

## Do We Have to Add Another Poster to the Bulletin Board?

On August 20, 2011, the National Labor Relations Board (NLRB) published a final rule requiring all private employers, except for very small businesses, to post a new set of employee rights in the workplace, beginning November 14, 2011. On September 19, 2011, the U.S. Chamber of Commerce filed a federal lawsuit seeking to block implementation of the rule.

The (NLRB) is the federal agency that oversees employees' rights to form a union. The NLRB has jurisdiction over every private employer – even those without any union employees – except for very small businesses, defined as either (a) non-retail businesses that do not purchase or sell more than \$50,000 across state lines, or (b) retail businesses that have a gross annual volume of business less than \$500,000. The NLRB also does not have jurisdiction over public sector employers or agricultural, railroad or airline employers.

The U.S. Chamber of Commerce represents 300,000 direct members and indirectly represents more than 3 million businesses and organizations throughout the U.S., of which more than 96% are small businesses with 100 employees or fewer.

To comply with the new rule, every employer would be required to put up a new 11" by 17" poster, which advises employees of their rights under the National Labor Relations Act. The notice is available online at [www.nlr.gov/poster](http://www.nlr.gov/poster). Under the rule, failure to post this notice could be found by the NLRB to constitute an "unfair labor practice" and subject the employer to penalties.

The U.S. Chamber's lawsuit, joining similar suits by the National Association of Manufacturers and the National Federation of Independent Business, seeks to block the new rule on the basis that the NLRB lacks legal authority to require private employers to post such a notice and also that it would violate business owners' First Amendment rights, among other reasons.

Tuesley Hall Konopa LLP will keep a close eye on this litigation and will publish a follow up report when it is resolved. Meanwhile feel free to contact your THK attorney if you have any questions regarding updating or maintaining the best employment practices and policies.



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