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BREAKING: Senate Recesses Before Election Without Voting on NLRB Nominees

Labor Relations Update on **September 27, 2024**

On September 25, 2024, the U.S. Senate adjourned for a lengthy recess and is not set to return until November 12th, after the upcoming election. The adjournment comes before the Senate was able to vote on two of President Biden's nominees for the National Labor Relations Board ("NLRB" or the "Board"), including Board Chair, Lauren McFerran and Seyfrath Shaw partner, Joshua Ditelberg, who were nominated earlier this year.

Leaving the vote on the nominations out of the September session may indicate some hesitation from Democratic leadership in the Senate due to uncertainty on how the voting will unfold, or it could simply reflect the Senate's limited time during this recent session and focus on other pressing priorities. It remains to be seen whether the Senate confirms the nominees during a lame-duck session after the November election cycle, which will have a significant impact on the composition of the Board for the next two years.

McFerran's five-year term on the Board expires in December and her confirmation is key to maintaining a Democratic majority on the Board. Given the current make-up of the Board, if McFerran is confirmed when the Senate returns, the Board will retain a Democratic majority until late 2026–even if Trump is elected in November. Ditelberg, on the other hand, is being nominated to fill a Republican seat on the Board that has remained vacant since May.

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