

Client Alert **Employment & Labor**

Enforcement of NLRB Posting Rule Temporarily Enjoined

On April 17, the United States Court of Appeals for the District of Columbia issued an order which prohibits the National Labor Relations Board (“NLRB”) from enforcing its new notice posting rule pending the outcome of an appeal challenging its validity.

As a result of this order, employers need *not* post the NLRB’s notice by April 30.

Yesterday’s ruling is an outgrowth of a pending appeal by the National Association of Manufacturers and other groups from a D.C. district court judge’s ruling on March 2 that the NLRB has the statutory authority to promulgate the posting rule, but lacks the authority, if an employer fails to comply with the posting requirement, to make an unfair labor practice finding or to toll the 6-month statute of limitations applicable to the filing of such charges.

This latest judicial order comes on the heels of an April 13 decision by a district court judge in South Carolina, which barred the NLRB’s enforcement of the entire posting rule for lack of statutory authority to issue it.

As we reported last Fall, the NLRB’s controversial rule would require most private sector employers (including those without union-represented employees) to post an official NLRB notice advising employees of their rights to organize, bargain collectively,

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and discuss wages, hours and other terms and conditions of employment with co-workers, as well as advise employees of various employer threats, promises, interrogations and surveillance activities that are statutorily prohibited. The posting compliance deadline was initially November 14, but was extended several times thereafter following court challenges.

For additional information concerning this latest development, please feel free to contact our Employment and Labor Practice Group.

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