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NLRB Refrain From Overturning Biden-Era Precedent – For Now

Labor Relations Update on **February 6, 2026**

As reported here, the National Labor Relations Board ("NLRB" or the "Board") regained a quorum late last year. Many expected that the new Republican majority would soon begin revisiting the Biden-era decisions that were widely considered to be favorable to employees and unions. Instead, on January 28, 2026, the new Board declined its first opportunity to do just that.

In a brief decision in *Lodi Volunteer Ambulance Rescue Squad*, the Acting General Counsel requested, and the Board ordered certain expanded remedies pursuant to the NLRB's 2022 decision, *Thryv, Inc.*, 372 NLRB No. 22 (2022). The remedies included restoring the eliminated positions, reinstatement of affected employees, backpay, and compensation for other "direct or foreseeable pecuniary harms incurred as a result" of the unlawful discharges.

Given a Circuit split in reviews of Board cases on the issue and the Board's departure from longstanding precedent when it decided *Thryv*, many practitioners considered itto be ripe for reconsideration by the newly instated Republican-majority Board. In a footnote, however, new Members Mayer and Murphy declined to express any opinion on the expanded remedies created by *Thryv*. Rather, they explained that the Board will continue to apply existing precedent "in the absence of a three-member majority to overrule it."

Members Mayer and Murphy's decision to respect this tradition signals that federal labor law – including the union-friendly Biden-era decisions – will likely remain status quo for the foreseeable future. A three-Member Republican majority is not expected any time soon; indeed, as of the publishing of this post, President Trump has yet to nominate a third Republican Board Member. Moreover, even if a third Member were to be nominated in the short-term, Members Mayer and Murphy were not confirmed by the Senate until more than five months after their respective nominations.

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