IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

ASSOCIATED BUILDERS AND CONTRACTORS OF ARKANSAS; ASSOCIATED BUILDERS AND CONTRACTORS, INC.; ARKANSAS STATE CHAMBER OF COMMERCE/ASSOCIATED INDUSTRIES OF ARKANSAS; THE ARKANSAS HOSPITALITY ASSOCIATION; COALITION FOR A DEMOCRATIC WORKPLACE; THE NATIONAL ASSOCIATION OF MANUFACTURERS; and CROSS, GUNTER, WITHERSPOON & GALCHUS, P.C., on behalf of themselves and their membership and clients — PLAINTIFFS

v. — No. 4:16CV00169 KGB

THOMAS E. PEREZ, in his official capacity as Secretary of Labor, U.S. Department of Labor, MICHAEL J. HAYES, in his official capacity as Director, Office of Labor Management Standards, U.S. Department of Labor, and the U.S. DEPARTMENT OF LABOR — DEFENDANTS

BRIEF OF THE STATES OF ARKANSAS, ALABAMA, ARIZONA, MICHIGAN, NEVADA, OKLAHOMA, SOUTH CAROLINA, TEXAS, UTAH, AND WEST VIRGINIA AS *AMICI CURIAE* IN SUPPORT OF THE PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

The States of Arkansas, Alabama, Arizona, Michigan, Nevada, Oklahoma, South Carolina, Texas, Utah, and West Virginia ("*Amici*"), through their Attorneys General, submit this brief supporting Plaintiffs' motion for a preliminary injunction, which seeks an order enjoining the United States Department of Labor's new rule interpreting the "advice" exemption in section 203 of the Labor-Management Reporting and Disclosure Act of 1959 ("Act"), 29 U.S.C. § 401 et seq. Doc. 49.

I. INTRODUCTION

The Department of Labor ("Department") has recently promulgated a new final rule concerning a portion of the Act. This new rule, the "Labor-Management Reporting and Disclosure Act, Interpretation of the Advice Exemption" ("new rule" or "final rule") imposes novel requirements on employer-side labor lawyers—and not union-side labor lawyers—to disclose to the Department a wealth of highly-sensitive details regarding their advice to clients, thus invading the confidentiality of the attorney-client relationship. 81 Fed. Reg. at 15924. The new rule is inconsistent with the governing statutory framework and departs from nearly 55 years of contrary interpretation by the Department and the federal courts. Unless enjoined by this Court, this dangerous rule will go into effect on April 25, 2016, immediately intruding into the integrity and confidentiality of the attorney-client relationship and hindering employers' ability to obtain legal advice—consequences contrary to the intent of the Act.

II. THE INTEREST OF *AMICI*

Amici, through the chief legal officer of each state, are charged with defending the interests of their states and the public. *Amici* believe that both of these interests are put in jeopardy by a rule that invades the attorney-client relationship. As sovereigns ultimately responsible for the ethical practice of law within their borders, *Amici* (in their own right and on behalf of their citizens) have a significant interest in preserving the law's longstanding respect for the integrity and confidentiality of the attorney-client relationship. Indeed, the states' licensing and disciplinary authority in matters of attorney conduct endow *Amici* with a peculiar interest in safeguarding the integrity and confidentiality of the attorney-client relationship.[1]

---

[1] *Amici* do not view this issue as a management-versus-labor-union issue, but rather as an issue of respect for the attorney-client privilege. *Amici* would be equally opposed to any similar attempt to compel union-side lawyers to disclose confidential client information. For the same

III. THE UNDERLYING STATUTORY FRAMEWORK

Section 203(a) of the Act, 29 U.S.C. § 433(a), requires an employer to disclose to the Department the existence and terms of any persuader agreement—that is, any agreement (or other arrangement) between the employer and a consultant regarding the employer's efforts to influence its employees' unionizing activities. Section 203(b) of the Act requires "consultants," including attorneys, to make similar disclosures to the Department. 29 U.S.C. § 433(b). But section 203(c) expressly exempts from disclosure any "advice" the consultant provides to the employer. 29 U.S.C. § 433(c). Furthermore, section 204 of the Act broadly exempts attorney-client communications from disclosure:

> Nothing contained in this chapter shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this chapter any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

29 U.S.C. § 434.

IV. THE PRELIMINARY INJUNCTION MOTION SHOULD BE GRANTED BECAUSE THE NEW RULE INTRUDES INTO THE ATTORNEY-CLIENT RELATIONSHIP.

Consistent with the paramount importance of attorney-client confidentiality to the American judicial system and the rule of law, the Department has heretofore broadly interpreted section 203(c) to generally exempt from the reach of the disclosure rule any advice or materials provided by an attorney to an employer for use in persuading employees, so long as the attorney has no contact with the employees. *See* Lauro Memorandum, cited in the final rule, 81 Fed. Reg. at 15936. As the Department itself recognized in its 2011 proposed rule, the Department has long

---

reason, *Amici* take no position on the new rule's application to non-attorney labor consultants. Unlike licensed attorneys, non-attorney labor consultants have no confidential relationship with their clients, nor are they are subject to state-court regulation and disciplinary authority.

taken the position "that in cases in which a particular consultant activity involves *both* advice to the employer *and* persuasion of employees, the 'advice' exemption controls." 76 Fed. Reg. at 36191 (emphases added). The Department's broad interpretation is a longstanding one, originating in its 1962 Donahue Memorandum, also cited in the 2011 proposed rule. *See* 76 Fed. Reg. at 36181; *see also* 81 Fed. Reg. at 15935. That interpretation makes perfect sense in light of the Act's exemption language and the obvious motivation for that language: protecting from interference the special nature of the attorney-client relationship.

A. The New Rule Unjustifiably Extends the Disclosure Requirement into Sensitive Areas of the Attorney-Client Relationship.

The Department's new rule extends the reach of the disclosure requirement into the confidential relationship between an attorney and his or her client—an area the Department has, until now, recognized that Congress intended to exempt from disclosure. The new rule will require an attorney who advises his or her client on the client's efforts to persuade its employees concerning unionizing issues to disclose confidential client information. The new rule accomplishes this end by narrowly redefining what counts as "advice." Under the new rule:

> No longer exempt from reporting are those agreements or arrangements in which the consultant engages in the indirect persuasion of employees. Such indirect persuader activities are no longer considered to be "advice" under LMRDA section 203(c), and, if undertaken, they now trigger reporting under sections 203(a) and (b).

81 Fed. Reg. at 15937. What the new rule refers to as "the indirect persuasion of employees" includes an attorney's mere advising an employer on the employer's efforts to persuade its employees, even where the attorney interacts only with the employer and has no contact whatsoever with the employees. More specifically:

> Reporting of an agreement or arrangement is triggered when:
>
> * * *
>
> (2) A consultant who has no direct contact with employees undertakes the following activities with an object to persuade employees:
>
> (a) Plans, directs, or coordinates activities undertaken by supervisors or other employer representatives, including meetings and interactions with employees;
>
> (b) provides material or communications to the employer, in oral, written, or electronic form, for dissemination or distribution to employees;
>
> (c) conducts a seminar for supervisors or other employer representatives; or
>
> (d) develops or implements personnel policies, practices, or actions for the employer.

81 Fed. Reg. at 15938.

In the Department's own language, the new rule expressly acknowledges that an attorney who merely advises an employer on persuader issues will now be required to specifically disclose all of the following information:

> • A copy of the persuader agreement between the employer and consultant (including attorneys);
> • the identity of the persons and employers that are parties to the agreement;
> • a description of the terms and conditions of the agreement;
> • the nature of the persuader and information-supplying activities . . . undertaken or to be undertaken pursuant to the agreement . . . ;
> • a description of any reportable persuader and information-supplying activities: the period during which the activities were performed, and the extent to which the activities have been performed as of the date of the report's submission; and
> • the name(s) of the person(s) who performed the persuader or information-supplying activities; and the dates, amounts, and purposes of payments made under the agreement.

81 Fed. Reg. at 15992. This bounty of information—which the Department brazenly characterizes as "limited," *see id.*—includes nearly every salient aspect of the relationship between the attorney and his or her employer-client. The new rule requires not only that the attorney turn over the actual written representation agreement, but also that he or she disclose the nature of the advice given, the dates when the advice is given, how much advice has already

been given, and the names of the attorneys giving the advice—not to mention the amount of money the client paid for the advice, the dates on which the client paid the money, and the purpose for which the client paid the money.[2]

It does not stop there. The new rule further provides that "[s]ection 203(b) also requires persons subject to this requirement to report receipts and disbursements of any kind 'on account of labor relations advice and services.'" 81 Fed. Reg. at 15929 (quoting 29 U.S.C. § 433(b)). Thus, once the disclosure requirement is triggered, the new rule requires the attorney to file a Form LM-21 ("Receipts and Disbursements Report"). *Id.* The scope of the disclosures required to complete Form LM-21 is staggering. Completing the Form LM-21 requires the attorney to disclose *all* receipts of any kind received from *all* of its employer-clients "on account of labor relations advice or services"—including receipts and disbursements that have *nothing whatsoever* to do with its employee-client's efforts to persuade employees on unionization issues. Such information has no reasonable nexus to the "persuader activities" that the Act seeks to monitor. Thus, an attorney who advises a single client on a single issue regarding the client's efforts to persuade its employees is required to disclose all receipts from and disbursements on behalf of *every* employer-client for whom the attorney has performed anything that might fall under the description of "labor relations advice or services."

The Eighth Circuit has found "it extraordinarily unlikely that Congress intended to require the *content* of reports by persuaders under § 203(b) and (c) to be so broad as to encompass dealings with employers who are not required to make any report whatsoever under § 203(a)(4)." *Donovan v. Rose Law Firm*, 768 F.2d 964, 975 (8th Cir. 1985). Nevertheless, the Department utterly fails to address this unprecedented and unwarranted intrusion into the

---

[2] As discussed more fully below, the attorney's duty of confidentiality requires nondisclosure of *any* information relating to the representation of a client.

confidential attorney-client relationship. The new rule bureaucratically brushes it aside: "While some of the comments submitted in this rulemaking concern issues that may arise in connection with the Form LM-21 Receipts and Disbursements Report, such as the scope and detail of reporting about service provided to other employer clients, that report is not the subject of this rulemaking." 81 Fed. Reg. at 15928.

The Department seeks to diminish the impact of the new rule by noting that any attorney who engages in persuader activity where he or she makes direct contact with employees (e.g., personally meeting with, speaking to, or writing to them) already must make the required disclosures. *See* 81 Fed. Reg. at 15998 ("[I]f attorneys engaging in direct persuasion must disclose information concerning the entire agreement or arrangement with the employer it logically follows that indirect persuaders, including attorneys, should disclose the same information."). But this is a non-sequitur: an attorney who seeks to directly persuade someone *who is not the client* is not thereby *advising the client*. Direct contact with employees is not "advice" falling within the advice exemption. Therefore, it does not "logically follow" that an attorney who merely advises his or her client must be treated the same as an attorney who directly seeks to persuade the employer's employees.

B. The New Rule Is Irreconcilable with the Structure and Language of the Act.

The new rule's intrusion into the attorney-client relationship is at odds with almost 55 years of the Department's interpretation of section 203. But, more importantly, the structure and language of section 203—which has not changed—is difficult to reconcile with the new rule. First, the very existence of the advice exemption in section 203 presupposes that *some* of the advice that an attorney provides to his or her client will be intended to help the employer persuade its employees on unionization issues. After all, if none of the attorney's advice were

related to persuader activities, then there would be nothing to exempt from disclosure. But the fact that the statute expressly exempts attorney "advice" manifests Congress's intent to exempt from disclosure *any* advice an attorney gives to his or her client—including advice that helps the client persuade its employees on unionization issues. The new rule effectively writes section 203(c)'s advice exemption out of the statute by treating an attorney's advice on efforts to persuade employees the same as if the attorney were him- or herself attempting to persuade the employees. It cannot have been the intent of Congress to create an advice exemption that leaves no advice exempt from disclosure.

Another way to think about this is to consider that the statutory framework, saliently, 29 U.S.C. § 433(b) & (c), contemplates three categories of attorney representation: (1) representation not relating to a persuader issue, which is exempt from disclosure by negative inference from the statutory language; (2) representation relating to a persuader issue that is *not* exempt, and therefore *is* subject to disclosure; and (3) representation relating to a persuader issue that *is* exempt (i.e., "advice"), and therefore is *not* subject to disclosure. The new rule unjustifiably eliminates the third category, leaving no advice exempt from disclosure under section 203(c), 29 U.S.C. § 433(c).

Consequently, the *sole* analytical criterion for disclosure under the new rule is whether the representation relates to a persuader issue. If it does, then the new rule will *never* exempt it from disclosure, thus depriving section 203(c), the "advice" exemption, of any force or effect. A court's "duty [is] to give effect, if possible, to every clause and word of a statute," and the Court should therefore be "reluctant to treat statutory terms as surplusage." *Duncan v. Walker*, 533 U.S. 167, 174, 121 S. Ct. 2120, 2125, 150 L. Ed. 2d 251 (2001) (quotations and citations

omitted). The Court should be "especially unwilling to do so," where, as here, "the term occupies so pivotal a place in the statutory scheme." *Id.*, 121 S. Ct. at 2125.

Furthermore, section 203(c) is expressly an advice "exemption"—not an advice "exception." Had Congress chosen to use "exception" language, that might have evinced a Congressional intent that "advice" come within the scope of the disclosure rule before being excepted from it. However, the statute's use of "exemption" language manifests a Congressional intent that the disclosure rule not even *reach* "advice" in the first instance. In brief, by expressly *exempting* "advice" from the reach of the disclosure rule, an attorney's advice to his or her client does not ever come within the scope of the statute so as to permit the sort of intrusion into the attorney-client relationship that the new rule requires. The Department's effort to extend its regulatory power into the confidential attorney-client relationship is an unjustified and statutorily-unsupported innovation that this Court should not permit.

C. The New Rule Conflicts with the Attorney's Duty of Confidentiality.

The Department questions why "services offered by attorneys should be shielded from . . . the public while the very same activities would be reported by their non-attorney colleagues." 81 Fed. Reg. at 15992. The answer, of course, is that—unlike a non-attorney labor consultant—an attorney is a member of a profession that is both regulated by the state and subject to the state court's disciplinary authority in matters of professional conduct, which imposes on him or her a duty of confidentiality.

The duty of confidentiality is clearly set forth in each (and every) state's rules of professional conduct. For example, Arkansas Rule of Professional Conduct 1.6, dealing with "Confidentiality of Information," contains virtually identical wording to the American Bar Association's Model Rule 1.6, which states, in pertinent part: "A lawyer shall not reveal

information relating to the representation of a client unless the client gives informed consent . . . ," or unless one or more of the narrow exceptions listed in the Rule is present.[3] Although Rule 1.6 prohibits attorneys from disclosing information protected by either the attorney-client privilege or the work product doctrine, the Rule also forbids attorneys from voluntarily disclosing other non-privileged information.[4] As comment 3 to Arkansas's Rule 1.6—which contains identical wording to the ABA Model Rules—provides, "The confidentiality rule . . . applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source." This category of non-privileged, confidential information includes the identity of the client, the nature of the representation, and the amount of legal fees paid by the client to the attorney.

The Department seeks to rely on provisions such as Arkansas Rule 1.6(b)(6), which allow an attorney to disclose confidential client information "to comply with other law or a court order." *See* 81 Fed. Reg. at 15998 ("[T]he LMRDA constitutes 'other law,' which under the ethical rules authorizes attorneys to disclose otherwise confidential client information.").

---

[3] Similar rules exist in virtually all states. See the American Bar Association Center for Professional Responsibility's Charts Comparing Individual Professional Conduct Rules to the American Bar Association's Model Code of Professional Conduct, available at http://www.americanbar.org/groups/professional_responsibility/policy/charts.html.

[4] *See, e.g.*, Alabama Ethics Op. 89-111 (1989) (attorney may not disclose name of client to funding agency); Indiana Ethics Op. 1 (1995) (attorneys prohibited from disclosing client information, including identity, on IRS Form 8300 under Rule 1.6); Nevada Ethics Op. 41 (2009) ("Even the mere identity of a client is protected by 1.6. . . . Rule 1.6(a) requires that ALL information relating to the representation of a client is confidential and protected from disclosure." (emphasis in original)); New Mexico Ethics Op. 1989-2 (1989) (attorney may not ethically disclose client identity to the government even though federal law requires disclosure); South Carolina Ethics Op. 90-14 (1990) (attorney may not volunteer identity of client to third party); Texas Ethics Op. 479 (1991) (law firm that obtained bank loan secured by firm's accounts receivable may not tell bank who firm's clients are and how much each owes); and Virginia Ethics Op. 1300 (1989) (in absence of client consent, nonprofit legal services corporation may not comply with federal agency's request for names and addresses of parties adverse to certain former clients, since that may involve disclosure of client's identities).

However, the language of section 204 is directly at odds with the Department's position. Section 204 unequivocally states, "Nothing contained in this chapter shall be construed to require an attorney . . . to include in any report . . . any information . . . communicated to such attorney . . . in the course of a legitimate attorney-client relationship." 29 U.S.C. § 434. No clearer language could be desired to show that the Act *precludes* an attorney's disclosure of client information. This statutory language thwarts any attempt to construe the Act as "other law" *requiring* disclosure.

Nevertheless, "the Department believes that . . . this [new] rule supersede[s] [Model Rule of Professional Conduct] Rule 1.6 and any particular state equivalent." 81 Fed. Reg. at 15998. Consequently, the new rule will unavoidably put attorneys in an ethical dilemma: either risk liability by refusing to disclose employer confidences or risk professional disciplinary action by disclosing them. Therefore, the Department's new rule is on a collision course with the ethical duty of confidentiality as outlined in Arkansas Rule 1.6 and the corresponding rules of other states. Decisions affecting attorney-client confidentiality are the special prerogative of the states that license attorneys and exercise disciplinary authority over them. The decision to significantly nullify attorney-client confidentiality should not be left to the interpretive whim of a federal regulatory body with no special interest in the attorney-client relationship.

The Department's traditional rule respects the attorney-client relationship by requiring only attorneys who make direct contact with an employer-client's employees to disclose information. The traditional rule thus preserves attorney-client confidentiality by ensuring that attorneys who merely advise their clients are not compelled to make the far-reaching disclosures that are required under the Act. That longstanding rule should be preserved.

D. The New Rule Conflicts with the Attorney-Client Privilege.

Relying on the reasoning of *Humphreys, Hutcheson & Moseley v. Donovan*, 755 F.2d 1211, 1216 (6th Cir. 1985), the Department "rejects . . . [the] contention that section 204 broadly protects from disclosure any information . . . that is not covered by the traditional attorney-client privilege." 81 Fed. Reg. at 15997. However, the Eighth Circuit has previously distinguished *Humphreys* on a related issue. *See Rose Law Firm*, 768 F.2d at 967. And in any case, the Department's position fails to give effect to the intent of Congress as manifested in section 204's broad language. *See id.* at 975 n.9 ("If a court, employing traditional tools of statutory construction, ascertains that Congress had an intention on the precise question at issue, that intention is the law and must be given effect.").

The expansive language of section 204 does not restrict its non-disclosure protections merely to "privileged" information. Such a restriction would make little sense, given that the attorney-client privilege is an evidentiary privilege that applies only in the context of a legal proceeding "in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client." Ark. R. Prof'l Conduct 1.6 cmt 3; *see* Restatement (Third) of the Law Governing Lawyers § 86 (2000) (applying "[w]hen an attempt is made to introduce in evidence or obtain discovery of a communication privileged . . . ."). Rather, section 204's protections are much broader than the attorney-client privilege, protecting an attorney from having "to include in any report . . . any information." 29 U.S.C. § 434.

But even if the Court were to accept the Department's implausibly-narrow reading of section 204, the Department still acknowledges that the new rule requires disclosure of information that the attorney-client privilege protects only "as a general rule." 81 Fed. Reg. at 15992. For example, once an attorney discloses the required information, any ensuing

investigation of the nature of the relationship between the attorney and his or her client would necessarily require the attorney to disclose further privileged and confidential client information. If the attorney were him- or herself accused of wrongdoing, he or she would be hamstrung by both the duty of confidentiality as well as by the attorney-client privilege, unable to defend him- or herself against charges of wrongdoing without violating duties to his or her client and incurring the consequences thereof. Because non-attorney labor consultants are not subject to such duties, they would not be placed in this impossible situation.

The Department's new rule "declines to comment on the applicability of the attorney-client privilege to hypothetical questions concerning investigations of potential reporting violations." 81 Fed. Reg. at 15997. Ominously, the Department states, "Issues pertaining to the interplay between the attorney-client privilege and any ensuing investigations under section 203 are more appropriately resolved upon enforcement of the final rule once it becomes effective." *Id.* Of course, the Department "emphasizes that it will protect information relating to the attorney-client relationship to the full extent possible in its investigations." *Id.* But this assurance that the Department will safeguard an attorney's confidential and privileged client information is little comfort to an attorney who has already been compelled to violate his duties by disclosing client information. Again, a non-attorney labor consultant would not be faced with the catch-22 of either violating ethical duties or facing criminal charges. The new rule quite obviously conflicts with the attorney-client privilege.

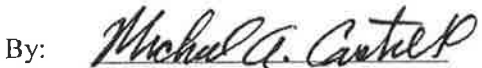
CONCLUSION

For the foregoing reasons, *Amici* respectfully request that the Court grant the Plaintiffs' motion for a preliminary injunction of the Department's new rule until the conclusion of this litigation. Alternatively, *Amici* respectfully request that this Court grant the Plaintiffs' request for

a preliminary injunction specifically as to licensed attorneys, whose ability to confidentially represent their clients will be unavoidably jeopardized by the new rule. Given the Department's own longstanding rule exempting attorney advice from disclosure, and the likelihood that the Department's new, radical adventure into areas of attorney-client confidence is in conflict with the governing Act, a preliminary injunction to preserve the status quo pending litigation is well justified, and is the best way to protect the public.

Respectfully submitted,

LESLIE RUTLEDGE
Attorney General
State of Arkansas

By: 
Michael A. Cantrell (2012287)
Assistant Attorney General
Counsel of Record
Lee P. Rudofsky (2015015)
Solicitor General of Arkansas
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
Ph: (501) 682-2401
Fax: (501) 682-2591
Email: Michael.Cantrell@ArkansasAG.gov

LUTHER STRANGE
Alabama Attorney General
501 Washington Ave
Montgomery, AL 36130

MARK BRNOVICH
Attorney General of Arizona
1275 W. Washington Street
Phoenix, AZ 85007

BILL SCHUETTE
Michigan Attorney General
P. O. Box 30212
Lansing, MI 48909

ADAM PAUL LAXALT
Attorney General of Nevada
100 North Carson Street
Carson City, Nevada 89701

E. SCOTT PRUITT
Attorney General of Oklahoma
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105-4894

ALAN WILSON
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211

KEN PAXTON
Attorney General
State of Texas
300 W. 15th Street
Austin, TX 78701

SEAN D. REYES
Attorney General
State of Utah
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

PATRICK MORRISEY
Attorney General of West Virginia
State Capitol
Bldg. 1, Room E-26
Charleston, WV 25305

Attorneys for Amici Curiae

CERTIFICATE OF SERVICE

I, Michael A. Cantrell, hereby certify that on April 13, 2016, I conventionally filed the foregoing with the Clerk of the Court, and I mailed a copy of the same by U.S. Mail, postage prepaid, to the following:

Abtin Mehdizadegan
Cross, Gunter, Witherspoon & Galchus, P.C.
Post Office Box 3178
Little Rock, AR 72203-3178

J. Bruce Cross
Cross, Gunter, Witherspoon & Galchus, P.C.
Post Office Box 3178
Little Rock, AR 72203-3178

Maurice Baskin
Littler Mendelson, P.C.
815 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20006
MBaskin@littler.com
(also served *via* email)

Thomas E. Perez
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Michael J. Hayes
Director, Office of Labor-Management Standards
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Christopher R. Thyer
U.S. Attorney, Eastern District of Arkansas
425 W. Capitol Avenue, Suite 500
Little Rock, AR 72201

Channing D. Phillips
U.S. Attorney, District of Columbia
501 3rd Street, N.W.
Washington, D.C. 20001

Loretta Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20210

Elisabeth Layton
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W., Room 7110
Washington, DC 20530
elisabeth.layton@usdoj.gov
(also served *via* email)

Michael A. Cantrell