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Client Update

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NLRB Abandons Its Attempt To Force Employers To Post New Employee Rights Notice

Last spring, we reported that an appeals court had invalidated a new NLRB rule that would have required all employers to post a notice informing employees of their rights under the National Labor Relations Act. Subsequent to that decision, a second appellate court also invalidated the NLRB's effort. Last week, the NLRB announced that although it will continue to educate American workers on their rights, the Agency has let its appeal deadline pass and has no plan to challenge the most recent invalidation of the NLRB's proposed notice posting requirement.

The proposed required notice would have stated that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, and to bargain collectively with their employer. The notice also would have provided examples of unlawful employer conduct and instructions on how employees can contact the NLRB with questions or complaints. To draw employees' attention to the notice, the NLRB intended to mandate that the notice be in an oversized format.

Although the NLRB has backed down from the fight over the controversial regulation, they are still suggesting that employers post the proposed oversized notice on a voluntary basis. We bring this to your attention so that you are not misled into posting this notice because you believe it is required. The notice is not legally required, and was not drafted in a balanced, even handed manner.

Although the NLRB's decision not to seek further appeal is a victory for businesses, employers must still know how to respond to signs of organizing activity, and be aware that the NLRB has operational initiatives in place to aid in union organizing and to punish employers that commit what it deems to be unfair labor practices. We have developed effective training programs designed to thwart organizing attempts, and we strongly recommend our clients to engage in such training on a periodic basis. If you have any questions, please contact Peter Bennett (pbennett@thebennettlawfirm.com) or Rick Finberg (rfinberg@thebennettlawfirm.com).