

D.C. Circuit Holds NLRB Recess Appointments Invalid

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Gavel

In a groundbreaking decision issued this morning, the D.C. Circuit Court of Appeals has held that [President Obama's appointments](#) to the National Labor Relations Board (NLRB) in January 2012 (appointing Democratic members Richard Griffin and Sharon Block and Republican member Terrance Flynn, [who has since resigned](#)) were invalid as recess appointments because the Senate was not in recess. And because the appointments were not valid, the D.C. Circuit held that the challenged Board order was also invalid for lack of a three-member quorum.

This is a major decision by the D.C. Circuit that will have far-reaching consequences. Presumably, all decisions made by the NLRB since the invalid appointments can now be challenged for lack of quorum. Stay tuned for updates on this issue, including a future Barnes & Thornburg client alert and more in-depth coverage of the D.C. Circuit decision.

The D.C. Circuit case is *Noel Canning v. NLRB*, D.C. Circuit Case No. 12-1115 and today's opinion is [available here](#).

Our previous coverage of the recess appointments issue is available [here](#) .

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