

## EMPLOYMENT SERVICES ALERT

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### Ambush Election Rules are Here to Stay

By [Matt Austin](#)

Companies and the labor lawyers that represent them have been holding out hope that a court would overrule the National Labor Relations Board's recently implemented ambush election rules, but our hopes are dashed. The ambush election rules are here to stay.

Various lawsuits challenging the new election rules were filed, but courts have consistently upheld the new rules. Most recently, the U.S. Chamber of Commerce and other business groups challenged the ambush election rules in a federal court in the District of Columbia. The judge granted summary judgment to the Board finding no legal basis for the challenge. Minimizing the significance of the lawsuit, the judge viewed the parties as simply having a "significant policy disagreement."

We previously explained the monumental changes brought about by the new rules and how they make it easier for unions to organize employees. [See our Alert, "[FINAL COUNTDOWN ... Less than One Month to Prepare for Ambush Elections](#)"]. The most notable change in the new rules is the reduced time between filing a representation petition (which triggers a union election) and conducting the election. The rules compress the already short timeframe from petition to election even further - to as little as 10-21 days. As a result, companies have very little time to respond to a union organizing drive.

Since the ambush election rules went into effect, the percentage of representation petitions filed compared to this time last year has increased dramatically. We expect even more petitions will be filed now that the court has found the rules lawful. Employers cannot risk waiting until a union files a petition to develop their strategy for remaining union-free. Companies need to create a rapid response plan **now** that will enable them to respond immediately after learning a petition was filed. This preliminary preparation is critical to keeping companies union-free.

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