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poster informing employees of their right to form a union, a victory for a group of business plaintiffs that includes a Pennsylvania fitness club chain.

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May 07, 2013 — A federal appeals court ruled Friday that employers shouldn't be forced to display a poster informing employees of their right to form a union, a victory for a group of business plaintiffs that includes Lehigh Valley, Pennsylvania, fitness club chain owner John Brinson.

Brinson, who owns three 24-7 Fitness Clubs in the Lehigh Valley, was one of two individual plaintiffs represented in separate cases by the National Federation of Independent Business, one of several business groups that challenged the requirement in federal court.

Businesses should not be required to give their employees a road map to unionizing, said Brinson, who said he doesn't think unions should be allowed to exist.

"I feel very strongly that I do not want unions in my business," Brinson said. "In fact, I don't want unions in any business. I think it's a human rights issue. It's just not right to force someone to join an organization as a condition of employment. It's just wrong."

The poster requirement was drafted in 2010 by the National Labor Relations Board and scheduled for implementation on November 2011. It was delayed until April 30 and postponed indefinitely pending the outcome of the legal challenge.

In addition to informing employees of their right to form a union, the NLRB-created poster lays out organizing rules for employers and unions under the federal National Labor Relations Act.

Employers, for example, are prohibited from threatening to close a workplace if its

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declining, said Richard Hurd, a Cornell University labor relations expert.

“It fits with the effort by some anti-union parties to take on the NLRB generally and I’m sure they take some comfort in this ruling,” Hurd said.

The NLRB, which enforces federal labor laws, has been battling Republicans and business groups over three recess appointments to the board made in 2012 by President Obama. The board announced in March that it would appeal a recent ruling in that dispute to the U.S. Supreme Court.

The poster decision is a “monumental victory for small business owners across the country” said Karen Harned, executive director of the National Federation of Independent Businesses Small Business Legal Center. The NLRB was trampling businesses’ free speech rights by trying to force employers to put up its poster.

“The right to disseminate another’s speech necessarily includes the right to decide not to disseminate it,” wrote A. Raymond Randolph, senior circuit judge for the U.S. District Court of Appeals, District of Columbia Circuit. “First Amendment law acknowledges this apparent truth: ‘all speech inherently involves choices of what to say and what to leave unsaid’.”

The poster rule is also under review by the U.S. Court of Appeals for the Fourth Circuit.

Lehigh Valley Labor Council president Gregg Potter said the business groups’ lawsuit was unwarranted because the poster doesn’t offer workers a road map to unionization, only informs them of their rights. If anything, it just underlines the groups’ anti-union bias, he added.

“Unless they are going to provide an alternative means to show employees where they can find this information, I think it is totally wrong,” Potter said of the ruling. “I

think people need to know their rights.”

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hourly workers that they could also vote to decertify a union or object to its union dues.

The ruling confirms that the National Labor Relations Board overstepped its power by trying to enact a requirement it couldn’t get through Congress, said Kevin Shivers, state director of the Pennsylvania chapter of the National Federation of Independent Business.

A National Labor Relations Board spokesman said the board “is reviewing the court’s decision on the employee rights notice rule and will make a decision on further proceedings at the appropriate time.”

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