MAY 07, 2013

NLRB LOSES AGAIN – COURT VACATES EMPLOYEE RIGHTS NOTICE POSTING RULE

NOTICE POSTING RULE IS STRUCK DOWN

Back in August 2011, the NLRB published a rule that would require private employers to post in conspicuous places a government poster intended to notify employees of their rights under the NLRA. Business groups challenged the rule, and the NLRB delayed the effective date several times. Then in early 2012, courts got into the act and struck down parts of the rule and eventually enjoined the rule until the appeals court heard and decided the case. Today, May 7, 2013, the court of appeals has ruled, and the NLRB's Notice Posting Rule has been vacated. The 32-page opinion of the Circuit Court of Appeals for the District of Columbia (the same court that ruled that the recess appointments to the NLRB were invalid) struck down the NLRB's rule because it forced employers to post "speech" in violation of the employers' rights under the First Amendment and because the NLRB's rule improperly extended the statute of limitations for filing an unfair labor charge if the Notice had not been posted.We have been following the evolution of the NLRB's Notice Posting Rule. You can access those articles here, here, here and here for some historical background.This decision is good news for employers. Ultimately, even this decision may find its way to the Supreme Court. But for now, the requirement to post a Notice of Employee Rights is dead.Reference: National Association of Manufacturers v. NLRB, (D.C. Cir., N0.12-5068, May 7, 2013) If you have any questions, please contact Steve Lyman at slyman@hallrender.com or your regular Hall Render attorney.

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