

## ALERTS

### Labor And Employment Law Alert - Court Holds Company Can Reject Terms, Conditions Of Expired CBA

February 15, 2016 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Dallas](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

Against the constant current of labor-friendly decisions, the Third Circuit Court of Appeals recently provided a win to employers. As most National Labor Relations Board (NLRB) watchers know, the NLRB requires employers to adhere to the terms and conditions of an expired collective bargaining agreement (CBA) either until a new agreement has been reached or the parties achieve impasse. However, the court's recent decision in *In re Trump Entertainment Resorts Inc.*, held that companies can reject a collective bargaining agreement if it can carry the following criterion:

1. the distressed company made a proposal to employees which includes modifications to employee benefits and protections which are necessary to permit reorganization;
2. the employees' representative refused to accept said proposal without good cause; and
3. the balance of equities clearly favors rejection of the CBA.

This holding can be a powerful weapon for employers who are navigating the bankruptcy process, yet are impeded by high labor costs. A copy of the complete opinion can be [found here](#).

To obtain more information, please contact the Barnes & Thornburg Labor & Employment attorney with whom you work, or a leader of the firm's Labor & Employment Law Department in the following offices:

Kenneth J. Yerkes  
Department Chair  
(317) 231-7513

John T.L. Koenig  
Atlanta  
(404) 264-4018

David B. Ritter  
Chicago  
(312) 214-4862

William A. Nolan  
Columbus  
(614) 628-1401

Mark S. Kittaka

## RELATED PEOPLE



**Kenneth J. Yerkes**

Partner  
Indianapolis

P 317-231-7513  
F 317-231-7433  
[ken.yerkes@btlaw.com](mailto:ken.yerkes@btlaw.com)



**William A. Nolan**

Partner  
Columbus

P 614-628-1401  
F 614-628-1433  
[bill.nolan@btlaw.com](mailto:bill.nolan@btlaw.com)



**Mark S. Kittaka**

Partner  
Fort Wayne, Columbus

P 260-425-4616  
F 260-424-8316  
[mark.kittaka@btlaw.com](mailto:mark.kittaka@btlaw.com)



**Robert W. Sikkell**

Of Counsel (Retired)

P 616-742-3978  
[robert.sikkell@btlaw.com](mailto:robert.sikkell@btlaw.com)



Fort Wayne  
(260) 425-4616

Robert W. Sikkel  
Grand Rapids  
616-742-3978

Peter A. Morse  
Indianapolis  
(317) 231-7794

Scott J. Witlin  
Los Angeles  
(310) 284-3777

Teresa L. Jakubowski  
Washington, D.C.  
(202) 371-6366

Janilyn Brouwer Daub  
South Bend/Elkhart  
(574) 237-1130

Visit us online at [www.btlaw.com](http://www.btlaw.com), [@BTLawLE](https://twitter.com/BTLawLE) and [@BTLawNews](https://twitter.com/BTLawNews), and don't forget to bookmark our Labor & Employment blogs [www.btlaborelations.com](http://www.btlaborelations.com) and [www.btccurrents.com](http://www.btccurrents.com).

© 2016 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

*This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.*

## John T.L. Koenig

Partner  
Atlanta

P 404-264-4018  
F 404-264-4033  
[john.koenig@btlaw.com](mailto:john.koenig@btlaw.com)



## Peter A. Morse, Jr.

Partner  
Indianapolis, Washington, D.C.

P 317-231-7794  
F 317-231-7433  
[pete.morse@btlaw.com](mailto:pete.morse@btlaw.com)



## Scott J. Witlin

Partner  
Los Angeles

P 310-284-3777  
F 310-284-3894  
[scott.witlin@btlaw.com](mailto:scott.witlin@btlaw.com)



## Teresa L. Jakubowski

Partner  
Washington, D.C.

P 202-371-6366  
F 202-289-1330  
[teresa.jakubowski@btlaw.com](mailto:teresa.jakubowski@btlaw.com)



## David B. Ritter

Partner  
Chicago

P 312-214-4862  
F 312-759-5646  
[david.ritter@btlaw.com](mailto:david.ritter@btlaw.com)

**RELATED PRACTICE AREAS**

