

NLRB will ask Supreme Court to Affirm Board Members

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The National Labor Relations Board (“NLRB”) announced today that it would ask the [U.S. Supreme Court](#) to review a federal court ruling that invalidated the appointment of three members and put hundreds of mostly pro-union board actions in jeopardy.

In *Noel Canning v. NLRB*, a DC Circuit panel held that [President Barack Obama improperly exercised his recess appointment power](#) by nominating a majority of the NLRB in January of 2012 while Congress was technically still in session. The ruling calls into question every action taken by the board in the past year, including many that directly impact employers.

The NLRB will team up with the Justice Department to challenge the decision before the nation’s highest court, according to a press release. The agency chose this approach rather than seeking an en banc rehearing before the full D.C. Circuit.

The NLRB must file its petition for certiorari by April 25, 2013. We will follow any developments closely and keep you posted.

Topics

National Labor Relations Board (NLRB)