

US High Court Stays Out of Obama Recess Appointment Issue

The **Supreme Court** on Wednesday denied a nursing home operator's emergency stay application that sought to seize upon legal confusion over President Barack Obama's appointments to the **National Labor Relations Board**.

The court order stated the application had been denied. It offered no further explanation.

HealthBridge Management LLC had wanted the court to stay a federal district court's preliminary injunction issued in December that required the company, which operates nursing homes in Connecticut, to reinstate striking workers while the National Labor Relations Board (NLRB) considers the employees' complaint.

The almost 700 workers have cited unfair labor practices at HealthBridge-managed facilities.

HealthBridge first filed its request on Monday with Justice Ruth Bader Ginsburg but she rejected it, without comment, within hours. The company's lawyers then asked Justice Antonin Scalia to consider the application, which the company could do under court procedures.

Wednesday's order said Scalia referred the matter to the full nine-member court. The order said one of the nine, Justice Samuel Alito, had not participated. The court does not say why justices stay out of certain cases, but in this instance it is likely because Alito's sister Rosemary was one of the lawyers representing HealthBridge.

The legal uncertainty over Obama's appointments to the NLRB

relate to a January 25 ruling by the U.S. Court of Appeals for the District of Columbia Circuit that three appointments **Obama** made to the NLRB last year were invalid.

The court said the president did not have the authority to make the three “recess appointments,” a term used to describe a means of circumventing the Senate confirmation process, because the Senate was not technically in recess at the time.

The ruling meant that the NLRB does not have the required quorum to make decisions, casting into doubt its actions and rulings since the appointments were made in January 2012.

In the stay application, HealthBridge’s attorney Paul Clement said the court should intervene now because it is likely to review the appeals court decision in due course anyway.

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