

## NO PIN POLICY VIOLATES NLRA

May 7, 2015 | [National Labor Relations Board, Labor And Employment](#)



**Gerald F.  
Lutkus**

Of Counsel  
(Retired)

The NLRB last week struck down a company's policy which prohibited the wearing of pins, insignia or other image clothing finding that the policy violated Section 8(a)(1) of the NLRA. Boch Imports, Inc.'s policy stated: "Employees who have contact with the public may not wear pins, insignias or other message clothing." The employer justified the policy on the grounds that it was to prevent injury to employees and damage to vehicles. Specifically, the employer noted in testimony that pins could fall off uniforms and into car engines while employees were working on those engines and those pins could also scratch and damage the exterior of the cars. In reviewing the rule, the Board confirmed that it's well settled that an employer violates Section 8(a)(1) when it prohibits employees from wearing union insignia at the workplace, absent special circumstances. The rule here, the board concluded, certainly prohibited union insignia. The case then turned on whether special circumstances were presented by the employer's justification for the policy. The Board said no. The rule was not narrowly tailored to the issues justifying the rule since the rule applied to employees who had no contact whatsoever with vehicles. There was no evidence of safety concerns, the Board said, and no evidence of actual damage from pins. Finally, the Board said that the rule does not by its own terms link itself to safety or damage concerns. In an interesting side light of the opinion, the Board also found the employer to have violated the NLRA because of language contained in its employee handbook. The employer cooperated with the Board in its investigation of the charges and, in fact, revised its handbook to remove the problem language, in cooperation with Board representatives. However, the NLRB concluded that the revisions to the handbook were insufficient because the employer did not give notice to the employees of the reason for issuing the revised handbook and failed to give assurances to the employees that it would not interfere with their Section 7 rights. A copy of the Board's decision is available [here](#).

### RELATED PRACTICE AREAS

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