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## Get ready – the pendulum is about to swing

By Frank Shuster  
*Atlanta Office*

On Saturday, President-Elect Joe Biden issued a bevy of plans for his incoming administration. Among them were the following three: The Biden Plan for **Strengthening Worker Organizing, Collective Bargaining and Unions**, The Biden Plan to Ensure the Future Is “**Made In All Of America**” and Joe Biden’s **4-Point Plan For Our Essential Workers**. Among other things, these plans include the following commitments, which we quote verbatim:

- “Aggressively pursue employers who violate labor laws, participate in wage theft, or cheat on their taxes by intentionally misclassifying employees as independent contractors.”
- Engage in an “all-hands-on-deck enforcement effort that will dramatically reduce worker misclassification.”
- “Fund a dramatic increase in the number of investigators in labor and employment enforcement agencies to facilitate a large scale anti-misclassification effort.”
- “Make it easier for workers who choose to unionize to do so ... [including by] strongly supporting” the Protecting the Right to Organize Act (commonly referred to as the PRO Act).”
- “Go beyond the PRO Act by allowing workers to use... card check as an initial option for forming a union.”
- “Establish a federal standard [for determining employee status] modeled on [California’s three-prong ABC test] for all labor, employment and tax laws.”
- “Double the number of OSHA investigators to enforce the law and existing standards and guidelines.”

While we could go on, we don’t want to drive anyone to despair. Assuming President Trump’s challenges to the election results do not materially affect the outcome, it remains to be seen which of the President-Elect’s initiatives can be accomplished by executive action, which will require Congressional approval, and which are actually implemented or enacted.

Nonetheless, unless you’re an ostrich (who legend says instinctively bury

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their heads in the sand in the hopes that trouble will pass them by), we suggest that you open your eyes to the coming of a new reality as the pendulum swings back to the left.

There can be no denying that the National Labor Relations Board, the Equal Employment Opportunity Commission, and the U.S. Department of Labor, as well as other agencies entrusted with enforcement of federal labor and employment laws, will become more employee-friendly with an increase in investigations and legal actions filed against employers.

How would you fare if an investigator knocked on your door? Now is the time to look for the Biden Bus that is hurtling your way.

Need help with reopening?  
Check out our **Coronavirus Return to Work FAQs** for the latest guidance. And more general information is available on our **Coronavirus Resource Center** page.

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