High Court Will Probably Rule NLRB Appointments Unconstitutional

News
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Tampa Partner Steve Bernstein was quoted in an article on the Society For Human Resource Management website.

The article explained that the U.S. Supreme Court is likely to rule that President Barack Obama's appointment of three members of the National Labor Relations Board in January 2012 violated the U.S. Constitution.

On February 8, 2012, three members of the NLRB, including two of President Obama's recess appointees, affirmed an administrative law judge's earlier conclusions that the Noel Canning Corporation had committed an unfair labor practice.

Noel Canning's position is that President Obama appointed Sharon Block, Terence F. Flynn and Richard F. Griffin when the Senate was in session, not in recess, and exceeded his constitutional authority to make recess appointments.

According to SHRM.org, the court seemed to think that the language of the U.S. Constitution's appointment clause is pretty clear and did not authorize the presidential actions at issue.

"It looks like it was a tough day for the executive branch," said Steve.

A former NLRB member said *Noel Canning* did extremely well in supporting its position against the NLRB.

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