

From: (b) (6), (b) (7)(C)
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Subject: Starbucks Corporation, Case 28-CA-293694 (case-closing email)
Date: Tuesday, May 24, 2022 1:16:32 PM

The Region submitted this case for advice as to whether it is a good vehicle to seek to overturn *IBM Corp.*, 341 NLRB 1288 (2004).

We conclude that the Region should not use this case to seek a return to *Epilepsy Foundation of Northeast Ohio*, 331 NLRB 676 (2000), which extended the right to representation in investigatory interviews to employees in nonunionized settings. Even under *Epilepsy*, employees' right to a representative only encapsulated requests for a coworker, not "request[s] for personal and private assistance." *Electrical Workers Local 236*, 339 NLRB 1199, 1199-1200 & n.11 (2003) (finding employee did not invoke right protected under *Epilepsy* where he requested assistance of international representative who was not a coworker, relying on non-precedential cases involving requests for personal lawyers); (b) (7)(A)

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(b) (7)(A) See also *McLean Hospital*, 264 NLRB 459, 472 (1982) ("Representation by private counsel is not tantamount to union representation within the rule of *Weingarten* nor does representation of an employee by his private counsel constitute concerted activity within the purview of the Act. . . .") (internal citation omitted).

Here, we conclude that the Employer had no obligation to honor the employee's request to have a lawyer present or forego the meeting.¹

This email closes this case in Advice. Please contact us if you have questions or concerns.

(b) (5), (b) (6), (b) (7)(C)



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