

Can Employers Block NLRB Proceedings? What the Circuit Split Means for Your Organization

Labor & Employment Law Update

By Laura Leahy on February 18, 2026

There is a growing circuit split between the Third and Fifth circuits over whether employers can block National Labor Relations Board (NLRB) proceedings while raising constitutional challenges. The disagreement centers on the Norris-LaGuardia Act (NLGA), a nearly century-old law designed to keep federal courts out of labor disputes, which is driving one of the biggest fights in labor and employment law at the moment. With two circuits now at odds, Supreme Court review is increasingly likely and the question is deceptively simple: Can a federal court order the NLRB to stop its proceedings while a lawsuit challenging the Board's constitutionality plays?

Why the NLGA Matters in NLRB Challenges

The NLGA was enacted to prevent judges from shutting down a strike, picket, or other labor activity with a court order. Federal courts apply a four-step framework to determine whether they have jurisdiction to issue an injunction, asking:

1. Does the action involve a labor dispute?
2. Does the relief sought involve an injunction?
3. Is there compliance with the NLGA's procedural requirements? and
4. Does an exception apply?

Because the NLGA defines a labor dispute so broadly—essentially as any disagreement over the terms and conditions of employment—it has historically applied to disputes between employers and unions.

Now, however, as employers challenge the Board's constitutional authority, the NLRB is arguing that the root of these suits are, at their core, labor disputes, which triggers the Act and arguably blocks the courts from issuing the injunctions.

Fifth Circuit Says Employers Can Seek Injunctions Against NLRB Proceedings

The Fifth Circuit granted SpaceX a preliminary injunction pausing the Board's case, finding that the NLGA does not apply when the defendant is the NLRB rather than a union. The court reasoned that a suit challenging the agency's constitutional structure is not a dispute between an employer and employees, and has nothing to do with boycotts, union organization, or labor strikes. Because the underlying claim is not a traditional labor dispute, the NLGA's limitations do not restrict the court's authority to issue injunctive relief. The court also held that subjecting an employer to an allegedly unconstitutional process constitutes irreparable injury.

The NLRB dismissed its unfair labor practice complaint against SpaceX entirely on February 9, 2026, citing a recent the National Mediation Board opinion asserting jurisdiction over the company. SpaceX will undoubtedly take the NLRB's apparent retreat as win because it significantly narrows a former employee's options for recourse.

Third Circuit Holds NLGA Blocks Injunctions Against the NLRB

The Third Circuit reached the opposite conclusion. In *Spring Creek Rehabilitation & Nursing Center LLC v. NLRB*, decided December 3, 2025, the court held that the NLGA *does* apply when an employer sues the NLRB to block its administrative proceedings. Spring Creek similarly challenged the constitutionality of the Board's structure—arguing that NLRB members and administrative law judges are unconstitutionally insulated from presidential removal—and sought a preliminary injunction to stop unfair labor practice proceedings against it.

The Third Circuit concluded that *the claims would not exist but for the underlying labor dispute between the employer and its employees*. Because the constitutional challenge arises out of that dispute, the NLGA applies, and the court lacks authority to issue the injunction.

Supreme Court May Soon Address Courts' Power Over NLRB Proceedings

With the Third and Fifth circuits on opposite ends of the spectrum on whether the NLGA can block courts from enjoining NLRB proceedings, Supreme Court review is likely. How SCOTUS resolves this question will determine the fate of pending constitutional challenges to the Board and the scope of judicial power over federal labor agencies as related to their ability to exercise injunctive relief.

What This Circuit Split Means for Employers Facing NLRB Actions

For employers facing or anticipating NLRB proceedings, the split creates strategic uncertainty. While the NLRB's apparent retreat in the SpaceX case may embolden employers to file these constitutional challenges, it shouldn't be assumed the

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Board will walk away in every case. The NLRB still has enforcement authority unless and until the Supreme Court says otherwise.

Employers should:

- Be aware of which circuit their case arises in since outcomes may differ dramatically;
- Avoid assuming that enforcement pauses are readily available;
- Work with trusted counsel to determine whether a constitutional challenge is viable.

The law in this area is shifting quickly and the viability of seeking an injunction may change as courts continue to grapple with the NLGA's reach.

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