

Senate Republicans To Challenge Recess Appointments In NLRB Lawsuit

April 18, 2012 | [Labor And Employment](#)

Senate Minority Leader Mitch McConnell [announced yesterday](#) that the Senate Republicans had retained an attorney to file an amicus brief on their behalf in a case challenging the constitutionality of President Obama's [controversial recess appointments](#) to the NLRB in January.

The case, *Noel Canning v. NLRB*, No. 12-1115, is currently pending before the D.C. Circuit Court of Appeals. It is one of several currently pending cases in which employers appealing an NLRB decision have raised or attempted to raise the issue of the validity of the recess appointments. [As we have covered in previous posts](#), the Board's opponents take the position that Congress was not in recess at the time of the appointments, and, therefore, the President's appointments to the Board were not lawful. Echoing this position, Senator McConnell called the recess appointments "an unprecedented power grab" and vowed to "demonstrate to the Court how the President's unconstitutional actions fundamentally endanger the Congress's role in providing a check on the excesses of the executive branch."

Read the full announcement from Senator McConnell [here](#) .

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