

NLRB Activism Has A Cost: Budget Shortfalls And NLRB's "Belt Tightening"

March 16, 2016 | [National Labor Relations Board, Labor And Employment](#)



Keith J. Brodie
Partner

The National Labor Relations Board's (NLRB) Associate General Counsel Anne Purcell recently issued an [Operations Management Memo OM 16-09](#), which describes how the NLRB plans on addressing its budget shortfall. As has been widely reported over the last number of years, the NLRB has been exceedingly active in numerous ways, including: changing the basic groundwork of its long standing union election rules; going to Complaint on all types of employer handbook rules; vigorously pursuing protected concerted activity claims against non-union employers; and expanding its jurisdictional reach over traditional independent contractor relationships and through its new joint employer standard etc. Against the backdrop of its activism the NLRB is experiencing a budget shortfall. Among other things the memo recommends the NLRB Regions:

- Redouble their focus on efforts to resolve cases
- Reign in trial costs by only allowing one NLRB attorney for out-of-town cases, and only in large cases
- Taking steps to avoid the cost of court reporters and interpreters, where possible
- Using the lowest cost facilities when other than employer or agency resources are available for hearings, trials or elections
- Increasing the reliance on oral argument versus post-hearing briefing
- Encouraging stipulations to exhibits and evidence, where possible
- Using video testimony and/or alternative investigative techniques, including limiting off-site investigations by encouraging charging parties to travel to NLRB offices to give evidence

Ms. Purcell also has stated there will need to be other agency-wide cost cutting measures and there will be further announcements. Practitioners and others may soon experience these and other changes as the NLRB's regional directors are forced to tighten their belts.

RELATED PRACTICE AREAS

Labor and Employment

Labor Relations

National Labor Relations Board (NLRB)