



Federal Court Orders Starbucks To Re-Hire Terminated Union Supporters

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Employee termination decisions often are difficult and can be legally nuanced. This is particularly true when discharges happen while union organizing activity is underway. A recent case involving Starbucks – which remains under siege in the midst of a [national unionization push](#) – illustrates some of the legal hurdles employers can face in this context.

According to a [recent press release](#) from the National Labor Relations Board (NLRB):

“On August 18, 2022, U.S. District Judge Sheryl H. Lipman of the District Court of Western Tennessee issued an injunction requiring Starbucks to reinstate seven unlawfully fired workers, rescind and expunge unlawful discipline issued to an employee, post the Court’s Order and translations in other languages, and cease and desist from unlawful activities. The injunction was issued based on a petition for temporary injunctive relief filed by Region 15 Regional Director Kathleen McKinney in May ... The petition explained that, after learning about the organizing effort, Starbucks directed a wide variety of coercive measures at its employees, including: disciplining the employee responsible for starting the campaign; more closely supervising its employees; closing the area of the store on days organizers had previously invited the public and customers to come to show support for the campaign; and removing all pro-union materials from the community bulletin board inside the store, including notes authored by customers expressing support for the

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employees and their campaign. Then, following increased media coverage and public support for the campaign, Starbucks terminated seven Union activists all on the same day, including five of the six members of the union organizing committee.”

In short, the NLRB persuaded a judge that certain employees who supported a union effort were discharged based on those sympathies, and the judge accordingly ordered reinstatement of those workers, among other relief.

In this case, the NLRB sought relief under [Section 10\(j\)](#) of the National Labor Relations Act, which allows the agency to seek injunctive relief from federal courts in certain instances, such as alleged unlawful employee terminations during union campaigns. The Board historically has had much success with these types of actions. In 2021, more than 90 percent of Section 10(j) cases initiated by the NLRB were either granted or settled on terms acceptable to the Board. Though in fiscal year 2020, that number was 100 percent. 10(j) actions are typically costly for companies, as companies usually are defending allegations before the NLRB and federal court simultaneously once a 10(j) petition is filed.

With union organizing hitting at a [historic pace](#) since the beginning of 2022, this is an important issue for employers to monitor and be cognizant of, in the event they encounter any union activity in their workplace(s).