



NLRB Signals We May Not Get Clarity On Construction Industry CBAs Just Yet

October 18, 2018 | [National Labor Relations Board, Labor And Employment](#)



**David J.
Pryzbylski**
Partner

On Sept. 11, the National Labor Relations Board (NLRB) invited the public to file briefs on [legal issues pertaining to construction industry labor agreements](#). Most private sector collective bargaining agreements are governed by Section 9(a) of the National Labor Relations Act, which generally requires that a majority of the employees in the bargaining unit support having a union represent them. In the construction industry, though, labor agreements are presumed to be covered by Section 8(f) of the act, which does not require a showing of majority support. The board specifically was seeking input as to whether language alone in a collective bargaining agreement could convert a construction contract into a 9(a) agreement.

On Oct. 15, however, the [NLRB issued a notice](#) stating it was suspending briefing on the issue in light of the union's withdrawal of the underlying allegations. The press release specifically states:

"On September 11, 2018, the Board issued a Notice and Invitation to File Briefs in *Loshaw Thermal Technology, LLC*, 05-CA-158650, regarding whether Section 9(a) bargaining relationships in the construction industry may be established by contract language alone. The due date for the receipt in Washington, D.C. of briefs pursuant to the Board's Notice and Invitation was October 26, 2018. On October 5, 2018, the Charging Party Union filed with the Board a request to withdraw the underlying charge in this matter. In view of the Charging Party Union's request to withdraw the charge, the Notice and

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations
National Labor Relations Board (NLRB)

RELATED TOPICS

Construction Industry

Invitation to File Briefs in this case is suspended, pending the Board's action on the withdrawal request.

Accordingly, no additional briefs should be filed in this case until further notice." Accordingly, we may be waiting until a future case to have more clarity surrounding gray areas related to Section 8(f) agreements. Stay tuned.