



# SCOTUS Delivers Starbucks a Win in Labor Dispute: Here's How the Ruling Impacts Employers

Insights

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The Supreme Court just sided with Starbucks in a case where the Labor Board tried to force the company to temporarily reinstate workers who were fired for hosting media interviews afterhours in a closed store. Starbucks said it fired the employees for violating valid company policies — but the National Labor Relations Board convinced a lower court to reinstate the employees while a legal battle ensued over whether they were actually fired for engaging in union organizing activities. The coffee chain argued the lower court applied an incorrect standard in evaluating the Board's request, which ultimately made it easier for the workers to be reinstated despite evidence they were fired for valid reasons. Siding with Starbucks, the Supreme Court said courts must use a traditional, more stringent test to review such requests from the NLRB, not the lenient standard pushed by the Board. Here's what you need to know about the June 13 ruling in *Starbucks Corp. v. McKinney* and what it means for employers.

## What Did the Court Decide?

- Under Section 10(j) of the NLRA, the Board can ask a federal district court to order certain temporary measures, like reinstating employees, while an unfair labor practice claim is being litigated. The NLRB says these temporary injunctions — called 10(j) injunctions — help protect employees' rights.
- There was a disagreement, however, among federal appeals courts on how requests for injunctive relief under Section 10(j) should be evaluated. Some courts applied a traditional, strict test while others adopted a more lenient, union-friendly approach.
- In this case, the 6th Circuit used the lenient two-part test, under which the Board had to only show that:
  1. there is "reasonable cause" to believe that an unfair labor practice occurred (which Starbucks argued is a "relatively insubstantial" standard that favors the Board); and
  2. relief is "just and proper."
- The 3rd, 5th, 10th, and 11th Circuits have also applied this low-threshold test.
- Instead of this analysis, SCOTUS sided with Starbucks and applied the standard used in the 4th, 7th, 8th, and 9th Circuits, which is a traditional four-factor test that governs requests for

injunctive relief in many other contexts. Under this standard, the Board is required to show more:

1. it is likely to succeed on the merits;
  2. it will likely suffer irreparable harm without preliminary relief;
  3. the balance of the equities tips in its favor;
  4. and an injunction is in the public interest.
- “Nothing in §10(j)’s text overcomes the presumption that the four traditional criteria govern a preliminary-injunction request by the Board,” Justice Clarence Thomas wrote for the Court, reversing the 6th Circuit’s decision and remanding the case for further proceedings.

## What Led to the Lawsuit?

- **Starbucks fired workers for violating company policy.** Several employees who worked at a Memphis location of the coffee chain conducted a media event after the store was closed and while some on-duty employees were supposed to be engaged in closing procedures — including cash handling. Additionally, a few off-duty employees were behind the bar when the safe was unsecured during the closing process, which violates company policy. The company says employees are not allowed to let unauthorized people into the stores when they are closed, including off-duty employees, yet the group hosted news crews for about an hour with the door locked behind them. This is not disputed.
- **Workers filed NLRB complaint.** The employees claimed that they were actually fired for engaging in protected activity under the National Labor Relations Act and filed charges with the NLRB alleging the company committed unfair labor practices.
- **Labor Board asked court to reinstate workers.** While the case was pending, the NLRB asked a federal district court to provide the workers with temporary relief in the form of an injunction, which included an order to reinstate the fired employees within five days.
- **Lower courts sided with Labor Board.** The district court held the NLRB met its “relatively insubstantial burden to establish reasonable cause” — and the 6th U.S. Circuit Court of Appeals upheld the ruling.
- **Starbucks appealed to SCOTUS.** The company says the NLRB should be held to a consistent standard, and the 6th Circuit departed from the traditional test used in such cases. “Furthermore, the NLRB alone controls how long their proceedings last, so an injunction can force an employer to operate under a federal court order for years as those proceedings play out,” Starbucks said in a statement.
- **SCOTUS sides with Starbucks.** The Supreme Court said, absent a clear command from Congress, courts must adhere to the traditional four-factor test noted above. “This Court has consistently employed this presumption when interpreting a wide variety of statutes that

authorize preliminary and permanent injunctions, Justice Thomas wrote. When interpreting a statute that authorizes federal courts to grant preliminary injunctions, we do not lightly assume that Congress has intended to depart from established principles.”

## What Should Employers Do Now?

While the Supreme Court’s ruling is a win for employers, it’s a good idea to review your workplace policies and practices and consider taking the following steps to strengthen your employee relations program:

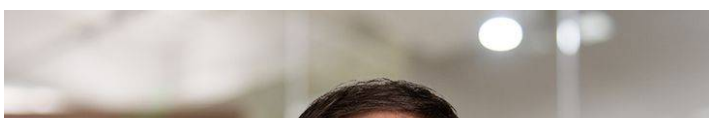
- **Create positive relationships with employees.** Human Resources and frontline managers should commit to developing a positive culture. Seek input from and listen to employees about their needs in the workplace and promptly respond to their concerns. Implement a regular process to confirm your wages and benefits are competitive. Use a robust communication process to remind employees of the “hidden value” of their benefits package.
- **Share your philosophy with employees.** Lawfully educate employees on your employee relations philosophy. In doing this, understand that the legality of mandatory meetings to discuss unionization is now in jeopardy and that a decision rendering such meetings unlawful could be applied retroactively.
- **Train supervisors and managers.** While the NLRB is rapidly shrinking the rights available to employers for lawfully responding to union activity, they retain statutory “free speech rights” to help employees make informed decisions. It is therefore more important now than ever for your statutory supervisors to understand what can be said lawfully, the importance of avoiding ULPs, and the role they play in maintaining your employee relations infrastructure.
- **Collaborate with internal stakeholders and labor counsel** to tailor an appropriate compliance strategy around the unique aspects of your workplace.

Curious about union organizing activity in your industry or region? Our complimentary map allows you to stay up to speed on what’s happening in your own backyard in real time. [Click here for four interesting trends revealed by FP’s Union Organizing Activity Map.](#)

## Conclusion

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