



A Fox Rothschild Podcast

Labor Law Lineup

Episode 13: From the NLRB to the Border: Labor Enforcement Goes Global

Featuring Mark Eskenazi and Ian Melinksy of Fox Rothschild

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Mark: Welcome back to "Labor Law Lineup." I'm Mark.

Ian: And I'm Ian. Last time we talked about potential revisions to the USMCA and whether stronger labor provisions could curb outsourcing. Today, we're connecting that to how traditional U.S. labor law works, particularly the NLRA and the NLRB.

Mark: Yes, because while trade agreements may seem like high-level international policy, the core issue is pretty familiar: employee organizing and collective bargaining rights.

Under the National Labor Relations Act, those rights are enforced every day here in the U.S. by the NLRB. The rights in the USMCA are similar to those in the NLRA.

Ian: Yes, and the Biden-era board was active. We saw expanded interpretations of protected concerted activity, increased scrutiny of workplace policies and more aggressive remedies. Even non-union employers are facing unfair labor practice charges. Those rules are binding until the newly constituted board overturns them, which could take time.

Mark: Yes, this is all connected to the USMCAS rapid response mechanism, or RRM, which Ian and I discussed on a previous episode of this podcast. The RRM allows facility-level enforcement in Mexico when organizing or bargaining rights are denied. In many ways, it mirrors what the NLRB does here domestically, just through a trade agreement framework.

Ian: And looking forward, this may not be limited to North America. The current administration is negotiating new trade agreements in Asia and Latin America that include meaningful labor protections as core components of those deals.

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And it's not just organizing rights. Forced labor enforcement has become a core feature of trade policy as well. Under these emerging trade agreements and the Uyghur Forced Labor Prevention Act, customs and border protection can detain shipments where importers can't demonstrate supply chain traceability.

That means companies should be proactively mapping their supply chains and integrating forced-labor risk reviews into their compliance policies.

Mark: Yes, we've written about the Uyghur Forced Labor Prevention Act and these other developments in our client alerts. The clear trend is that labor standards are being embedded directly into international trade policy, not treated as just a side agreement or secondary consideration.

Ian: For employers, that means labor risk analysis doesn't stop at the U.S. border. A company could be navigating an NLRB issue in one facility while also facing trade-based labor scrutiny in another country tied to its supply chain.

Mark: Bottom line, whether it's traditional ULP charge under the NLRA or enforcement through an international trade mechanism, the focus is similar: how employers handle organizing activity, collective bargaining obligations and other labor protections.

Ian: And that makes proactive compliance, supervisory training and coordinated cross-border strategy even more important than ever.

Thanks for listening.

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