

## Supreme Court Hears *Noel Canning* Oral Argument

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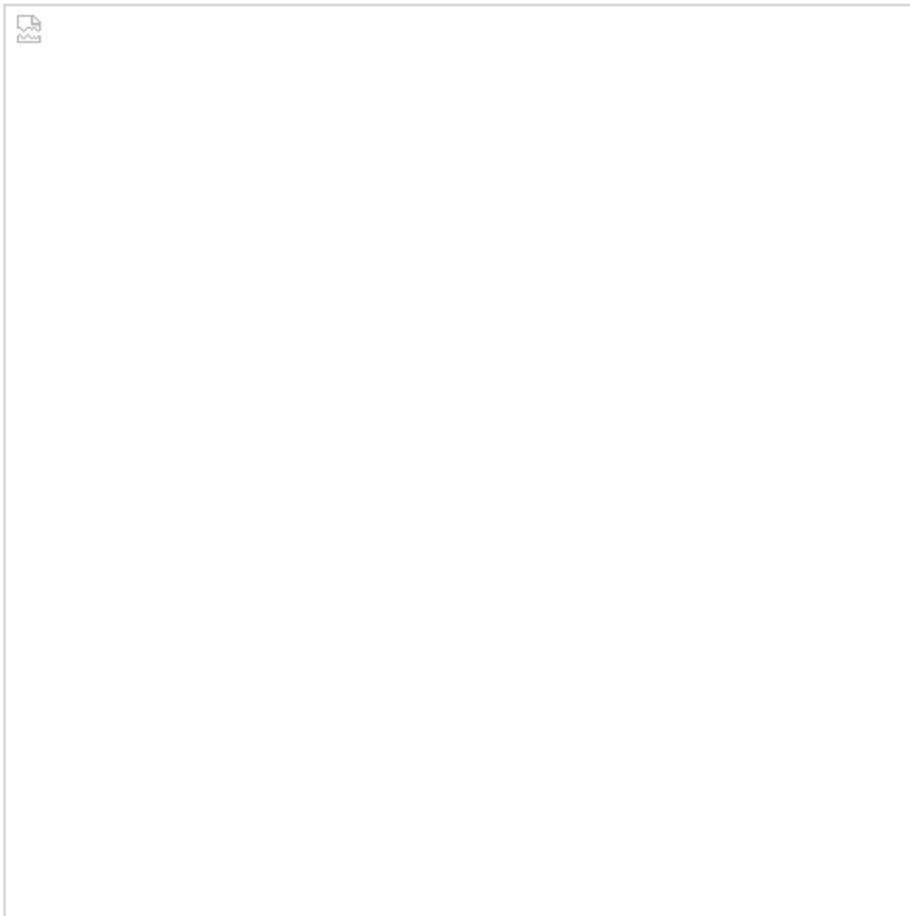
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The Supreme Court wasted no time Monday getting to the “important stuff” on its first day of oral arguments in 2014. The Court heard argument in the Government’s appeal of the decision of the United States District Court of Appeals for the D.C. Circuit which held that the White House acted unconstitutionally when it appointed three members to the NLRB as “recess appointments” Most commentators among those present for the argument are saying that it appears likely that the Supreme Court will affirm at least some portion of the appellate court’s opinion.

The case considers the scope of the President’s recess appointment power. The questions presented to the Court are whether the President can use the recess appointment power during a recess that occurs during a session of Congress rather than between sessions to fill vacancies that arose prior to the recess as well as those that arise during one. The Court was also

deciding if the Senate's use of so-called pro forma sessions during a recess.

One commentator, Supreme Court blogger Lyle Denniston reported that "[a]s the hearing unfolded, the only Justices who consistently asked questions or made comments that appeared to support presidential authority to act alone to make short-term appointments were Ruth Bader Ginsburg and Sonia Sotomayor."

Denniston's comments on the oral argument can be [reviewed here](#) .