

Department Of Justice Files Writ Of Certiorari With U.S. Supreme Court In Noel-Canning Case

May 1, 2013 | [National Labor Relations Board, Labor Relations](#)

The Solicitor General of the United States, Donald B. Verrilli, has filed a [Writ of Certiorari](#) on behalf of the National Labor Relations Board (the NLRB), asking the Supreme Court to review the decision by the D.C. Circuit, which we [discussed here](#). In the Writ of Certiorari, Verrilli asks the Court to overturn the D.C. Circuits decision, which found President Obama’s recess appointment to the NLRB unconstitutional, on the grounds that...

1. “[t]he court of appeals’ decision would dramatically curtail the scope of the President’s authority under the Recess Appointments Clause;”
2. the decision “conflicts with the decisions of three other federal courts of appeals and with the central objects of the Recess Appointments Clause;”
3. the decision “would deem invalid hundreds of recess appointments made by Presidents since early in the Nation’s history;” and (4) “[i]t potentially calls into question every order issued by the National Labor Relations Board since January 4, 2012, and similar reasoning could threaten past and future decisions of other federal 12 agencies.”

The response to the Writ is due to the Supreme Court on May 28, 2013.

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