

# Federal Court Blocks California's Attempt to Oversee Labor Disputes: What Employers Need to Know About Win for NLRB

A Practical Guidance® Article by Steven M. Bernstein, Benjamin M. Ebbink, and Todd A. Lyon, Fisher & Phillips LLP



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A federal judge just temporarily blocked California from extending its labor board's authority into private-sector labor disputes traditionally handled by the National Labor Relations Board (NLRB). The December 26 decision blocks key portions of a 2025 California law designed to allow state intervention when the federal labor agency is stalled or inactive. For employers operating in California, especially those facing organizing activity or unfair labor practice (ULP) exposure, the ruling provides clear notice that the NLRB continues to control private-sector labor relations within California (and by extension, other states) in the vast majority of circumstances. How will this ruling reverberate across

the country into other states vying to insert themselves into the labor law scene? Read on for a summary and a practical gameplan to approach the coming months.

## What Happened?

California lawmakers [enacted AB 288](#) in response to an extended power vacuum at the NLRB, including a lack of quorum ([that has since been resolved](#)). The law sought to give power to the California Public Employment Relations Board (PERB) (historically limited to public-sector disputes) to take jurisdiction over private-sector labor disputes if the NLRB:

- Lacked a quorum
- Lost its “independence”
- Experienced extended processing delays
- Was otherwise unable to act

On December 26, the US District Court for the Eastern District of California largely granted the NLRB's request for a preliminary injunction blocking enforcement of the law. It barred California from enforcing provisions that would have allowed PERB to take over private-sector disputes based on NLRB quorum failures, alleged loss of NLRB “independence,” processing delays, or prolonged inaction. The court said that these situations do not amount to the NLRB giving up its authority, even if the federal process is slow or politically constrained.

- It concluded that allowing state adjudication in these situations would create conflicting jurisdiction and undermine national labor policy.
- The court made clear that administrative delays—even those lasting years—do not open the door to state takeover. That's especially significant for employers facing long-running NLRB proceedings.

# What Parts of the Law Are Still Permitted?

The court allowed California to enforce limited provisions of the law when federal authority genuinely disappears and true jurisdictional gaps exist. Such narrow circumstances are confined to:

- Situations where workers lose NLRA coverage entirely
- Cases where the NLRB has expressly ceded jurisdiction
- Cases where a court has enjoined NLRB proceedings in a specific matter

## How Does This Case Fit Into the Broader Trend?

This decision mirrors another recent federal court decision that blocked a similar effort by New York to fill perceived gaps in federal labor enforcement ([see our coverage here](#)).

## What Should Employers Do Now?

- Continue to manage labor risk with the NLRB front of mind.
- Organizing campaigns, ULP charges, and concerted activity remain governed primarily by federal law.
- Prepare for a sweeping set of changes at the NLRB.

Now that the agency has gained a quorum, you can expect a set of workplace rule changes to quickly unfold in 2026. [Take a look at our list here.](#)

- Monitor appeals and parallel litigation.

Last week's California decision was simply a preliminary injunction, not a final ruling. The state is likely to appeal, and similar laws in other states could prompt further litigation.

- Prepare for continued experimentation by states.

Even if AB 288 ultimately fails, the case signals that states are actively looking for ways to intervene when federal agencies falter. You can expect this trend to continue (including in Massachusetts, [which you can read about here](#)).

## Conclusion

Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. For further information, contact your Fisher Phillips attorney, the authors of this Insight, [or any member of our Labor Relations Practice Group](#).

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- [NLRB Procedures for Unfair Labor Practice Cases](#)

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- [NLRA Unfair Labor Practices Video](#)

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### Steven M. Bernstein, Regional Managing Partner and Labor Relations Group Co-Chair, Fisher & Phillips LLP

Steve Bernstein is a distinguished labor relations attorney, representing employers in all facets of traditional labor and employment law. Steve co-chairs the firm's nationwide Labor Relations Practice Group and serves as Regional Managing Partner of the firm's Tampa office.

Over the past three decades, Steve has built an impressive practice dedicated to representing employers of all sizes in both the public and private sectors from the onset of union organizing and representation elections through the process of collective bargaining, grievance arbitrations, picketing activity, strikes and other work stoppages, and ensuing labor litigation before the National Labor Relations Board and the federal courts. Along the way, Steve has successfully handled hundreds of Unfair Labor Practice charges, securing favorable outcomes for clients across a multitude of industry sectors. He has also counseled a multitude of employers through the complex labor relations implications of mergers and acquisitions.

Steve believes in taking a proactive approach to positive employee relations by placing an emphasis on education and training. He regularly advises and assists clients in implementing programs surrounding effective human resources policies, minimizing the risk of operational disruption.

Steve is recognized as a highly qualified and skilled communicator, having authored numerous articles featured in firm publications. His insights provide valuable guidance on navigating the ever-changing landscape of labor relations and the shifting ideologies of the NLRB.

### Benjamin M. Ebbink, Partner, Fisher & Phillips LLP

Benjamin M. Ebbink is a partner in the Sacramento and Washington D.C. offices, Co-Chair of the Government Relations Practice Group and Chair of the Staffing Industry Group.

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With over two decades of experience in the intersection between labor and employment law and public policy, he focuses on legislation and regulations enacted at the federal, state and local levels. Benjamin assists employers with navigating evolving legislative and regulatory landscapes in a variety of areas.

Benjamin is a trusted advisor to the PEO and staffing industries, having worked on nuanced legal and regulatory issues affecting these industries for over two decades. In addition, he handles strategic initiatives aimed to provide top-shelf service to the unique needs of the firm's staffing clients. Benjamin is a frequent speaker on panels and conferences focused on issues that matter to both the PEO and staffing industries.

He is also a member of the firm's Artificial Intelligence Team, where he monitors the rapidly-developing regulation of artificial intelligence at the federal, state and local level.

For nearly 15 years, Benjamin served as Chief Consultant to the California Assembly Committee on Labor and Employment where he was the primary policy advisor on labor and employment matters for the California State Assembly. He played a key role in virtually every major labor and employment issue to come before the Legislature during his tenure, and personally drafted hundreds of legislative proposals. During his service in the Legislature, Benjamin earned a reputation for his integrity, his ability to work with diverse stakeholders on all sides, and his skill as a problem-solver.

His legislative experience and deep connections in the stakeholder community allow him to provide services to clients that have legislative or regulatory issues that benefit from his unparalleled experience and strategic guidance. Benjamin is also a registered legislative advocate and represents clients on labor and employment matters before Congress and legislatures in California and in other states.

Benjamin began his legal career as an associate with a regional law firm focusing on traditional labor law, bankruptcy law and ERISA. He received his J.D. in 2000 and his B.A. in 1997 from the University of California, Davis. He lives in Roseville, California with his wife and eight children.

### **Todd A. Lyon, Partner and Labor Relations Group Co-Chair, Fisher & Phillips LLP**

Todd Lyon is a dynamic force in labor law, serving as the co-chair of the Labor Relations Practice Group at Fisher Phillips. With nearly three decades of experience, Todd is renowned for his innovative approach to solving complex labor issues across the country, with particular emphasis on businesses operating on the West Coast. His practice is dedicated to representing public and private sector employers in labor negotiations, strikes/lockouts, grievance and interest arbitrations, relocations and closures, work jurisdiction disputes, and employment and benefit litigation.

Todd's career began with representing labor organizations in Chicago and Seattle, providing him with a comprehensive understanding of both sides of the labor spectrum. This dual perspective allows him to craft and deploy strategies that align with his clients' goals while maintaining constructive labor relations. His expertise spans a diverse range of industries, including:

- Healthcare
- Beverage distribution
- Waste/recycling
- Food manufacturing
- Hospitality
- Construction
- Aerospace
- Logistics
- Transportation
- Warehousing
- Cannabis
- Public sector

As a seasoned negotiator, Todd has successfully negotiated more than 100 pro-employer collective bargaining agreements. He is adept at developing and implementing robust strike contingency and contract implementation plans in the event a deal cannot be reached. His strategic focus on employee engagement enables him to guide clients through union organizing campaigns making third-party representation unnecessary. When litigation becomes unavoidable, Todd leverages his extensive experience to achieve superior results in hundreds of arbitrations, addressing a wide range of issues such as contract interpretation, discipline, union security, and interest arbitration. Additionally, Todd has conducted labor board hearings and federal litigation on matters including representation, unfair labor practices, work jurisdiction disputes, sympathy strikes, federal labor preemption, and unit clarifications.

Todd is also a sought-after speaker and educator, sharing his insights at industry conferences, legal education programs, and client training sessions. His contributions to the field include serving as a Chapter Editor of *The Developing Labor Law* (since 1998) as well as Oregon's public sector labor law treatise. Certified by the American Arbitration Association as an Employment Law Arbitrator, Todd is recognized for his ability to conduct fair and efficient hearings, drawing on his extensive litigation experience.

Todd's commitment to excellence and his practical problem-solving skills have earned him accolades from peers and clients alike, making him a trusted advisor in the ever-evolving landscape of labor and employment law. He has recently been recognized in prestigious trade publications, including *Chambers USA*, *The Legal 500 United States*, and *The Best Lawyers in America*.

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