

Yes, it *can* happen to you.

We want to help you understand the very real threat from recent rulings of the National Labor Relations Board (NLRB). Three changes are creating a perfect storm for private sector employers, especially where employee relations are weakened by business conditions or inattention to good management practices. Most employers are covered by these laws.

The New NLRB Poster

A new NLRB rule requires almost every private sector employer to hang an 11 x 17 poster in the workplace describing employee rights to unionize, strike, distribute union materials and talk with each other about their wages. These rights are not new, but will be presented in a skewed manner for the first time in most workplaces. The new, free CAI labor law poster we are working on for the fall will also include suggested language reminding employees about your desire to solve problems internally. November 14 is the effective date of the NLRB poster rule and the poster is now available at <http://j.mp/cai-p>.

The New Quickie Elections

The NLRB just issued draft rules making wholesale changes in the way union elections are conducted. The rules will shrink the time between an "election petition" and the actual vote from an efficient 45 days to a warp speed of 10 to 20 days. Ten to 20 days is not enough time to understand the issues, communicate adequately or counter the union's stealth campaign. The finalized rules are expected this fall.

Expect lawsuits over the NLRB's new rules such as NAM v. NLRB (filed Sept. 8).

The New Micro Union Ruling

On August 30, the NLRB issued a decision in *Specialty Healthcare* making it much easier for unions to carve out a small group of employees and create a "micro union." As long as the micro group shares a "community of interest" among themselves, it will not matter that a much larger group of employees (often the entire non-management workforce) also shares interests such as benefits, working conditions, common management, etc. This allows a union to organize the group most susceptible to its message and prevent the employer from getting a larger voting unit.

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MY PREDICTION:

The NLRB is a notoriously political agency swinging like a pendulum with changes in the White House. It is also unfamiliar to many employers: "This does not apply to us, right?" is a question we sometimes hear. Let's be very clear about this: unions have chosen in the past to focus on manufacturing and service industries because they were seen as easier to organize. With every sector of the private economy now easier to organize, and micro units making small victories easiest of all, we will see elections in very surprising professions and companies. How about an IT or Sales union? All private sector employers with two or more employees and engaged in interstate commerce are at risk (governmental units and a few specific industries such as airlines and trains are exempt). More than 90% of CAI members are covered.



HOW TO PREPARE:

You guessed it: the best way to prepare is to pay as much attention to the relationship you and your managers have with potential voters as you pay to other important aspects of work. Consider these steps:

- 1) Ask your management team to write down a hypothetical vote count for and against a union "if a vote were held today" and pass it up anonymously. It's just their gut level opinion, but it may show you there are pockets of problems.
- 2) Consider an employee opinion survey targeted at those issues that most often cause union interest.
- 3) Understand the NLRB's rules on which employees may vote and may not vote. Understand the impact of "micro-units." Where are your gaps?
- 4) Do your managers have a strong, genuine personal interest in their employees? Or, have you deputized smart people with poor management skills to be your face and brand in the workplace?

Strong employee relationships are built on fairness, honest dealings, consistency, open communication, an appreciation for each individual and marketplace competitiveness. Weak relationships lead to "yes" votes in quickie elections where there is simply not enough time to describe the real risks of unionization or to rebuild broken trust.

Contact me directly if I can help you or your team.

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Executive Scan provides a quick monthly update on internal and external issues affecting your workplace with timely advice on ways to respond. It is provided to members and friends of CAI.

Executive Scan is written by CAI's CEO, Bruce Clarke, JD.

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