

Top Five Labor Law Developments for September 2024

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Meet the Authors



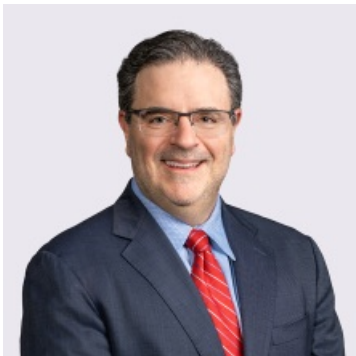
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1. *The International Longshoremen's Association (ILA) ended its strike across the East Coast and Gulf Coast ports after reaching a tentative wage agreement with the U.S. Maritime Alliance (USMX).* USMX, which represents port terminal operators, had been in contract negotiations for several months before its contract with the ILA, which represents nearly 50,000 dockworkers, expired on Sept. 30, 2024. Prior to the three-day strike begun on Oct. 1, 2024, USMX filed unfair labor practice charges with the National Labor Relations Board alleging the union was not bargaining in good faith by conditioning bargaining on USMX accepting its wage proposal. In a joint statement at the end of the strike, the parties said they have extended their master contract until Jan. 15, 2025, while they continue negotiations on the remaining issues. Under the Taft-Hartley Act, the U.S. president can intervene in work stoppages that may create a national emergency, but President Joe Biden had not indicated he would exercise any such rights.
2. *The United Auto Workers (UAW) is threatening to strike against auto manufacturer Stellantis.* The UAW claims Stellantis is refusing to uphold its end of their collective bargaining agreement that was reached following the union's strike at the "Big Three" auto manufacturers in fall 2023. The UAW claims the union has a right to strike despite the contract's active no-strike clause because the company has violated the parties' agreement by failing to reopen an assembly plant in Belvidere, Illinois. Stellantis said that a reopening delay is not in violation of its contract. The UAW will hold strike authorization votes with its members to approve a strike against the company. The UAW local has also filed numerous unfair labor practice charges against Stellantis.
3. *Employers continue to face challenges arguing to courts outside of Texas that the Board is unconstitutionally structured.* *Yapp USA Automotive Sys. Inc. v. NLRB*, No. 24-12173 (E.D. Mich. Sept. 9, 2024); *Alivio Medical Ctr. v. Abruzzo*, No. 24-cv-007217 (N.D. Ill. Sept. 13, 2024). At least three Texas federal judges have granted employer requests for injunctions to pause underlying Board unfair labor practice proceedings on the grounds that, among other issues, the presidential removal procedures for Board members and administrative law judges violate the U.S. Constitution. However, other federal jurisdictions have not been as receptive. In two recent decisions, federal judges in Michigan and Illinois rejected the respective employers' requests to pause Board proceedings, saying the likelihood they will be successful on the merits of their claims is not substantial. Other cases making similar arguments are pending across numerous federal courts.

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4. *The Federal Trade Commission (FTC) is withdrawing from a memorandum of understanding on merger investigations with federal labor agencies only a month after signing it.* In late August 2024, the FTC, Department of Justice Antitrust Division, the Department of Labor, and the Board signed a Memorandum of Understanding on Labor Issues in Merger Investigations. The memo was aimed at boosting the antitrust agencies' ability to investigate the possible effects of mergers and acquisitions on labor markets, with specific interest in representation case activity and unfair labor practice charges and their related decisions from the Board. The FTC did not provide a reason for withdrawing but confirmed it "will continue to closely scrutinize all issues related to mergers, including potential impacts on labor, in accordance with its merger guidelines."
5. *The U.S. Court of Appeals for the Sixth Circuit declines opining on the Board's new standard disfavoring certain severance agreement language.* *NLRB v. McLaren Macomb*, Nos. 23-1335/23-1403 (6th Cir. Sept. 19, 2024). The Board's new standard applies to all National Labor Relations Act-covered employees and restricts employers' use of certain confidentiality and non-disparagement clauses, as well as releases of claims under the Act. After the Board found an employer's severance agreement violated the Act under the new standard, the Board petitioned the Sixth Circuit to enforce its decision. Although agreeing with the Board that the employer violated the Act by its conduct, the court limited its opinion to concluding that the employer violated the Act under the previous legal standard. The court declined to address the enforceability of the Board's new standard "or whether it correctly interpreted the [Act]" in changing its standard.

Please contact a Jackson Lewis attorney if you have any questions about these developments.

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