

NLRB's Notice Requirement Is Off The Wall

D.C. Circuit Review Means Posting is Postponed Again

The NLRB's controversial posting rule, which requires businesses subject to the National Labor Relations Act ("NLRA") to post a notice informing all employees of their organizing rights, has been postponed for an indefinite period, this time for purposes of appellate review.

Today the D.C. Circuit Court enjoined the NLRB from enforcing the rule, which was set to go into effect on April 30, 2012, after several postponements. The rule has been the subject of at least two conflicting court decisions after business groups asserted it was unconstitutional.

From a practical standpoint, the requirement covers the vast majority of non-governmental business entities, including employee-owned businesses and non-profit agencies. The most controversial of the provisions makes the failure to post the required notice an unfair labor practice under § 8(a) of the NLRA.

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