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U.S. Supreme Court Temporarily Stays NLRB Board Member Reinstatement; Board to Again Without a Quorum

Labor Relations Update on **April 10, 2025**

On April 9, 2025, the Supreme Court of the United States issued a brief order, staying the District Court's order reinstating former National Labor Relations Board ("NLRB" or "Board") Member Gwynne A. Wilcox. The Board is now left without a quorum for a *third* time, which, under the National Labor Relations Act ("NLRA" or the "Act"), requires at least three members. *See New Process Steel, L.P. v. NLRB*, 560 U.S. 674 (2010).

Chief Justice John Roberts entered the order without an accompanying opinion, staying Member Wilcox's reinstatement "pending further order of the undersigned or of the Court." As reported here, here, and here, the Supreme Court appears primed to hear the merits of President Trump's firing of Member Wilcox. Should the Supreme Court grant cert., it could determine the continuing viability of *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), as well as *Wiener v. United States*, 357 U.S. 349 (1958), which would have implications for the firing of *all* administrative agency heads.

We will continue to track the Wilcox litigation and its impact upon the NLRB.

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