

April 19, 2012

ALERT

## Reprieve for Employers: Federal Appeals Court Blocks Implementation of NLRB Posting Requirement; NLRB Complies

By Bennett Pine

**O**n the eve of the deadline for employers to post an Employee Rights notice required by the National Labor Relations Board (NLRB), the United States Court of Appeals in Washington, D.C. ruled on April 17, 2012 that the NLRB is barred from requiring the posting while litigation challenging the rule is pending.

The rule mandating the NLRB posters, which applies to all employers covered by the National Labor Relations Act — whether or not they currently are unionized — as slated to take effect on April 30, 2012.

The D.C. Circuit Court set a briefing schedule in the appeal and ordered oral argument in the case to be set for September. As a result, the court injunction should remain in effect until at least September 2012.

Shortly after the ruling, the NLRB issued a statement that, in light of the D.C. Circuit's order, conflicting court rulings and "the strong interest in the uniform implementation and administration of agency rules" its regional offices will not implement the posting rule pending the resolution of issues before the court.

Because other legal challenges are pending and there is a split between federal courts, some experts predicted the issue of the NLRB's right to require the employee rights posting could end up before the U.S. Supreme Court.

But, for the moment, the ping pong ball in this dispute has stopped, and employers are relieved of the obligation to post the NLRB notice, probably until at least September.

*We will continue to monitor developments as well as additional forms and guidelines developed by the NLRB. Please contact the author, Bennett Pine, if you have any questions or require additional information. ▲*

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