



Scabby The Rat On The Chopping Block

October 28, 2020 | [Labor And Employment, National Labor Relations Board, Strikes And Picketing](#)

For decades, unions have used Scabby the Rat as a protest symbol. The giant inflatable rat is most commonly used by unions to protest on job sites where contractors are employing non-union labor. The use of the rat has [come under scrutiny](#) over the years, as courts and the NLRB have weighed in on whether the rat is unlawfully coercive secondary picketing, or whether it is a lawful exercise of a union's free speech rights.

NLRB General Counsel Peter Robb has advocated for the former interpretation of Scabby's legal status. Robb has signaled that Scabby's days are numbered and the current NLRB seems to be moving in that direction.

This year, however an ALJ ruled that the use of the 12-foot inflatable rat was not coercive where it was used to protest alleged safety violations of a secondary employer. The NLRB announced this week that it is inviting public briefs in that case, asking the public if it should restrict the use of Scabby. This Board has taken the same approach in the past, soliciting public briefing before issuing employer-friendly decisions. A decision could come next year on Scabby's fate.

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations
National Labor Relations Board (NLRB)

RELATED TOPICS

Union Protest