

LABOR & EMPLOYMENT

>>ALERT

NLRB POSTER RULE DELAYED

The District of Columbia Circuit Court of Appeals has enjoined the National Labor Relations Board (NLRB) from implementing its posting requirement rule, which was scheduled to go into effect on April 30, 2012. The rule would have required employers, regardless of whether their workforce is unionized, to post a notice of employees' rights under the National Labor Relations Act (NLRA).

The Court of Appeals issued the temporary injunction due to conflicting decisions issued at the District Court level as to whether or not the NLRB has the authority to implement the rule. The NLRB has posted on its website, "The rule, which had been scheduled to take effect on April 30, 2012, will not take effect until the legal issues are resolved. There is no new deadline for the posting requirement at this time."

On April 13, 2012, the South Carolina District Court found that the NLRB exceeded its authority in issuing the rule and rejected the NLRB's contention that the posting

requirement is necessary for the Board to carry out its mandate under the NLRA. This decision directly conflicts with the decision of the District of Columbia District Court, issued March 2, 2012, which upheld the rule while limiting the penalty to a warning for failure to comply. [Click here](#) to read our previous Alert covering this decision.

Business groups and organizations opposed to the bill have appealed the District of Columbia decision, while the NLRB plans to appeal the South Carolina decision as well as the injunction issued by the Court of Appeals.

FOR MORE INFORMATION

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THE BOTTOM LINE

As of now, the NLRB's posting rule will not go in effect as scheduled and employers have no duty to post the notice. If eventually upheld, the rule would require employers to post notices explaining employee rights under the NLRA, including the right to organize and engage in concerted activity.