

Don't Blink: D.C. Circuit Enjoins Enforcement Of NLRB Notice Posting Rule

April 17, 2012 | [Labor Relations](#)

The D.C. Circuit Court of Appeals struck a blow, at least temporarily, against the NLRB's controversial notice posting rule today by issuing an emergency injunction postponing application of the rule. The injunction will be in place while the D.C. Circuit considers an appeal from the [D.C. District Court's decision in March partially invalidating the rule](#). Although the district court's March decision upheld the right of the NLRB to promulgate and require notice posting, its ruling struck down certain enforcement provisions of the regulation. The D.C. Circuit found that this uncertainty about enforcement, combined with the fact that the NLRB had already voluntarily postponed application of the regulation for several months while the district case proceeded, justified the injunction.

The D.C. Circuit's injunction comes on the heels of [a decision in a separate case pending in District Court for the District of South Carolina](#), which overturned the notice posting requirement completely, finding that it exceeded the statutory authority of the NLRB to promulgate rules. The D.C. Circuit's injunction order recognizes these conflicting district court opinions.

For now, the D.C. Circuit's injunction means employers have at least a few more months relief from the NLRB's notice posting rule, as the injunction will prohibit the rule from taking effect until the D.C. Circuit resolves the merits of the case. The notice posting rule had been scheduled to go into effect on April 30, 2012. Oral argument is scheduled in the D.C. Circuit appeal for September. Stay tuned here for regular updates as this case progresses.

The D.C. Circuit case is *National Association of Manufacturers v. NLRB*, No. 12-5068. Today's injunction order can be [found here](#). See BT Labor Relations' previous coverage of this issue [here](#).

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations