

A Mixed Bag Of Tricks For Michigan's Right To Work Law

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As we [previously reported](#), a number of lawsuits were filed challenging Michigan's Right to Work Law. One of those challenges was filed by the Michigan State AFL-CIO and several other labor groups in February 2013, alleging that the Right to Work law covering private sector employees was preempted by the federal law and therefore invalid. The state officials named in the lawsuit responded by filing a motion to dismiss. On March 31, 2014, Eastern District of Michigan District Court Judge Stephen J. Murphy granted the State's motion as to some parts of the law and upheld the key provision in the Right to Work law that prohibits requiring employees to pay money to a labor organization as a condition of employment, since Section 14(b) of the National Labor Relations Act specifically allows states to regulate this issue. However, the Judge did not grant the State's motion to dismiss in its totality, and therefore, several claims will continue to be litigated. Namely, the Judge found that the Unions' challenges to other provisions of the law, including the prohibition of the use of force, intimidation, and unlawful threats to compel an employee to become or refrain from becoming a union member, could be preempted by federal law that already regulates this area. In essence, the Judge found that Section 14(b) of NLRA does not completely encapsulate the rights that Michigan's Right to Work law attempted to establish, and that some of those rights go beyond merely regulating union security agreements. Another issue that was left open was whether the enforcement provisions of the law might be severed if other provisions are struck down. We will continue to monitor this litigation as it progresses. Judge Murphy's opinion is available [here](#).

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