



Whatcha Gonna Do When They Come For You? NLRB Has Company Officials Arrested For Non-Compliance

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Anyone who has been paying attention to labor relations in the last few years knows the National Labor Relations Board (NLRB) has been effectuating a lot of change and also been taking an aggressive posture in most cases. In line with those trends, earlier this month we saw another hardline position taken by the agency: it had officials of a company found to have violated labor law arrested for non-compliance with board and court orders.

The company, Haven Salon + Spa in Wisconsin, allegedly unlawfully discharged an employee who complained about COVID-19 safety protocols during the pandemic. The NLRB determined the safety complaints were protected activity and that the discharge violated the National Labor Relations Act. Accordingly, the NLRB ordered the company to reinstate the worker with back pay and to issue a letter of apology, post a notice of employee labor law rights, and expunge the discharge documentation in the employee's file. These are typical remedial measures ordered by the NLRB in termination cases these days.

The NLRB subsequently asked a federal court in Wisconsin to enforce its order and the court did so. When Haven Salon did not comply with that court order, the NLRB requested in February 2023 that the company be held in contempt. The court agreed. What happened next – a contempt of court arrest and hefty fines – may be surprising to some.

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According to [an NLRB press release](#), “But Haven Salon + Spa still did not comply, so the Board filed another motion with the Court in August 2023 to liquidate the fines, add the [company officials] as additional respondents in contempt, and issue a writ of body attachment. The Board argued that the [officials], as Haven Salon + Spa’s corporate officials, were responsible for the company’s noncompliance with the Court’s orders. In its motion, the Board also pointed to evidence suggesting that the [officials] had deliberately evaded service of those orders on multiple occasions. The Court granted the motion in full and ordered Haven Salon + Spa to pay the Board over \$30,000 in fines and attorney’s fees. The U.S. Marshals Service for the Eastern District of Wisconsin took the [officials] into custody on September 12th for a same-day hearing at which they committed to a United States Magistrate Judge that they would promptly comply with the Court’s orders.”

Blatant non-compliance with court orders – regardless of the legal context – is virtually never a smart legal maneuver, as illustrated in this case.

Bottom line for employers: The [NLRB is taking an aggressive stance](#) in cases from the outset and companies should be cognizant of this as they navigate the NLRB investigative and litigation processes.