

## D.C. Circuit Refuses To Enforce Board's Bargaining Order, Finds Lawful Impasse

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The D.C. Circuit Court on Tuesday reversed a decision by the NLRB which had found that Erie Brush & Manufacturing Corp. had unlawfully declared impasse and refused to bargain with SEIU. The D.C. Circuit found that while the employer and the union were only in disagreement on two issues – union security and arbitration of grievances – this was enough to put the parties at impasse, noting that “impasse on a single critical issue can create an impasse on the entire agreement.” The Court held that the fact that the union had mentioned mediation as a possibility was not enough to support a finding of no impasse, quoting the NLRB dissent – “the mere invocation of mediation does not somehow magically ward off a deadlock.” Therefore, the employer did not violate the law by refusing to bargain with the union.

The case is *Erie Brush & Manufacturing Corp. v. NLRB*, No. 11-1337 (D.C. Cir. Nov. 27, 2012), available on the D.C. Circuit's website [here](#).

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