

Supreme Court Holds That The National Labor Relations Act Does Not Preempt Tort Claims Against Union For Destruction Of Property

Client Alert | June 1, 2023

Decided June 1, 2023 *Glacier Northwest, Inc. v. International Brotherhood of Teamsters Local Union No. 174, No. 21-1449* Today, the Supreme Court held that the National Labor Relations Act (“NLRA”) does not preempt state-law tort claims against a union based on the intentional destruction of property as the result of a labor strike. **Background:** Section 7 of the NLRA guarantees employees the right to form, join, or assist labor organizations, to bargain collectively, and to engage in other concerted activities for collective-bargaining purposes. 29 U.S.C. § 157. In *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959), the Supreme Court held that the NLRA preempts certain state tort claims that either conflict with the terms of the NLRA or implicate conduct that the statute “arguably” protects. *Id.* at 245.

During a collective-bargaining dispute, the employees of a concrete-mixing company, Glacier Northwest, walked off the job after their trucks were loaded with concrete. Some of the concrete hardened and became useless. Glacier sued the union under Washington state law for conversion and trespass to chattels, alleging that the union had timed the strike to destroy company property. The Washington Supreme Court, citing *Garmon*, held that the NLRA preempted Glacier’s claims.

Issue: Whether the NLRA preempts tort claims against a union for intentionally destroying an employer’s property as the result of a labor strike. **Court’s Holding:** No. The NLRA does not preempt tort claims for intentional destruction of property as the result of a labor strike.

“Because the Union took affirmative steps to endanger Glacier’s property rather than reasonable precautions to mitigate that risk, the NLRA does not arguably protect its conduct.”

Justice Barrett, writing for the Court

What It Means:

- The Court did not change the longstanding standard for preemption under *Garmon*. However, the Court held that the tort claims at issue were not preempted because the NLRA does not arguably protect striking workers who decline to take reasonable precautions to avoid foreseeable and imminent harm to company property.
- The Court rejected the union’s argument that *Garmon* requires only a modest showing before courts will decide that the NLRA preempts a state-law claim.
- The Court’s decision may induce unions to be careful to avoid unnecessary

Related People

[Lucas C. Townsend](#)

[Bradley J. Hamburger](#)

[Brad G. Hubbard](#)

[Daniel R. Adler](#)

[Elizabeth Strassner](#)

GIBSON DUNN

destruction of company property during labor strikes.

The Court's opinion is available [here](#).

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

Appellate and Constitutional Law Practice

Thomas H. Dupree Jr. +1 202.955.8547 tdupree@gibsondunn.com	Allyson N. Ho +1 214.698.3233 aho@gibsondunn.com	Julian W. Poon +1 213.229.7758 jpoon@gibsondunn.com
--	---	--

Lucas C. Townsend +1 202.887.3731 ltownsend@gibsondunn.com	Bradley J. Hamburger +1 213.229.7658 bhamburger@gibsondunn.com	Brad G. Hubbard +1 214.698.3326 bhubbard@gibsondunn.com
---	--	---

Related Practice: Litigation

Reed Brodsky +1 212.351.5334 rbrodsky@gibsondunn.com	Theane Evangelis +1 213.229.7726 tevangelis@gibsondunn.com	Veronica S. Moyé +1 214.698.3320 vmoye@gibsondunn.com
--	--	--

Helgi C. Walker +1
202.887.3599
hwalker@gibsondunn.com

Related Practice: Labor and Employment

Jason C. Schwartz +1 202.955.8242 jschwartz@gibsondunn.com	Katherine V.A. Smith +1 213.229.7107 ksmith@gibsondunn.com
---	--

Related Capabilities

[Appellate and Constitutional Law](#)

[Labor and Employment](#)