On July 13, 2022 the National Labor Relations Board (“NLRB” or the “Board”) announced that by May 25th, 2022 the number of union representation petitions filed with the Board surpassed the total number of petitions filed in all of Fiscal Year 2021. Representation petitions are requests to have the NLRB conduct an election to determine if employees wish to be represented by a union. During the first nine months of Fiscal Year 2022 (October 1-June 30), 1,935 representation petitions were filed with the Board. This represents a 56% increase from the 1,240 filed in the first three quarters of FY2021. The Board also noted that, in addition to the rise in petitions, the number of unfair labor practice charges increased from 11,451 to 13,106 – 14.5% – during that same time period.
This data confirms what many in labor circles have been facing for months - there is indeed a tidal wave of union organizing occurring across a wide spectrum of workplaces, with much of it coming in the retail space and progressive-leaning workplaces, where workers have increasingly perceived a disconnect between the stated values of their employers and the various decisions their employers are actually making. NLRB General Counsel Jennifer Abruzzo commented “there is a surge in labor activity nationwide, with workers organizing and filing petitions for more union elections than they have in the last ten years.” Amid this rise in casehandling activity, the Board has at times struggled to keep pace, with General Counsel Abruzzo highlighting the “critical funding and staffing shortages” at the Board. Although it is unclear whether this jump in activity merely reflects a natural rebound from the 14% decline in casehandling intake in 2020-21 due to the COVID-19 Pandemic, the Board nonetheless anticipates a continued rise in activity, as reflected in the Board’s March 23, 2022 Justification of Performance Budget for the Committee On Appropriations for Fiscal Year 2023, found here. Despite the difficult situation, General Counsel Abruzzo reiterated the Board’s commitment to conducting elections and seeking expanded remedies for unfair labor practice charges.

Developments at the NLRB are likely to continue at a rapid pace, we will monitor developments in this area and provide updates when relevant.

Copyright © 2022, Sheppard Mullin Richter & Hampton LLP.

National Law Review, Volume XII, Number 196

Source URL: https://www.natlawreview.com/article/union-election-petitions-rise-total-number-fy21-petitions-eclipses-first-three