

give proper weight to the legitimate interests of the company in enacting the rule. This holding is where the current Republican members of the Board overturned the *Lutheran Heritage* holding, which would have required the rule to be rescinded, as its potential to infringe on workers' rights would outweigh the company's interest in, for example, keeping customers' information private.

Chairwoman McFerran dissented, noting that the rule did not distinguish between recordings which would be protected by the Act and those that are not. She found that as written, the rule was overly broad and even applied to conversations not held on work time or at the work location.

This decision is the most recent example of the split at the current Board between the Republican and Democratic members. This may be another decision to keep an eye on as the Biden Administration appoints its members to the Board and we begin to see the Trump Board decision challenged.

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