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2013: Will NLRB Have Its Bobby Ewing Moment?

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2012 was a tough year for *stare decisis* when it comes to federal labor law. It seemed as though every other week (and sometimes more often) longstanding NLRB precedent was overturned or ignored. From dues check-off rules to bargaining-unit definitions, decades old rules were swept aside by a Board seemingly determined to tip the balance against employers (and frequently employees) in favor of unions. 2012 was also a year in which the NLRB sought to inject itself into issues long thought to be beyond its jurisdiction, including by invalidating arbitration agreements and at-will employment provisions in employee handbooks and finding social media policies that merely require civility by employees to be unlawful.

However, 2013 could find that all of the NLRB's administrative actions, like the 9th Season of the television series *Dallas,* never really happened. Pending before the DC Circuit is the *Noel Canning v. NLRB,* just one of the many cases challenging the propriety of President Obama's recess appointments to the NLRB. Should that case decide that the recess appointments were not proper, the actions of the NLRB since January 2012 would be voided, as they took place without a proper Board. Keep your eye out for these decisions as they have the potential for returning federal labor law to its pre-2012 status, at least temporarily.

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