



## RELATED PRACTICE AREAS

Labor and Employment  
Labor Relations  
National Labor Relations Board (NLRB)

## RELATED TOPICS

Unfair Labor Practices

# NLRB Lays Out A Boatload Of Remedies For Repeat Offenses In Noah's Ark Processors

April 25, 2023 | [Labor And Employment, National Labor Relations Board, Unions And Union Membership](#)



**Grant T. Pecor**  
Partner



**Aaron Vance**  
Associate

Landmark rulings continue to keep coming two-by-two from the National Labor Relations Board (NLRB), which this week [announced an extended suite of remedies](#) it will consider in cases involving repeat and egregious offenders under the National Labor Relations Act (NLRA) in [Noah's Ark Processors, LLC D/B/A WR Reserve, 372 NLRB No. 80 \(2023\)](#).

Noah's Ark began bargaining for a new contract with the United Food and Commercial Workers Local Union No. 293, which represented employees within one of its Nebraska facilities in 2018. The course of bargaining was tumultuous, ultimately resulting in a determination that it engaged in bad faith bargaining and prematurely declared an impasse in 2020. In its 2-1 decision, the NLRB agreed and upheld the remedies ordered.

However, in doing so, the Board also announced that further remedies may be warranted when the unfair labor practice violations are the product of serious, widespread, or repeated violations. "[T]o bring greater consistency to the Board's exercise of its remedial discretion," it presented a "non-exhaustive list of potential remedies that [it] will consider" to "dispel[ ] the chilling effect of repeated and serious misconduct." These remedies include requiring the employer to:

- Provide employees with an explanation of their rights under the act

- Read an explanation of those rights out loud to its employees in a company meeting and at times requiring supervisors to be present
- Mail a copy of the explanation of their rights to their homes
- Sign a notice, along with the union, concerning the violation
- Publish the notice and any explanation of rights documents in local publications
- Post the notice for a period longer than 60 days
- Allow the NLRB to inspect the employer's premises for compliance with the notice requirement; take statements from its officers and employees; and inspect the employer's records
- Reimburse the union's bargaining expenses
- Make whole any employees for lost wages related to bargaining

Based on this reasoning, the Board determined Noah's Ark's conduct warranted not only traditional remedies such as the rescission of any unilateral changes and make-whole relief previously awarded, but also nearly all of the remedies mentioned above because they had previously violated the act.

This decision is more than a sign for employers to seek the higher ground. This Board and its general counsel have made it very clear that enhancing the remedies available to aggrieved unions and employees is one of this administration's major policy prerogatives. As such, this decision is only further evidence of their commitment to aggressive enforcement of the act. As these major changes continue to flood in, employers must continue to be vigilant to avoid getting soaked.