



Federal District Court Rejects Challenge to President Obama's NLRB Recess Appointments

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By **Chris Johlle**

A federal district court judge today rejected attempts by several business groups to challenge President Obama's recent recess appointments to the National Labor Relations Board (NLRB).

As we recently reported, in January, President Obama recess appointed three new members to the NLRB. The recess appointments drew fire from Republican legislators and from the business community who claimed the President had acted outside of his constitutional authority. In response to the recess appointments, several groups, including the National Right to Work Legal Defense and Education Foundation, the Coalition for a Democratic Workplace, and the National Federation of Independent Businesses, sought to challenge the President's actions in federal court by adding a claim to a **pending lawsuit challenging** the NLRB's notice posting rule. Today, Judge Amy Jackson rejected the challenge to the recess appointments. She determined that: the putative challenge to the recess appointments had no bearing on the case before her because the NLRB's notice posting rule had been promulgated by an "undisputedly valid" NLRB quorum; it was too speculative to consider a challenge to whether the new NLRB was properly constituted; and entertaining a challenge to the recess appointments would simply result in unnecessary delay. Accordingly, Judge Jackson "decline[d] this invitation to take up a political dispute" that was not before her.

Judge Jackson did not decide that President Obama's recess appointments were within his constitutional authority. For now, the NLRB's recess appointees are safe, but the legitimacy of their appointments remains open and we suspect other legal challenges lurk in the future.

More Information

Christopher A. Johlle
caj@franczek.com
312.786.6152

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