Proskauer

HALTED: Federal Court Declares NJ's Labor Peace Agreement Requirement Preempted by the NLRA

Labor Relations Update on **August 21, 2026**

On August 10, 2026, Judge Michael A. Shipp of the U.S. District Court for the District of New Jersey declared that the National Labor Relations Act ("NLRA") preempts the labor peace agreement ("LPA") requirement in New Jersey's Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act ("CREAMMA").

The ruling in *Curaleaf Holdings Inc. v. NJ Cannabis Regulatory Commission*, No. 3:25-cv-16397 (D.N.J. Aug. 10, 2026), converts Judge Shipp's May 2026 preliminary injunction opinion into a final, appealable order—setting the stage for a potentially landmark Third Circuit decision on NLRA preemption and state-mandated labor obligations. The decision adds to a growing line of federal court rulings rejecting state attempts to regulate private-sector labor relations in ways that conflict with the NLRA, a trend we have been closely tracking in the context of state NLRB trigger bills (covered here and here). Federal courts across the country have recently addressed similar preemption challenges to state cannabis LPA requirements, with most finding such requirements preempted—though the issue remains unsettled in some jurisdictions.

Background

CREAMMA conditions cannabis licensure on signing an LPA with a labor union, requiring the business to negotiate a collective bargaining agreement within 200 days of opening. The LPA is an "ongoing and material condition" of licensure—violation can result in suspension, revocation, or nonrenewal. Curaleaf signed an LPA in 2022 but allowed it to expire in April 2025, resulting in a $610,000 fine. It sued in October 2025, arguing that the NLRA preempts the LPA requirement.

The May 2026 Opinion

In a May 27, 2026 Memorandum Opinion, Judge Shipp denied Curaleaf's preliminary injunction motion for failure to show irreparable harm due to delay in filing. However, the court addressed the merits of the NLRA preemption claims, and rejected the state's arguments for dismissal based on unclean hands, *Younger* abstention, and *Burford* abstention.

The NLRA Applies to the Cannabis Labor Market. As a threshold matter, the court addressed whether the NLRA reaches the cannabis industry at all. Rejecting the state's argument that there is "no interstate trade in cannabis," the court found the NLRA "arguably extends and applies to cannabis businesses." The court distinguished the cannabis *product* market from the *labor* market—even though cannabis is federally illegal, the NLRA can still apply to the labor market within the industry.

***Garmon* Preemption.** Under *Garmon*, states may not regulate activity that the NLRA "protects, prohibits, or arguably protects or prohibits." The court determined that the LPA requirement "impermissibly conditions a state license on an employer refraining from conduct protected by federal labor law"—such as insisting on an NLRB-supervised election or refusing to negotiate over permissive subjects—and is therefore preempted.

***Machinists* Preemption.** Under *Machinists*, states cannot regulate aspects of the labor-management relationship that Congress intended to leave "controlled by the free play of economic forces." The court found the LPA requirement "clearly requires Curaleaf to give up the right to utilize economic weapons," including lockouts and contracting out work, and is therefore also preempted.

The August 2026 Final Judgment

Following the May opinion, the parties filed a joint stipulation agreeing that no further factual development was necessary to resolve the preemption question and seeking a final judgment. On August 10, 2026, Judge Shipp adopted the parties' proposed order, declaring that the LPA requirement is preempted. The judgment constitutes a final, appealable order, teeing up the preemption issue for Third Circuit review.

Key Takeaways for Employers

Expect state labor laws wading into NLRA-regulated fields to face heavy scrutiny. Prior injunctions against New York's SERA law (covered here) and California's AB 288 (covered here) blocked states from substituting their own labor boards for the NLRB. *Curaleaf* goes further—preempting the conditioning of a state license on specific labor relations conduct. Employers should watch for any state laws that dictate the terms of the employer-union relationship during organizing, as these may also be vulnerable to preemption challenges.

A growing body of case law supports preemption challenges. New Jersey is not the first state to encounter this issue. In *Casala, LLC v. Kotek*, 789 F. Supp. 3d 1025 (D. Or. 2025), the court was similarly faced with Oregon's attempt to implement a LPA requirement for cannabis businesses and arrived at the same conclusion: such a requirement is preempted by the NLRA. Likewise, in *Hybrid NYC, LLC v. New York State Cannabis Control Bd.*, No. 25 CIV. 3067, 2025 WL 3719619 (S.D.N.Y. Dec. 23, 2025), the court allowed an NLRA preemption challenge to New York's cannabis LPA requirement to proceed past the motion to dismiss stage, though the court has yet to rule on the merits. By contrast, in *Ctrl Alt Destroy v. Elliott*, No. 24-CV-753, 2025 WL 790963 (S.D. Cal. Mar. 12, 2025), the court granted defendants' motion to dismiss a preemption challenge to California's cannabis LPA requirement on unclean hands grounds and offered dicta suggesting preemption was unavailable—but that case is on appeal and the California defendants have agreed with the appellant that the district court misapplied the unclean hands doctrine. Taken together, the weight of authority currently favors employers challenging these state-mandated labor peace requirements, though employers should monitor how the appellate courts rule and expect continued litigation as additional states' laws are tested.

Regulating an industry does not mean regulating its labor relations. The court held that a state's authority to regulate an industry does not necessarily include authority over labor relations within that industry. The state argued that because cannabis is federally illegal, the NLRA cannot apply and there is nothing to preempt. The court rejected that framing entirely, distinguishing the cannabis *product* market from the *labor* market. This distinction extends beyond cannabis: whenever a state regulates labor relations within *any* industry, the NLRA's preemptive force may apply—regardless of the federal legal status of the underlying product or service.

We will continue to monitor this case as it proceeds to the Third Circuit and any related developments.

Related Professionals

- **Paul Salvatore**
  Partner
- **Joshua S. Fox**
  Partner
- **Yonatan Grossman-Boder**
  Special Labor Relations Counsel
- **Andrew Landesman**
  Associate