

Microsoft Outlook

From: smacna-li [smacna@smacna-li.org]
Sent: Friday, June 17, 2011 12:56 PM
To: Mattina, Celeste J.
Subject: Construction labor Report

NLRB

Liebman Notes 'Profound Divide' Over NLRA

But Says She will Not Be Swayed by Pressure\

NEW YORK—The recent barrage of criticism of the board has been driven by a “very profound divide in our country” and a “profound lack of understanding” of the role of labor law and labor unions in American history, National Labor Relations Board Chairman Wilma B. Liebman told an audience at New York University June 10.

Speaking at the 64th Annual Conference on Labor, co-sponsored by NYU, St. John's University, and Cornell University, Liebman said that the good news from recent criticism of the agency has been that there is now an increased public awareness about collective bargaining and the employee rights protected by the National Labor Relations Act.

But Liebman said she has been surprised by some of the “threats and assaults” on NLRB, and told the audience “what we have to do is enhance the public's understanding of collective bargaining.”

NLRB Subject of Vigorous Criticism

Liebman, who has served as a board member since November 1997 and was named as chairman by President Obama on Jan. 20, 2009, said she dates the recent contention over the board to September 2007, when a President Bush-appointed board majority issued approximately 50 decisions that organized labor referred to as “the massacre,” and that was followed by a congressional hearing on the board and its rulings.

Immediately after Obama's inauguration, she said, the agency again came under fire, with increasingly heated rhetoric about board nominees being “radical” and claims that the board was pursuing an agenda that improperly favored organized labor. Criticism of NLRB coincided with a legislative battle over the proposed Employee Free Choice Act, which failed to win congressional approval, Liebman observed.

The NLRB chairman said that recent criticism of the board has been particularly strident, and she said she recognizes that it may be influenced by the sense of economic insecurity some Americans have. Liebman said she recently received an unsigned letter reading, “Withdraw the Boeing complaint, you partisan progressive Marxist moron,” referring to the Boeing unfair labor practice complaint issued by the NLRB's acting general counsel, which has not yet come before the board.

But Liebman said she was surprised by the subject of some of the criticism. Noting that the board's invitations for the filing of amicus briefs in recent cases have been questioned and criticized, Liebman said, “I thought it was something that was a good thing,” not an action that would be controversial.

Some people have never accepted the NLRA or NLRB, Liebman said, and they now label the agency “job-killing,” while supporters of the act and collective bargaining are frustrated and disillusioned.

Chairman Links NLRA Information to Understanding

Public misunderstanding of the act may be partly attributable to the lack of experience of younger workers with the act and with labor unions in general, Liebman said. Even the judiciary is sometimes misinformed about the NLRA, she commented, but with private-sector union membership below 7 percent, fewer and fewer Americans even know anyone who belongs to a union.

The lack of public understanding is the reason the board issued its notice of proposed rulemaking to provide for employer posting of a notice of employee rights, Liebman said. The board received 7,000 comments on the proposal and is still in the process of reviewing comments and deciding what to do with the proposed rule, she said.

Liebman's current term on the board ends Aug. 27, and there has been no announcement about whether she will seek or receive renomination, but the chairman told the New York audience that as long as she serves on the board she "will fight for the values" embodied in the NLRA.

Former Board Member Decries Attacks on Board

Marshall B. Babson, who served as a member of the NLRB from 1985 to 1988 and who was a panelist at the NYU conference, commented after Liebman's remarks that he is "very, very concerned" about recent attacks on the board.

Stating that there has been a repeated effort to "trash the agency and trash the process" created by the NLRA, Babson said, "I will not stand by" when the agency is unfairly attacked.

Citing as an example comments that NLRB's acting general counsel has undertaken "unprecedented" action by issuing a complaint in the Boeing case, Babson told the audience that "you need to stand up and be heard" in opposition to attacks on the agency.

The former board member is now a partner at Seyfarth Shaw in New York where he represents employers in labor and employment law matters.

"This message is confidential. It may also be privileged or otherwise protected by work product immunity or other legal rules. If you have received it by mistake, please let us know by e-mail reply and delete it from your system; you may not copy this message or disclose its contents to anyone. The integrity and security of this message cannot be guaranteed on the Internet."