



Ava Lombardi

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The Eighth Circuit has ruled that a former Home Depot worker's political insignia was not covered under federal labour law, narrowing the scope of protected concerted activity.

Key takeaways

- The court found that Home Depot's enforcement of its dress code was lawful, citing credible concerns over employee safety and reputational harm.
- The court held that NLRA protections only apply when employee activity is clearly connected to workplace conditions.
- The ruling affirms employers' discretion to regulate political expression in the workplace.



In a 6 November 2025 decision, a three-judge panel for the US Court of Appeals for the Eighth Circuit vacated a 2024 US National Labor Relations Board (NLRB) ruling that found that Home Depot illegally fired an employee for refusing to remove a Black Lives Matter (BLM) insignia from their work uniform.

The decision concludes a closely watched case concerning labour law protections for employees participating in workplace civil rights protests. The appeals court ruled that the NLRB misapplied the law in assessing Home Depot's uniform policy,

finding the company's enforcement of its dress code to be consistent with the National Labor Relations Act 1935 (NLRA).

The case centres on Caro Linda Bo, a former Home Depot employee in Minnesota who, along with other workers, wore a BLM insignia on their work apron in 2020 amid incidents of race-based discrimination and vandalism at the store. Bo was formerly known as Antonio Morales, including at the time of the NLRB's ruling.

While raising concerns about the incidents with management, Bo was told their BLM insignia violated the company's dress code, which allows employees to personalise their signature orange aprons but bans them from displaying "religious beliefs, causes or political messages unrelated to workplace matters" on their uniforms. Supervisors instructed Bo to remove the lettering, prompting them to resign.

Bo filed unfair labour practice charges with the NLRB, which alleged that the company violated the NLRA by restricting protected concerted activity. Home Depot rejected the allegations, citing the NLRA's "special circumstances" doctrine, which allows employers to ban certain messaging that conflicts with business interests. The company argued that it reasonably believed Bo's apron display would jeopardise employee safety and harm its public image.

An administrative law judge (ALJ) agreed, finding that Bo's actions had "at best, an extremely attenuated and indirect relationship to any workplace issue." But the NLRB reversed the ALJ's decision in 2024, ordering Home Depot to cease interference, reinstate Bo and provide back pay.

The Eighth Circuit disagreed with the NLRB's analysis. The appeals court noted that Home Depot "did not attempt to prohibit the substance of Bo's message," but rather to "limit display of Bo's opinions *on the employer-required uniform* to less politically charged messaging." The decision cited "multiple apron messages" that Home Depot had suggested to Bo as alternatives to the BLM insignia.

"In this case, Home Depot evenly restricted displays of 'Blue Lives Matter,' other politically controversial messages, and Bo's 'BLM Matters' message. And it implored Bo to select other messages -- such as DEI or Black History Month displays -- that would have the same workplace implication without broader societal political intimations," the court wrote. "This demonstrates consistent enforcement of its policy, not discrimination that [the NLRA] declares unlawful."

The appeals court also found that the NLRB "failed to properly consider Bo's BLM apron display" in the proper context. It determined that Home Depot's dress code enforcement only showed that it "did not want to allow the mass expression of a controversial message by employees in their stores."

Former NLRB member Marvin Kaplan questioned the majority's finding in his 2024 dissent. He argued that "a reasonable person with knowledge of the relevant facts would have linked [Bo's] display of 'BLM' with the Black Lives Matter movement and its goal of combating police violence against Black individuals -- not with improving terms and conditions of employment of employees at [Home Depot]." The Eighth Circuit took a similar stance on 6 November.

"Context matters. The activity in dispute was not a display at a random location in the United States; it was not at a normal moment in time; and it was not a generic message for equal rights or employee protection. Bo's BLM message was broadcast only a few miles from the site of George Floyd's murder," the court wrote. Because of the "significant unrest and turmoil that at times closed this Home Depot store," the court reasoned that "Bo's insistence on wearing and refusing to remove the BLM message posed a clear risk to customer and employee safety."

Further, the appeals court acknowledged evidence that Home Depot had "endeavored to root out racism at the store." The Eighth Circuit concluded that the NLRB "did not properly balance the competing interests and 'give weight to all of the relevant factors which are involved.'"

Counsel to Home Depot

Latham & Watkins

Partner Roman Martinez in Washington DC

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