

## **Labor and Employment Law Update** **Lawyers for Employers®**

**04/19/2012**

### **NLRB Posting Requirement Suspended Indefinitely**

On April 17, employers obtained a reprieve from a new rule requiring them to post the National Labor Relations Board's ("NLRB") notice explaining workers' collective bargaining and other labor rights. The U.S. Court of Appeals for the District of Columbia issued an emergency injunction preventing the NLRB from implementing its rule.

As Lane Powell reported on March 13, the NLRB's posting requirement was previously upheld by U.S. District Court Judge Amy Berman Jackson in the District of Columbia. Although Judge Jackson invalidated provisions of the rule other than the posting requirement, she refused to delay the April 30 posting deadline while an appeal was taken from her ruling. See Lane Powell's [Legal Update](#).

On appeal, the District of Columbia Circuit Court of Appeals rejected the NLRB's argument that its notice requirement should take effect on April 30 and instead delayed implementation of the rule while the appeal is pending. The Court of Appeals will not hear oral arguments on the appeal until September, so a decision on the merits of the posting requirement will be delayed for some time.

Significantly, another federal district court recently issued a decision contrary to Judge Jackson's decision in a second case pending in South Carolina, *Chamber of Commerce v. NLRB*. On April 13, U.S. District Court Judge David C. Norton ruled that the NLRB lacks authority to promulgate the notice-posting rule. The NLRB has announced that it plans to appeal that decision.

### **What Does This Mean For Employers?**

Private sector employers covered by the National Labor Relations Act are not required to post the NLRB's notice regarding workers' collective bargaining and other rights, and face no regulatory sanctions for not posting it, while the Court of Appeals' injunction remains in effect. Employers will need to stay tuned until these cases are resolved.

**For more information, please contact the Labor and Employment Practice Group at  
Lane Powell: [employlaw@lanepowell.com](mailto:employlaw@lanepowell.com)**

1.800.426.5801 ■ Your Pacific Northwest Law Firm® ■ [www.lanepowell.com](http://www.lanepowell.com)

---

This is intended to be a source of general information, not an opinion or legal advice on any specific situation, and does not create an attorney-client relationship with our readers. If you would like more information regarding whether we may assist you in any particular matter, please contact one of our lawyers, using care not to provide us any confidential information until we have notified you in writing that there are no conflicts of interest and that we have agreed to represent you on the specific matter that is the subject of your inquiry.

Copyright © 2012 [Lane Powell PC](#)  
Seattle | Portland | Anchorage | Olympia | Tacoma | London