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## Get ready for even quicker ‘quickie’ elections—NLRB abandons requirement for signed authorization cards

As we’ve previously reported, on April 14, 2015, the National Labor Relations Board (NLRB or Board) implemented new union election rules (Election Rules), which made significant changes to the Board’s procedures for processing election petitions, holding hearings, and conducting secret-ballot elections. Most significantly, the Election Rules paved the way for union elections to be held in as few as 14–21 days after the filing of a union petition, a dramatic decrease from the current median time of 38 days.

As predicted, since the Election Rules went into effect, the median time between the filing of a union petition and the election has decreased dramatically. Prior to the implementation of the Election Rules, union elections were typically held approximately six (6) weeks after the petition was filed (and sometimes longer if the parties litigated contested issues before the Region). According to recent data, the median time for elections held in the three months following the implementation of the Election Rules **was just 23 days**. And, the number of petitions filed rose sharply, increasing by 32 percent in the first month after the Election Rules took effect.

On Sept. 2, 2015, the NLRB’s General Counsel issued guidance paving the way for even more organizing activity. As most employers are aware, the first step in the union election process is the filing of a petition with the NLRB seeking a Board-conducted election. A union seeking an election must submit to the NLRB proof that at least 30 percent of the employees in the proposed bargaining unit support the petition. This is referred to as the “Showing of Interest.”

For decades, the NLRB required that the Showing of Interest contain actual handwritten signatures, either on union authorization cards or on a signed list of names. This requirement provided safeguards against forgery of signatures, as well as conferred a solemnity attendant to the act of signing one’s name on a legal document.

In a memorandum titled, *Guidance Memorandum on Electronic Signatures to Support a Showing of Interest, GC 15-08*, NLRB General Counsel Richard Griffin instructed the Board’s regional offices to accept electronic signatures as supporting

a Showing of Interest. Under this new guidance—which is effective immediately—unions will be able to submit and rely on electronic signatures as forming the basis of a Showing of Interest for purposes of obtaining an election. While the guidance contains some procedural requirements aimed at avoiding fraud and forgery (such as, requiring that a confirmation message be sent to employees who indicate their support via a website or social media page), as a practical matter this new system will likely make it far easier for unions to obtain a Showing of Interest as the examples below show.

- > Under the new guidance, unions can obtain support for a Showing of Interest via email exchanges, where an employee replies to an email indicating that he/she supports the union.
- > Unions will also be able to establish a Showing of Interest by having employees fill out forms on their website and clicking “I agree.”

As this new procedure is implemented and its boundaries tested, unions will surely find more and creative ways to solicit support for a Showing of Interest unencumbered by the need to physically obtain a handwritten signature from each employee. Experience tells us that many employees who sign union authorization cards do not understand the legal ramifications of what they are agreeing to. At a time where employees are desensitized to clicking “I agree” on a regular basis on their smartphones and computers, eliminating the formality of a handwritten signature on a document as important as the Showing of Interest will likely have profound consequences. Employers that are concerned about increased organizing in the wake of the Election Rules and the electronic signature guidance should ensure that their supervisors are trained on the new organizing landscape and should also consider communicating with their employees about what it means to electronically “sign” a union authorization card.

This *GT Alert* was prepared by **Todd D. Wozniak** and **Justin F. Keith**. Questions about this information can be directed to:

- > [Todd D. Wozniak](mailto:wozniakt@gtlaw.com) | +1 678.553.7326 | [wozniakt@gtlaw.com](mailto:wozniakt@gtlaw.com)
- > [Justin F. Keith](mailto:keithj@gtlaw.com) | +1 617.310.6230 | [keithj@gtlaw.com](mailto:keithj@gtlaw.com)
- > Or your [Greenberg Traurig](#) attorney

<b>Albany</b> +1 518.689.1400	<b>Denver</b> +1 303.572.6500	<b>New York</b> +1 212.801.9200	<b>Shanghai</b> +86 21 6391 6633
<b>Amsterdam</b> + 31 20 301 7300	<b>Fort Lauderdale</b> +1 954.765.0500	<b>Northern Virginia</b> +1 703.749.1300	<b>Silicon Valley</b> +1 650.328.8500
<b>Atlanta</b> +1 678.553.2100	<b>Houston</b> +1 713.374.3500	<b>Orange County</b> +1 949.732.6500	<b>Tallahassee</b> +1 850.222.6891
<b>Austin</b> +1 512.320.7200	<b>Las Vegas</b> +1 702.792.3773	<b>Orlando</b> +1 407.420.1000	<b>Tampa</b> +1 813.318.5700
<b>Boca Raton</b> +1 561.955.7600	<b>London*</b> +44 (0)203 349 8700	<b>Philadelphia</b> +1 215.988.7800	<b>Tel Aviv^</b> +03.636.6000
<b>Boston</b> +1 617.310.6000	<b>Los Angeles</b> +1 310.586.7700	<b>Phoenix</b> +1 602.445.8000	<b>Tokyo¤</b> +81 (0)3 4510 2200
<b>Chicago</b> +1 312.456.8400	<b>Mexico City+</b> +52 55 5029.0000	<b>Sacramento</b> +1 916.442.1111	<b>Warsaw~</b> +48 22 690 6100
<b>Dallas</b> +1 214.665.3600	<b>Miami</b> +1 305.579.0500	<b>San Francisco</b> +1 415.655.1300	<b>Washington, D.C.</b> +1 202.331.3100
<b>Delaware</b> +1 302.661.7000	<b>New Jersey</b> +1 973.360.7900	<b>Seoul∞</b> +1 82-2-369-1000	<b>Westchester County</b> +1 914.286.2900
			<b>West Palm Beach</b> +1 561.650.7900

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