

Top Five Labor Law Developments for May 2025

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1. *The U.S. Supreme Court granted the Trump Administration's application to stay former National Labor Relations Board Member Gwynne Wilcox's reinstatement. Trump, et al. v. Wilcox, et al., No. 24A966 (May 22, 2025).* The U.S. Court of Appeals for the D.C. Circuit had previously enjoined President Donald Trump's removal of Wilcox, citing the Supreme Court's 1935 decision in *Humphrey's Executor* that upheld the constitutionality of for-cause removal protections for federal agency leaders. The Trump Administration then filed an emergency application to the Court for a stay of the D.C. Circuit's order, arguing subsequent case law narrowed *Humphrey's Executor* to apply only to multi-member agencies that do not wield substantial executive power, making the case inapplicable to the Board. In granting the stay, the Supreme Court found the Trump Administration is likely to show that Board members exercise considerable executive power, but the Court did not decide whether the Board falls within recognized exceptions for removal protections. The 6-3 order aims to avoid the disruptive effect of Wilcox's repeated removal and reinstatement while the D.C. Circuit decides the merits of the case.
2. *A coalition of unions, nonprofit groups, and local governments requested that a California federal court issue a nationwide injunction to stop an executive order (EO) requiring federal agencies to downsize or reorganize. American Federation of Government Employees, AFL-CIO, et al. v. Trump, et al.*, No. 3:25-cv-03698 (N.D. Cal. May 14, 2025); *National Nurses United, et al. v. Kennedy, Jr.*, No. 1:25-cv-01538 (D.D.C. May 14, 2025). The lawsuit stems from EO 14210 aiming to reduce the size of the federal government's workforce and directing each agency head to work with the Department of Government Efficiency on hiring plans. The coalition, which includes national unions and municipalities, argues the EO violates the U.S. Constitution's separation of powers and the Administrative Procedure Act. Although the court previously granted a temporary restraining order, the coalition argues a nationwide injunction against the federal agencies is appropriate to avoid "piecemeal" litigation. Similarly, in a separate lawsuit, a coalition of unions, including National Nurses United, is seeking an injunction to stop the Department of Health and Human Services from implementing staff cuts at the National Institute for Occupational Safety and Health.
3. *A Kentucky federal judge ruled the U.S. Department of Treasury lacks standing to rescind its collective bargaining agreement with employees, while the U.S. Department of Defense (DoD) is seeking to confirm its right to terminate them. U.S. Department of Treasury v. National Treasury Employees Union, Chapter 73*, No. 2:25-049 (E.D. Ky. May 20, 2025); *U.S. Department of Defense, et al. v. American Federation of Government*



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Employees AFL-CIO District 10, et al., No. 6:25-cv-00119 (W.D. Tex. May 5, 2025). The lawsuits stem from EO 14251, which exempts certain agencies from the Federal Service Labor-Management Relations Statute that provides organizing and collective bargaining protections for federal employees. The federal court dismissed the action based on the Treasury's lack of standing, as it had not enforced the EO against the local union at the time of filing. The court emphasized that the Treasury's claimed injuries were speculative and, therefore, did not address the merits of the case. In a separate lawsuit in a Texas federal court, the DoD and other federal agencies are seeking declaratory relief against several union affiliates to confirm their rights under the EO. The unions have also moved to dismiss the case based on standing, among other claims.

4. *The Nevada legislature passed a bill banning mandatory captive audience meetings; Washington will now provide unemployment benefits for striking workers.* If signed by the governor, the Nevada legislation will prohibit employers from taking any adverse employment action against employees who decline to attend or participate in a meeting "sponsored by the employer" or listen to an employer communication if its purpose is to communicate the employer's opinion on religious or political matters. Many states have similar legislation, and the Biden Board issued a decision holding such meetings violative of the National Labor Relations Act. Under the bill, "political matters" includes the decision to join or support any labor organization. Meanwhile, Washington's governor signed a bill that provides unemployment benefits for striking workers under certain circumstances. The Washington law will take effect Jan. 1, 2026.
5. *Acting General Counsel William Cowen issued a memorandum emphasizing the need for efficiency in resolving unfair labor practice (ULP) cases.* [Memorandum GC 25-06](#). The memorandum's key points include granting discretion to exclude default language in settlements, permitting non-admission clauses, authorizing unilateral settlements, and approving settlements for less than full remedies. The memo also addresses the Board's 2022 *Thryv, Inc.* decision, which expanded the scope of remedies for ULPs, noting regional directors should "focus on addressing foreseeable harms that are clearly caused by the unfair labor practice." The memo represents a shift in policy from former General Counsel Jennifer Abruzzo and provides updated guidance on settlement efforts following Cowen's previous memo rescinding several of Abruzzo's memos and enforcement priorities.

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

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