

ALJ Calls Out NLRB For Lack Of "Intellectual Integrity"

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Boxing glove

The NLRB has been taking its hits lately from federal judges on everything from [recess appointments](#) to its proposed [notice posting rule](#), but last week the punch came from within after an NLRB Administrative Law Judge issued a decision chiding the Board and NLRB General Counsel for their lack of "intellectual integrity."

The case, decided by ALJ William G. Kocol, involved standards for deferral of NLRB charges to arbitration, but is notable for Judge Kocol's rancor toward the Board, which had remanded the case back to Judge Kocol for additional consideration. In his decision, Judge Kocol accused the Board of "flippantly" ignoring past precedent and lacking the "intellectual integrity" to properly apply existing law. After analyzing the issue requested by the Board on remand, the judge noted that such analysis was "entirely unnecessary" and reiterated his prior position regarding deferral to arbitration. Judge Kocol also had some choice words for NLRB General Counsel, who according to the judge refused to take a position on the disputed issue, sniping that "it seems intellectual integrity is in short supply in this case."

With fireworks like these in the opinion, it would not surprise if the case was again appealed to the full Board for consideration of Judge Kocol's new decision. But it remains to be seen whether the Board will rise to the bait and address Judge Kocol's comments directly.

The decision, *BCI Cola-Cola Bottling Co. of Los Angeles*, Case No. 28-CA-022792, was issued August 29 and is available on the Board's website [here](#).

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