

NLRB – MAJOR PROVISIONS HELD UNCONSTITUTIONAL IN FIFTH CIRCUIT

COURT OF APPEALS RULING

LAMONT VETOES UNEMPLOYMENT BENEFITS FOR STRIKERS

SpaceX v. NLRB: A Major Victory for Employers.

The Fifth Circuit Court of Appeals issued a powerful ruling concerning the National Labor Relations Board (“NLRB”), affirming a Texas US District Court decision that held the “multi-layered” removal protections for NLRB Board Members and NLRB Administrative Law Judges (“ALJs”) are unlawful. In an August 19 opinion, the Fifth Circuit ruled that the NLRB’s removal protections violate Article II of the Constitution. The Court noted that the current multi-layered removal process prevented the principal officers of the NLRB to intervene in their inferior officers’ actions (except in rare cases), which grossly inhibited the President, by extension, to exercise the “control necessary to ensure that the laws [were] faithfully executed.” Such inhibition, the Court held, did not comport with the powers granted to the President under Article II.

[This SpaceX ruling](#) arose out of several District Court rulings in Texas, which granted preliminary injunctions to three employers (SpaceX, Energy Transfer, and Findhelp) challenging the NLRB’s structure, specifically the removal protections for NLRB Board Members and ALJs. In affirming the District Court rulings, the Fifth Circuit reiterated the longstanding rule that the President retains the authority to remove inferior officers within the Executive Branch. As a government entity, the NLRB has 60 days to appeal the decision to the U.S. Supreme Court.

Employers are hoping that this will slow the NLRB's recent proclivity to rule on cases that are not rooted in the traditional setting of Union and Management, but rather are based on collective action or collective speech by an individual on behalf of others, with no actual Union presence. Ryan & Ryan will continue to update you on SpaceX.

Governor Lamont Thwarts Legislature – Denies Strikers Unemployment Benefits.

Connecticut Governor Ned Lamont recently vetoed a bill which would have made employees eligible for unemployment after striking for two weeks. Lamont bucked the initiative, which has made gains in neighboring New York and New Jersey, calling the bill “a bridge too far.” *Labor Committee Senate Chair Julie Kushner, a former sub regional director for the United Auto Workers, vowed to raise the issue again in another legislative session, echoing the sentiments of Senator Richard Blumenthal, who introduced a similar bill in the United States Senate earlier in June.* Only 4 states allow strikers to receive unemployment benefits while striking: New York, New Jersey, Oregon, and Washington.

New York, New Jersey, and Oregon currently or will provide (2026 for Oregon and Washington) for benefits after 14 days. This strike eligibility period in New York increases to 21 days on October 1, 2025. Washington’s eligibility period is 15-21 days depending on what day a strike starts. Finally, both Washington and Oregon cap the amount of unemployment benefits a striker can receive.

FIRM UPDATES

- We successfully worked with Morgan Lewis for over 2 years (the lawyers for SpaceX) and obtained a directed verdict in Boston Federal District Court after the close of the Plaintiff's case (9 trial days).
- Our firm's law school interns are having success –
 - Noah DeFeo, who was awarded significant scholarships, is doing very well as a 1L at Western New England Law.
 - Thomas Lepore, who contributed to this edition of the EYE ON THE LAW, is an excellent addition to the firm and a 2L at Quinnipiac Law.
 - Sebastian Fox, who we thank for his outstanding referrals (Tom and Noah), is a 2L at Quinnipiac Law and performing well. As a 1L he participated in 3 national or regional mock trial competitions; making the finals (held in Chicago) in an employment law case. Two weeks ago, Sebastian was awarded the “Best Overall Advocate” at Quinnipiac Law’s annual mock trial event.
 - Ekow Bentsi-Enchill, who left the firm for a 2 year stint at a large firm in NYC, just started at Fordham Law.

If you have concerns about these or any other workplace or litigation issues, please contact David Ryan at david.ryan@ryan-ryan.net or by telephone at 203.752.9794 (office).

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