

NLRB UPHOLDS LONG-STANDING CONTRACT BAR DOCTRINE

The contract bar doctrine is the long-standing rule that prevents the NLRB from processing a representation petition filed during the first three years of a collective bargaining agreement, unless filed during a specified window period before the agreement expires. The purpose of this important doctrine is to protect the integrity of both the agreement and collective bargaining relationship by preventing the processing of rival union petitions and/or decertification petitions filed during the life of the agreement.

The NLRB recently questioned whether to rescind, uphold or modify this doctrine, and ultimately declined to modify it. In *Mountaire Farms, Inc.*, 370 NLRB 110 (2021), the employer alleged that the Union security clause was illegal because it did not permit incumbent employees a thirty-day grace period to become union members, and that, therefore, the contract bar doctrine did not bar a representation petition. The Union, on the other hand, argued that the contract bar doctrine applied because the union security clause was capable of a legal interpretation. The NLRB Regional Director agreed with the employer and found that the clause was illegal because it did not provide for the required grace period. However, in line with long-standing precedent, the Board overturned the decision, and found that the union security clause was capable of a legal interpretation because it could be interpreted to permit the required grace period, and that the contract bar doctrine applied and barred the representation petition.

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