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***Your Employment Law Bulletin from***

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April 18, 2012

Court of Appeals Issues Injunction of the NLRB's Posting Rule

On April 17, 2012, the United States Court of Appeals for the District of Columbia Circuit issued an order enjoining the operation of the National Labor Relations Board's notice posting rule. The Board's posting rule was set to take effect on April 30, 2012 after a D.C. district court ruled that the NLRB had the legal authority to require employers to post notices in the workplace dealing with the collective bargaining rights of employees. See *Employment Law Bulletin* (3/13/2012). The lower court's decision was appealed to the court of appeals which decided that the rule should not go into effect during the pendency of the appeal.

This is the second setback inside of a week for the Board. On Friday, April 13, 2012, a federal judge in South Carolina ruled that the NLRB lacks the statutory authority to promulgate a regulation requiring employers to post notices explaining the rights of employees to form a union. Accordingly, the court held the new rule to be unlawful. The United States Chamber of Commerce had challenged the Board's posting rule in the South Carolina court last September.

Although the injunction issued by the District of Columbia court of appeals is not permanent, it does mean that employers will not have to post the Board's notice regarding the collective bargaining rights of employees until at least September when the court of appeals will hear oral arguments and issue a ruling on the merits of the new regulation. The NLRB stated Tuesday that its regional offices will not implement the posting rule pending the resolution of the issues before the court of appeals. The Board also said it plans to appeal the ruling of the South Carolina federal court.

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