

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



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**BILL SCHUETTE**  
ATTORNEY GENERAL

March 19, 2014

The Honorable Thomas Edward Perez  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Avenue, NW,  
Room S-2018  
Washington, DC 20210

Via Fax: (202) 693-6111

Re: **Comments from the Chief Legal Officers of the States of Alabama, Arizona, Alaska, Georgia, Idaho, Kansas, Michigan, Montana, North Dakota, Oklahoma, South Carolina, Texas, Utah, and Wyoming** Regarding the Proposed Rule on the Labor-Management Reporting and Disclosure Act ("LMRDA"); Narrowing of the Statutorily-Required "Advice" Exemption.

Dear Secretary Perez:

As the chief legal officers of our states, we are writing to express concerns about the proposed final rule referenced above and currently under consideration. As proposed, this new rule would undermine long standing protections of confidential attorney-client communications. We request that it be withdrawn as drafted.

For more than 50 years, the LMRDA has preserved the confidentiality of attorney-client communications by exempting attorney advice relating to labor relations issues from disclosure generally, and specifically, by exempting confidential attorney-client interactions. This new rule, however, would dramatically change well-established precedent by requiring the reporting of advice related to persuasion of employees, regardless of whether the lawyers who provide the advice communicate with anyone other than their employer-clients.

The proposed rule will require unprecedented disclosures that are clearly excessive and contrary to congressional intent. Further, the rule is inherently vague and fails to properly inform lawyers of when they have engaged in reportable communications with their clients.

Finally, and most significantly, this proposed rule will have a chilling effect on the attorney-client privilege and employers' fundamental right to counsel. Because the rule is overly broad, it may well discourage employers from seeking legal representation, a consequence

contrary to the overall intent of the Act. For this reason, the Bar Associations of many of our states, as well as the American Bar Association, also have expressed their concern with the dramatic, negative impact the rule would have on the practice of law and the right to associate with counsel.

On behalf of the undersigned states, we therefore urge your office to withdraw the proposed rule as drafted and reaffirm the longstanding interpretation of the advice exemption to the reporting requirements of the LMRDA.


Sincerely,



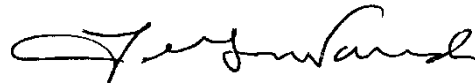
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Lawrence Wasden  
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Tim Fox  
Montana Attorney General



Sean Reyes  
Utah Attorney General



Greg Abbott  
Texas Attorney General



Scott Pruitt  
Oklahoma Attorney General



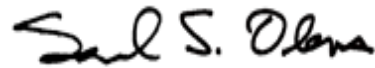
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