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NLRB to Pursue Full Remedies Against Employers When They Commit Unfair Labor Practices

On September 8, 2021, NLRB General Counsel Jennifer Abruzzo issued Memorandum GC-21-06 to all Regional Directors. On September 15, 2021, NLRB General Counsel Jennifer Abruzzo issued Memorandum GC-21-07 to all Regional Directors. Both Memorandums direct Regional Directors to seek full and comprehensive remedies against employers when they commit unfair labor practices. This is a welcome development at the NLRB because it will create a strong disincentive for employers to violate the labor rights of their employees.

For example, in cases where an employee is wrongfully terminated by their employer, Regional Directors will now be seeking to award the employee reinstatement or front pay, backpay, and consequential damages. In cases where an employer commits unfair labor practices in connection with a union organizing drive, Regional Directors will now be seeking remedies in the form of ordering union access to employees at the facility on work time, reimbursement of organizational costs, ordering a senior manager to read a notice about the unfair labor practices to employees, ordering the employer to publish a notice about the unfair labor practices newspaper, websites, or other forums, compliance monitoring by the NLRB, training for employees regarding their rights under the NLRA, and ordering an employer to hire an employee chosen by the union if a



person wrongfully terminated does not wish to return. In cases where an employer fails to bargain in good-faith, Regional Directors will now seek to impose bargaining schedules on employers, require employers to submit progress reports on negotiations, order the extension of the period for which a decertification petition cannot be filed, order the reinstatement of unlawfully withdrawn bargaining proposals, require the reimbursement of union collective bargaining expenses, mandatory mediation, and training regarding good-faith bargaining for management.

With respect to settlements of unfair labor practices charges, Regional Directors are being directed to seek 100% of the outstanding backpay and benefits owed to the employee. In the past, the NLRB frequently only sought to recover 80% of the backpay and benefits owed to the employee when exploring settlement. Furthermore, Regional Directors have been directed to seek formal apologies from employers that commit unfair labor practices, admissions from employers that they are guilty of the unfair labor practices, as well as consequential damages.

As always, our firm will keep the Allegheny County Labor Council updated as the NLRB continues to increase enforcement against employers that commit unfair labor practices.

Respectfully Submitted,

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