Unions continue to dominate headlines, as the UAW strike persists and the union saga at Starbucks continues to unfold. Perhaps unsurprisingly, based on that, the number of charges alleging labor law violations and election petitions filed by unions with the NLRB still are on the rise as well.

According to an NLRB press release: “Newly released case processing data confirms that the National Labor Relations Board continues to see an increasing demand for its services. In Fiscal Year (FY) 2023 (October 1, 2022–September 30, 2023), 22,448 cases were filed with the Agency, an increase of 10% over FY 2022. This was the highest number of cases filed since FY 2016.”

The statement goes on to break the numbers down even further, noting with respect to unfair labor practice charges, “In FY 2023, the number of unfair labor practice (ULP) charges filed with NLRB’s 48 Field Offices increased 10% — from 17,988 charges in
FY 2022 to 19,854 charges in FY 2023, continuing the increase from FY 2021 to FY2022 when the Agency saw a 19% increase in ULPs filed.”

And regarding election petitions, the NLRB said, “During the same period, 2,594 union representation petitions were filed — a 3% increase over FY 2022. This uptick in filings builds on last fiscal year’s dramatic surge in representation-related activity and represents the highest number filed since FY 2015. In FY 2022, 2,510 union representation petitions were filed—a 53% increase from the 1,638 petitions field in FY 2021.”

Bottom line: Unions have been active at the NLRB, both with respect to prosecuting alleged labor law violations as well as petitioning for new bargaining units. We'll see if this increased activity ultimately translates into more union members. Last year saw some similar trends, but as we entered 2023, we saw union membership at an all-time low in the private sector, at least on a percentage basis.

One thing that may be different in 2023 than 2022 is the changing legal landscape regarding the process in which unions can be formed in a workplace. The NLRB has taken a few significant actions on this front in recent months, including 1) issuing a ruling that may make it easier for unions to form “micro-units” at an employer, 2) issued a revised election rule that will accelerate the time from when a petition is filed to election (which likely will favor unions by shortening the amount of time a company has to
“campaign”) and 3) rendering a decision that favors voluntary recognition of unions and forces union representation when an employer violates labor law after receiving a valid demand for recognition.

We'll see what happens and how this all shakes out. Stay tuned.