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Court Overturns Suspension Of Employee Refusing Work Due To Safety Concerns

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Safety and following direct work orders are pillars of many organizations, and the two often go hand-in-hand. At times, however, instances arise where an employee believes his or her safety may be put in jeopardy by following a directive from management. A recent [federal court decision](#) illustrates such a case.

At issue in the case was a union-represented employee who worked at an oil refinery. The refinery had written procedures in place for its various equipment and machines. To the extent any deviation from normal processes was to occur, a written revision generally was done.

The company instituted a process change to some equipment but did not update its written procedures. The worker at issue had a discussion with a coworker about safety concerns related to the new process – including that the written procedures had not been updated – and expressed those concerns to management. The employee ultimately refused a work order related to the new process. He was suspended by the company as a result.

The employee and union filed charges with the National Labor Relations Board (NLRB) alleging the employee's suspension violated labor law because it was in retaliation for him engaging in protected, concerted activity – namely raising the safety concerns he shared with a coworker. The NLRB agreed and invalidated the discipline, but the company appealed the matter to federal

court. The court agreed with the NLRB and overturned the suspension, finding that the two workers' expressed, shared concerns over safety constituted protected activity.

This is the latest case of several reminding employers that disciplining employees when protected activity is in play can be a difficult area to navigate.