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Beating the Backlog – NLRB Acting GC Issues Memo Changing Charge Processing Procedure to Address Case Backlog

Labor Relations Update on **January 9, 2026**

On December 23, 2025, in one of his final acts in the role, then National Labor Relations Board ("NLRB" or the "Board") Acting General Counsel ("Acting GC") William B. Cowen quietly released General Counsel Memorandum GC 26-01, modifying the procedure for processing unfair labor practice charges filed after October 1, 2025.

Acknowledging the severe backlog for processing new charges caused by staffing issues at the Board and the 43-day government shutdown last year, GC 26-01 implements two substantial changes concerning the initial submission of evidence and the unfair labor practice charge assignment process.

First, the Charging Party will be required to submit detailed factual support for their charge within two (2) weeks, that includes:

- An outline or timeline of events and exchanges related to the allegations;
- Related, supporting evidence including communications and documents; *and*
- A list of the witnesses the Charging Party intends to present along with their contact information, and a brief summary of their potential testimony.

Next, in a change from long-standing protocol, Regions will not assign a Board Agent to investigate the charge until this evidence is submitted and reviewed to determine if an investigation should occur or whether the case should simply be dismissed at this initial stage. This change will not impact "statutory priority" cases like secondary boycotts, work assignment and jurisdictional disputes, and recognitional picketing cases. Critically, even if a charge is deemed appropriate for assignment, the charge will only be assigned once an NLRB Agent has sufficient capacity to investigate.

The new procedure creates a new higher evidentiary burden for the Charging Party and creates the likelihood that charges will be dismissed at a much earlier stage. This may disincentivize unions and individuals from rushing to file unfair labor practice charges as the Charging Party must now incur the time and expense of preparing and submitting evidence promptly after filing and risk cases being dismissed without a full investigation.

In the short term, employers will likely benefit from the procedural changes as fewer charges may be filed. However, if effective, improving administrative efficiency should, in the end, serve employers and unions alike as the Board is simply unable to address the volume of cases in a timely manner at the current time. As always, we will continue to track all GC Memoranda and NLRB developments.

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