
NLRB Notice-Posting Rule Postponed Pending Appeal

2012-04-27

Last week, the United States Court of Appeals for the District of Columbia Circuit granted an injunction preventing the National Labor Relations Board's (NLRB) notice-posting rule from taking effect on Monday, April 30, 2012.

As noted in our previous alerts ([October 3, 2011](#), [October 5, 2011](#), and [January 5, 2012](#)), the NLRB issued a rule in August 2011 requiring most private sector employers to notify employees of their rights under the National Labor Relations Act. Under the rule, employers must conspicuously post a notice where other employment notices are customarily posted (as well as on a company intranet or Internet site if the employer customarily communicates personnel rules or policies there), informing employees of their rights, *inter alia*, to form or join a union and to bargain collectively with their employer.

The rule was originally set to take effect November 14, 2011, but in December the NLRB postponed the effective date until April 30, 2012. The Circuit Court decision comes on the heels of conflicting District Court decisions regarding the validity of the rule. On March 2, 2012, a judge in the District of Columbia upheld the NLRB's authority to require posting of the notice, while on April 13, 2012, a judge in South Carolina ruled that the NLRB did not have such authority. The DC ruling was appealed, and the notice posting requirement will not take effect, if at all, until after the DC Circuit Court has ruled. The Circuit Court has set an expedited briefing schedule for the appeal, with oral argument to take place in September 2012.

We will continue to monitor additional developments concerning this rule and will notify you of these developments.

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