CLIENT ALERTS & INSIGHTS

NLRB General Counsel Requests Reversal of Ban on Employer "Captive Audience" Meetings During Union Organizing Drives

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Key Takeaways

- The NLRB's General Counsel is seeking to overturn recent Biden-era decisions that restricted employers from holding mandatory "captive audience" meetings and limited what employers can say during union organizing drives, aiming to restore longstanding precedent that allowed these practices.
- If these rulings are reversed, employers could regain significant flexibility in how they communicate with employees about unionization, including the ability to require attendance at meetings and discuss the potential impacts of union representation-potentially shifting the balance in union organizing campaigns.
- Employers should monitor the NLRB's actions closely and be prepared to adjust their union response strategies. If the precedent is restored, businesses may once again use captive audience meetings and broader messaging during organizing efforts but should still ensure compliance with all applicable labor laws.

The General Counsel of the National Labor Relations Board (the "Board" or "NLRB") is signaling a significant shift in federal labor policy by taking the position that two Biden-Era Board decisions-both of which imposed new restrictions on employers fighting union drives-were wrongfully decided. In challenging the Board's 2024 NLRB decisions in *Amazon.com Services LLC* and *Siren Retail Corp.*, General Counsel Crystal Carey argues that the Board improperly departed from longstanding precedent.

***Amazon.com Services LLC*, 373 NLRB No. 136 (Nov. 13, 2024)**

A "captive audience" meeting is a mandatory meeting held during working time in which an employer addresses employees during a union organizing campaign and expresses its views opposing unionization. For more than 75 years, the Board considered such meetings lawful under settled precedent. Mandatory captive audience meetings were a common and effective tool used by employers to respond to union organizing efforts.

In November 2024, however, the Board's Democrat majority reversed that longstanding precedent in *Amazon.com Services, LLC* and held that requiring employees to attend anti-union meetings could unlawfully interfere with employees' Section 7 rights under the National Labor Relations Act ("NLRA") (see client alert here).

The case arose during organizing efforts at Amazon facilities where management conducted meetings explaining the company's views on unionization, collective bargaining, and workplace operations. The Board concluded that employees should have the right to avoid employer sponsored messaging concerning union activity if they chose not to participate. Under the new rule, employers could still communicate opinions regarding unions, but attendance at such meetings had to be voluntary rather than mandatory.

***Siren Retail Corp. d/b/a Starbucks,* 373 NLRB 135 (Nov. 8, 2024)**

In a separate case decided just days before *Amazon.com Services LLC*, the Board addressed the content of employer communication during union organizing campaigns. In *Siren Retail Corp.,* the Biden-era Board overturned approximately 40 years of precedent and held that employers could no longer lawfully tell employees that unionization would eliminate their ability to address workplace issues individually with management.

The Board concluded that statements suggesting unionization would harm workplace relationships or limit direct communication between employees and supervisors could unlawfully discourage employees from exercising their protected rights (see prior client alert here). As a result, the ruling imposed stricter standards for evaluating employer speech predicting changes to "workplace culture" or "management relationships" during organizing campaigns. Under *Siren Retail Corp.*, such speech would be evaluated on a "case-by-case" basis and had to be grounded on "objective fact."

General Counsel Seeks Return to Longstanding Precedent

Nearly two years after *Amazon.com Services LLC* and *Siren Retail Corp* were decided, General Counsel Carey filed a motion on May 13, 2026, asserting that the decisions were wrongfully decided and should be overturned.

The motion was filed in *UPS Supply Chain Solutions Inc. and Teamsters Local 49*, where an administrative law judge ("ALJ") held that UPS lawfully conducted mandatory captive audience meetings during a 2022 union organizing drive and lawfully told employees that unionization could eliminate their direct relationship with managers.

Former General Counsel Jennifer Abruzzo had previously filed exceptions to the ALJ's decision based on the Board's subsequent holdings in*Amazon.com Services LLC* and *Siren Retail Corp.* In moving to withdraw those exceptions, current General Counsel Carey argued that her office no longer

believes those employer tactics violate the NLRA because they were consistent with well-established Board precedent.

By asserting that the ALJ correctly decided the *UPS Supply Chain Solutions Inc.* case, Carey is effectively urging the current Republican majority Board to reconsider and overturn *Amazon.com Services LLC* and *Siren Retail Corp.* and restore the Board's longstanding prior precedent.

Conclusion

If the NLRB overturns these rulings, employers may regain important tools for responding to union organizing campaigns. Employers would likely have broader flexibility to communicate with employees regarding how union representation could affect workplace procedures, scheduling flexibility, communication, and operational decision-making. Employers could also once again require employees to attend captive audience meetings during working time addressing those issues during union organizing campaigns.

We will continue to monitor the status of the General Counsel's motion and report on any further developments. If you have questions regarding how these issues may affect your business, contact a member of Benesch's Labor & Employment Practice Group, please reach out to the team.