

Fifth Circuit Ruling Delivers Historic Blow to Federal Labor Rights

New Orleans, August 2025 – In a ruling with significant implications for labor regulation, the Fifth U.S. Circuit Court of Appeals has determined that key structural aspects of the National Labor Relations Board (NLRB) likely violate the Constitution. The court's decision raises critical questions about the independence of federal labor agencies and presidential authority.



Key Ruling Details

- **Unconstitutional Removal Protections**
The Fifth Circuit found that legal safeguards insulating NLRB administrative law judges (ALJs) and board members from being removed at will by the president conflict with executive power. Judge Don Willett, appointed by former President Trump, emphasized, "Because the executive power remains solely vested in the President, those who exercise it on his behalf must remain subject to his oversight."
- **Preliminary Injunctions Remain in Place**
The court upheld injunctions granted by district courts in Texas, blocking NLRB proceedings against companies including SpaceX, Energy Transfer, and Aunt Bertha (Findhelp). The court held that companies should not have to choose between constitutional concerns and compliance.
- **First Appellate Finding Against NLRB Structure**
This marks the first time an appellate court has questioned the NLRB's statutory insulation from presidential removal—a foundational element of its independent agency status.

Broader Impact and Implications

This ruling could embolden additional legal challenges targeting the independence of federal agencies. The Fifth Circuit's opinion signals a shift toward affirming executive authority over regulatory bodies and may prompt similar rulings in other jurisdictions.

Companies within the Fifth Circuit—comprising Texas, Louisiana, and Mississippi—may increasingly leverage constitutional litigation to stall or freeze NLRB enforcement efforts.

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