



# Pennsylvania Conference of Teamsters

## Strength in Numbers 95,000

# LEGISLATIVE ACTION ALERT

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## Major US corporations threaten to return labor to 'law of the jungle'

Upset by the surge in union drives, several of the best-known corporations in the US are seeking to cripple the country's top labor watchdog, the National Labor Relations Board (NLRB), by having it declared unconstitutional. Some labor experts warn that if those efforts succeed, US labor relations might return to "the law of the jungle"

In recent weeks, Elon Musk's SpaceX, as well as Amazon, Starbucks, and Trader Joe's, have filed legal papers that advance novel arguments aimed at hobbling and perhaps shutting down the NLRB – the federal agency that enforces labor rights and oversees unionization efforts. These companies are eager to thwart the NLRB after it accused Amazon, Starbucks, and Trader Joe's of breaking the law in battling against unionization and accused SpaceX of illegally firing eight workers for criticizing Musk.

Roger King, a longtime management-side lawyer who is senior labor counsel for the HR Policy Association, said, "it will be a lose-lose" if the federal courts overturn the 89-year-old National Labor Relations Act, which has governed labor relations since Franklin Roosevelt was president. "We'll have the law of the jungle, the law of the streets," King said. "It will be who has the most power. It's potential for chaos."

Kate Andrias, a Columbia University law professor, said workers would be hurt if the courts issue a sweeping decision that declares both the NLRB

and the National Labor Relations Act unconstitutional. "Without them, workers will be even worse off," she said. "It's critical that they continue to exist to protect the basic right to organize and engage in collective bargaining. This is an assault on rights we have considered fundamental since the New Deal."

Some worker advocates have voiced surprise that these companies are seeking to hobble the NLRB when, in their view, the labor board is already too weak, its penalties toothless. The NLRB can't fine companies even one dollar for breaking the law – for instance, by illegally firing workers for supporting a union. SpaceX, Starbucks, Amazon, and Trader Joe's have put forward three main arguments for holding the NLRB unconstitutional: it penalizes companies without a jury trial, exercises executive powers without the president being free to remove board officials, and violates the separation of powers by exercising executive, legislative, and judicial functions.

This corporate attack is part of a wave of lawsuits challenging the constitutionality of various federal agencies that regulate business. "For most workers and unions, the National Labor Relations Board is the only game in town," said Gould, the board's former chairman. "Most employers won't recognize and bargain with unions without the National Labor Relations Board requiring them to."