

My background and experience uniquely position me to take advantage of significant new opportunities to develop business in the traditional labor law field.

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Widespread concern exists in the management community over the potential impact of the new Obama Board on existing law and the new directions and aggressively pro-union policies the Board may implement through its decisions and rule-making. Concern has been expressed that the new Board will attempt to administratively adopt some of the underlying principles of the Employee Free Choice Act to make union organizing easier, augment union power in the workplace, and constrain management's rights.

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The new Board will likely consider issues, such as: shortening the time between a petition and an election, off-site electronic voting, minority unions, enhanced remedies, increased resort to injunctive relief, broadening the scope of mandatory subjects of bargaining, further restrictions on or prohibiting captive audience speeches, granting increased union access during a union organizing campaign, narrowing an employer's free speech rights under Section 8 (c) of the Act, adjusting the accommodation between Section 7 rights (such as the right to solicit and distribute) and the employer's right to private property, applying the Act to categories of workers previously excluded such as graduate students, and adjusting Board law so as to narrow the scope of the court-made exemption involving religious organizations and the statutory exemption of "independent contractors."

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My practice will be developed in part by leveraging my Agency connections and focusing the attention of senior management on the likely priorities of the Obama Board and strategies to respond to them. I have worked closely with the Chairman of the current Board for over seven years and with the other two Democrat Members for six months. I have had many discussions with the newly confirmed Republican Member, Brian Hayes, and will be working with him regularly for the balance of my current term. I know well all of the significant players on the Board-side of the Agency and many on the General Counsel side, including most of the Regional Directors, who are responsible for much of the day-to-day decision making regarding prosecutions of alleged unfair labor practices. As Chairman and a Board Member, I have also delivered numerous speeches to both large and small employer groups and have met with labor relations officials at many Fortune 500 companies. I have participated in one way or another in virtually every case decided by the Board in the last three years, including many lead cases which were debated and discussed, but did not issue either because of the expiration of other members' terms or the lack of a full-Board. My meetings with management officials have given me some insight into the apprehensions they share about the new Board, and my close work with my Agency colleagues have given me insight into the priorities of the different Board members and their views in key areas of Board law and procedure. This

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Deleted: n anticipation of my term ending this August, the four-member Board, formed as a result of recess appointments made by the President this past April, has vote

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will help me counsel clients realistically and better assess the likelihood of a client's success if its case reached the Board.

In addition to representing unionized employers with regard to their needs in the area of traditional labor law, I believe it is an opportune time to reach out to non-unionized employers for the purpose of conducting compliance or readiness audits. Non-unionized employers can be ill-prepared for a union organizing campaign and can be vulnerable to unfair labor practice charges as a result of their ignorance or lack of sensitivity to the Act and its requirements. For example, provisions in employee handbooks that may appear reasonable on their face can be construed as interfering with employees' Section 7 rights. Also, the new Board is apt to take a fresh look at the applicability of the Act to the non-union workplace in areas such as Weingarten rights and whether employee action was concerted and protected by the Act as opposed to individual and unprotected.

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