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NLRB TAKES ANOTHER HIT: D.C. CIRCUIT PUTS "POSTER RULE" ON HOLD

By David Phippen
Fairfax Office

The National Labor Relations Board got more bad news yesterday, when the U.S. Court of Appeals for the District of Columbia Circuit **enjoined enforcement** of the NLRB's "poster rule." The court's action came only a few days after a federal court in South Carolina **struck down** the rule. A federal district court in the District of Columbia had **held earlier** that the NLRB had the authority to issue the rule but had struck down key enforcement provisions.

The rule was scheduled to take effect April 30.

The emergency injunction, which temporarily prohibits the NLRB from enforcing the rule, is in effect until the D.C. Circuit can hear the appeal of the district court's decision. The D.C. Circuit said that it wanted to maintain the *status quo* while the appeal was pending. Briefing is to be completed by the end of June, with oral argument scheduled for sometime in September.

Need a Scorecard?

The plaintiffs/appellants in the D.C. case are the National Association of Manufacturers, the National Right to Work Legal Foundation, and other business groups. They are pursuing the appeal to the D.C. Circuit. The NLRB is the defendant/appellee.

The plaintiffs in the South Carolina case are the U.S. and South Carolina Chambers of Commerce, and the defendant is the NLRB.

In response to the injunction, NLRB Chairman Mark Gaston Pearce **announced yesterday** that the NLRB's regional offices will not implement the rule on April 30. He added that the NLRB plans to appeal the South Carolina decision and the parts of the District of Columbia decision with which it disagrees, contending that the poster rule is within the NLRB's authority.

No final decision in the appeal is expected until late in the year. Constangy will keep you informed of all developments.

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