

## NLRB'S EMPLOYEE RIGHTS POSTER STAYS TORN DOWN

### TWO COURTS DENY REHEARING - NLRB EXCEEDED ITS JURISDICTION

The battle over the NLRB's Employee Rights Poster seems to be coming to an end. The poster that the NLRB intended to be posted by private employers to inform their employees of their rights to join unions came under legal challenge and subsequent delays almost as soon as the rule requiring its posting was issued. See our past blogs and articles [here](#).

Ultimately, two federal appeals courts halted the Notice Posting Rule and found that the NLRB lacked the authority to require private employers to post a notice explaining employee rights. The NLRB wouldn't take no for an answer and filed motions in the federal courts that had ruled against it for rehearing. In two separate one-sentence Orders issued on the same day, September 4, 2013, both the Fourth Circuit Court of Appeals and the D.C. Circuit Court of Appeals denied the NLRB's motions. These decisions leave intact their respective rulings that the National Labor Relations Act did not give the NLRB the power to issue such a rule.

### WHAT DOES THIS MEAN FOR PRIVATE EMPLOYERS?

Now that the NLRB is at full strength with five members, there was some feeling that the NLRB would try again to breathe new life into the Notice Posting Rule. If the NLRB was successful in its efforts to have a rehearing, then the courts might find that the NLRB had the authority to issue the notice posting rule after all - and up go the posters. However, with these rulings by these two highly respected appeals courts, unless the NLRB files appeals to the U.S. Supreme Court, the NLRB's Employee Rights Poster will stay torn down.

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