. Connelly

After the unprecedented firing of the NLRB's former general counsel, Peter Robb, the Biden Administration has named Peter Sung Ohr as the Acting General Counsel on January 25, 2021.

Mr. Ohr was the NLRB's Regional Director of Region 13 in Chicago and has been a career employee of the NLRB. In 1997, Mr. Ohr was a field attorney in Honolulu. Then from 2005 until 2011, at which time he was appointed to Regional Director, Mr. Ohr served as the deputy assistant general counsel in the NLRB's Division of Operations Management.

The NLRB, an independent federal agency, is granted authority by Congress to enforce labor laws and is governed by a five-person board and a General Counsel. The General Counsel is appointed by the President to a four-year term but is independent of the board. The General Counsel is tasked with investigating and prosecuting unfair labor practice cases and supervising NLRB field offices.

The Acting General Counsel will likely begin the rollback of the operational guidance and begin to review the litigation of former General Counsel Robb. One such operational guidance that will likely be changed is an April 16, 2019 Advice Memorandum that concluded that Uber drivers are independent contractors. Ohr's appointment is seen as establishing a more union-friendly NLRB, whereas Robb's tenure was far more employer-friendly.

Mr. Ohr's tenure is unclear at this point. As Acting General Counsel, Mr. Ohr's term is limited to 40 days, unless President Biden submits a nomination to the Senate. It is rumored, however, that Jennifer Abruzzo is the front-runner to be nominated. Jennifer Abruzzo has experience as the deputy general counsel at the NLRB, and she previously served as the NLRB's Acting General Counsel in 2017 prior to Peter Robb assuming the role of General Counsel for the Trump Administration.

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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