

Top Five Labor Law Developments for June 2025

By Laura A. Pierson-Scheinberg, Richard F. Vitarelli, Nicholas A. Scotto & Lorien E. Schoenstedt

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Meet the Authors



Laura A. Pierson-Scheinberg

(She/Her)

Principal

415-796-5408

Laura.PiersonScheinberg@jacksonlewis.com



Richard F. Vitarelli

Principal

860-331-1553

Richard.Vitarelli@jacksonlewis.com



Nicholas A. Scotto

Associate

(212) 545-4066

1. *President Donald Trump is expected to nominate at least two National Labor Relations Board members in the coming months, as the five-member Board remains without a quorum to issue decisions.* Shortly after Trump took office, he terminated former Board Member Gwynne Wilcox, leaving the Board short of a quorum. Trump's nominations must be confirmed by the Senate. Trump recently nominated management-side attorney Crystal Carey as the next Board General Counsel (GC), but the Senate has not yet voted on her nomination. If confirmed, Carey will serve as the head of the Board's prosecutorial arm.
2. *Bloomberg Law reported that Board Acting GC William Cowen suggested that U.S. Supreme Court precedent may not apply to removal protections for federal agency leaders.* Cowen's comment, made during a conference, stems from President Trump's removal of Wilcox as a Board member before the expiration of her term. In the lawsuit following her termination, Wilcox cited for support the U.S. Supreme Court's 1935 decision in *Humphrey's Executor*, in which the Court upheld the constitutionality of for-cause removal protections for federal agency leaders. The Trump Administration, however, has asserted that subsequent case law narrowed that decision's applicability to multimembers agencies that "do not wield substantial executive power," which the Board does. Wilcox's lawsuit is now before the U.S. Court of Appeals for the D.C. Circuit.
3. *The U.S. Supreme Court agreed on June 30 to review a case involving the calculation of withdrawal liability for employers exiting multiemployer retirement plans. M & K Employee Solutions, LLC, et al. v. Trustees of the IAM National Pension Fund (No. 23-1209).* The case centers on whether the Multiemployer Pension Plan Amendments Act requires using actuarial assumptions from the end of the plan year when an employer withdraws or allows later-adopted assumptions. The U.S. Court of Appeals for the D.C. Circuit allowed the use of later assumptions, which increased a company's liability, while the Second Circuit required the use of assumptions in effect on the measurement date. The Supreme Court's decision is expected to clarify actuaries' flexibility in these calculations and can affect withdrawing employers' financial responsibilities.
4. *According to its 2026 fiscal year (FY) budget justification report, the Board proposed a budget of \$285.2 million, which is a 4.7% (\$14 million) reduction from the current FY budget.* The decrease is part of an asserted effort to optimize workforce efficiency and includes anticipated savings from staffing reductions. The Board plans to reduce its personnel by 99 positions, primarily through voluntary early retirements and its deferred resignations



Lorien E. Schoenstedt

KM Attorney

312-803-2516

Lorien.Schoenstedt@jacksonlewis.com

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program. The overall reductions are anticipated to save the Board approximately \$17.5 million. The Board's report aligns with the Trump Administration's goal for substantial reductions across federal agencies.

5. *The U.S. District Court for the Northern District of California issued a preliminary injunction halting enforcement of Executive Order 14251, which exempted certain federal agencies and subdivisions from collective bargaining. American Federation of Government Employees, AFL-CIO, et al. v. Trump, et al.*, No. 25-cv-03070 (June 24, 2025). The court found that the plaintiffs, six unions representing federal employees, raised serious First Amendment questions about retaliation for protected speech. The injunction aims to preserve the status quo while the case proceeds, preventing implementation of the EO that would strip collective bargaining rights from a significant portion of the federal workforce. The ruling follows a separate lawsuit wherein the U.S. Court of Appeals for the D.C. Circuit blocked a federal judge's order pausing the EO as it applied to National Treasury Employees Union members. The scope of that injunction is not clear.

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

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