May 17, 2015

The Honorable John Kline
Chairman, Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Lamar Alexander
Chairman, Committee on Health, Education, Labor and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Representative Kline and Scott and Senators Alexander and Murray:

We are attorneys who represent working people and unions. We are writing in support of the Department of Labor’s rules requiring greater reporting and transparency by employers and the outside consultants they hire to develop and run anti-union campaigns. 81 Fed. Reg. 15923 (March 24, 2016).

DOL’s rules are reasonable and necessary. They close a giant loophole in reporting that employers and firms have been able to hide behind for decades to avoid reporting on activities aimed at dissuading employees who are seeking to form a union with their co-workers. The transparency brought about by the new rules will provide working people with important information about their employer’s activities and spending regarding their employees’ decision about forming a union.

The American Bar Association (ABA) filed comments with the Department of Labor opposing the new rules, and joined the U.S. Chamber of Commerce and management-side law firm Littler Mendelson to lobby the Obama Administration against the rules, alleging that the rules will interfere with the attorney-client privilege and violate state ethical rules of confidentiality. On April 27, 2016, the President of the ABA submitted testimony to the House Committee on Education and the Workforce opposing the rules on these grounds.

We disagree with the ABA on this issue and object to the ABA taking management’s side on this labor-management issue contrary to the views of its members who represent workers and
unions. DOL’s rules explicitly state that nothing in the rules requires the reporting of privileged information or legal advice. We disagree with the ABA’s claims to the contrary. The ABA does not speak for us on this issue.

We are signing this letter in our individual capacities and not in any official ABA capacity.

cc: Paulette Brown, President, American Bar Association
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