

MARCH 05, 2012

NLRB NOTICE POSTING RULE - COURT STRIKES DOWN ENFORCEMENT PROVISIONS, BUT NOTICE MUST STILL BE POSTED

On March 2, 2012, the enforcement provisions of the NLRB's Notice of Employee Rights posting rule were struck down by a federal district court for the District of Columbia. The ruling let stand the overall requirement that private employers must post a Notice of Employee Rights prescribed by the NLRB on and after April 30, 2012. The court held that the NLRB had the authority to require private employers to post the Notice even though the statute did not explicitly require that a Notice be posted - like other laws such as the ADA, the FMLA, OSHA and Title VII. However, according to the court, the NLRB exceeded its authority when the NLRB's posting rule made it an Unfair Labor Practice if an employer failed to post the Notice. The court also ruled that the NLRB was wrong to extend the NLRA's six-month statute of limitations if an employer failed to post the Notice.

Although the NLRB's Notice posting rule is being challenged in other courts, for now private employers still should plan on posting the Notice on April 30, 2012.

Reference: National Association of Manufacturers Association v. NLRB, Civil Action No. 11-1629 (ABJ) (D.C.D.C., March 2, 2012).

We will keep you updated as this issue develops.

The NLRB's posters are available for downloading and printing. Copies also are available from any of the NLRB's Regional Offices.

Poster Downloads

- Official NLRB Notice of Rights Poster 11 x 17- inch version (pdf)
https://www.nlr.gov/sites/default/files/documents/1562/employee_rights_nlra.pdf
- Official NLRB Notice of Rights Poster 8.5 x 11- inch version (pdf)
https://www.nlr.gov/sites/default/files/documents/1562/employee_rights_nlra_8_5x11.pdf

Should you have questions, please contact your regular Hall Render attorney or a member of our Employment and Labor Section.