

[Employment Law Daily Wrap Up, TOP STORY—New Labor Secretary pick: Law school dean thrice confirmed for government spots, \(Feb. 16, 2017\)](#)

Employment Law Daily Wrap Up

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By [Pamela Wolf, J.D.](#)

The day after President Donald Trump's pick for Secretary of Labor, Andrew Puzder, withdrew from consideration, the chief executive put forth a new nominee, Alexander Acosta, seen by many as a much less controversial and more promising nominee. Puzder, the CEO of CKE Restaurants, which operates Carl's Jr. and Hardee's, was embattled by a reputation widely perceived as anti-worker and an abundance of labor violations found at his restaurants. He was clearly picked for his background as a businessman. Acosta, who is currently the dean of Florida International University College of Law, has a much different background that includes a stint on the National Labor Relations Board and as the U.S. Attorney for the Southern District of Florida.

Impressive work and government background. To get a take on Acosta's background and qualifications to head the Department of Labor, *Employment Law Daily* reached out to Jackson Lewis attorney [Philip Rosen](#). "Dean Acosta has significant background in government, which should be an asset as he moves forward in the confirmation process," Rosen said. "We are hopeful that the confirmation process now will move quickly so that the Department of Labor has Acosta at the helm."

Rosen pointed out that Senate labor committee Chairman Lamar Alexander (R-Tenn.) has indicated that "Mr. Acosta's nomination is off to a good start because he's already been confirmed by the Senate three times. He has an impressive work and academic background. We will schedule a hearing promptly after his nomination papers arrive in the Senate, and I look forward to exploring his views on how American workers can best adjust to the rapidly changing workplace."

The Jackson Lewis attorney also noted that Acosta has been confirmed by the Senate three times—to become a National Labor Relations Board member, then to become Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice, and finally when he was nominated to be U.S. Attorney for the Southern District of Florida.

"If confirmed, Dean Acosta would be the first Hispanic member of Trump's Cabinet, which we applaud," Rosen continued. "His background is impressive. Acosta is a graduate of Harvard College and Harvard Law School. He clerked for Justice Samuel A. Alito, Jr., when Alito was a Judge on the U.S. Court of Appeals for the Third Circuit. After a stint in private practice, he was appointed by President George W. Bush as member of the National Labor Relations Board, and served a Board member from December 17, 2002, through August 21, 2003. Acosta reportedly authored approximately 125 opinions during his tenure on the National Labor Relations Board. Everyone will be reviewing those decisions over the next few days for further insight into his thinking on matters affecting the workplace."

Rosen also noted that after Acosta left the Board, he served as Assistant Attorney General for the Department of Justice's Civil Rights Division under President George W. Bush until June 2005. He then was appointed U.S. Attorney for Southern District of Florida, where he served until becoming the Dean of FIU Law in 2009. "His experience, and record of public service, should be a significant asset in his new position," Rosen said.

Understands wage earners and job seekers. Ogletree Deakins attorney [Harold Coxson](#) also weighed in on the nominee: "Alex Acosta is an outstanding choice to be Secretary of Labor," he said. "He is extremely intelligent, first and foremost. Having come from a humble background, and perhaps the first in his family to attend college, he understands the interests of wage earners and job seekers. His support is as diverse as former union lawyer and NLRB Chair Wilma Liebman and Federalist Society's Leonard Leo. That speaks volumes."

Reactions to Puzder's withdrawal. Puzder's withdrawal from consideration as Labor Secretary was widely applauded. "President Trump's decision to nominate Andrew Puzder was a broken promise to the workers he said he would put first on the campaign trail," Senate Health, Education, Labor, and Pensions Committee Ranking Member Patty Murray (D-Wash.) said in a [statement](#). "From the start, it's been clear that Puzder is uniquely unqualified to serve as Secretary of Labor—from the pride he takes in objectifying women, to the insulting comments he made about his own workers and the stories of mistreatment at his company, to a vision of the economy in which workers get squeezed so those at the top can boost their profits."

New York Attorney General Eric T. Schneiderman expressed similar sentiments, [saying](#), "Puzder had no business running the Labor Department—an agency that uncovered wage theft at a number of Puzder's own restaurants—and it remains baffling that President Trump even nominated him in the first place."

Not everyone saw it that way, though. HELP Committee Chair Lamar Alexander (R-Tenn.) was disappointed. "Andy Puzder has the experience and ability to make an excellent Labor Secretary, but I respect his decision," Alexander [commented](#). "He understands the difficulties American workers face in a rapidly changing workforce and I look forward to continuing to hear his insights."

Representative Virginia Foxx (R-N.C.), Chair of the House Committee on Education and the Workforce, was likewise disturbed by Puzder's withdrawal. "This is disappointing news for our nation's workers and job creators," she said in a [statement](#). "Andy is a good man, and he would have been a strong secretary of labor. He promised to provide a clear break from the failed policies of the last eight years. That made him an obvious target of union leaders and special interests who have long fought to preserve the status quo that is hurting hardworking Americans."

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