

And So It Begins...Trump NLRB Overturns Obama NLRB Precedent For First Time

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**David J.
Pryzbylski**
Partner

On Dec. 11, the [newly constituted National Labor Relations Board \(NLRB\)](#) – which has a 3-2 pro-employer majority for the first time in nearly a decade due to appointments made by President Trump – overruled, for the first time, Obama-era precedent. Specifically, in a case involving the University of Pittsburgh Medical Center (UPMC), the [NLRB overruled](#) Obama-board precedent that made it more difficult for employers to resolve unfair labor practice complaints.

The [NLRB released a statement](#) summarizing the decision as follows: “In today’s decision, the Board overruled a case decided last year—*United States Postal Service*, 364 NLRB No. 116 (2016) (*Postal Service*)—where a divided Board rejected the prior practice of permitting judges to accept a respondent’s proposed settlement terms, over the objection of the General Counsel and charging party, if the proposed settlement terms were deemed reasonable based on factors set forth in *Independent Stave*, 287 NLRB 740 (1987) (*Independent Stave*). In *Postal Service*, the Board held that proposed settlement terms could be accepted in these circumstances only if they provided a full remedy for all violations alleged in the complaint.”

In other words, NLRB administrative judges will again have more discretion to force settlements in cases, even where the board’s general counsel and unions object to the terms (unions are the “charging party” in the vast majority of cases before the NLRB and the board’s office of the general counsel prosecutes cases on their behalf).

This could be a sign of big things to come for employers, as many are predicting the new Trump-board will be systematically dismantling many of the NLRB decisions issues by the Obama-board over the last eight years (which generally were viewed as extremely pro-union). A flurry of activity in advance of [Chairman Miscimarra’s imminent departure](#) is expected. It will be very interesting to see what comes out of the NLRB in the coming days. Stay tuned.

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