

NEWS RELEASE

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Chamber Joins in Filing Lawsuit against U.S. Dept. of Labor

LUBBOCK, Texas – The Lubbock Chamber of Commerce today joined forces with the National Federation of Independent Business (NFIB), Texas Association of Business (TAB), National Association of Home Builders (NAHB), and Texas Association of Builders (Texas Builders) in filing a lawsuit in the U.S. District Court for the Northern District of Texas challenging the constitutionality of changes to a U.S. Department of Labor (DOL) regulation known as the “persuader rule.” The group seeks an injunction on the regulations and ultimately to overturn the new rule.

“On behalf of the job creators we represent, the stakes are far too high for us to sit on the sideline and not stand up for businesses in this effort,” said Beth Bridges, Lubbock Chamber of Commerce Chairwoman, adding, “This joint effort in Lubbock federal court against the Obama Administration seeks to strike down the rule change because it violates First Amendment free speech rights and infringes on attorney-client privilege.”

Lubbock attorney Fernando Bustos of Bustos Law Firm, PC, is representing the Lubbock Chamber, NFIB, TAB, NAHB, and Texas Builders in the joint effort. Also representing the Lubbock Chamber, NFIB, TAB, NAHB, and Texas Builders are the Ogletree Deakins and Kemp Smith law firms.

According to Bustos, the new rule significantly changes the persuader rule, which had previously required only that businesses must report the names of individuals who directly communicate with their employees on labor issues. The new changes extend those reporting requirements to anyone providing a company with advice, behind the scenes, about how to communicate with their workers about unionization issues—which would extend those requirements to trade associations, consulting firms and even attorneys providing legal counsel. Yet of course, nothing in the rule requires union organizers to disclose similar relationships with consulting firms or their legal counsel.

The rule change will also require that lawyers, consultants and associations in the above circumstances to not only identify themselves as persuaders advising a business facing unionization, it would also force them to publicly disclose all fees, disbursements and arrangements with all of their clients for all human resources or labor relations services, regardless of whether the lawyer is doing persuader work for any of their other clients. This



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includes services such as personnel handbook reviews or offering advice on workplace disciplinary action.

“The new persuader rule would place attorneys and consultants in a Catch-22,” said Bustos. “The Department of Labor would require an attorney, consultant or association labeled as a persuader to disclose work they do for their other clients or members, which is a breach of confidentiality. They have to realize that this would make it virtually impossible for most lawyers to offer advice to business owners.”

Beth Milito, Senior Legal Counsel at the NFIB Business Legal Center, explained NFIB’s concerns. “The Department of Labor, at the bidding of union allies, is attempting to deprive business owners of legal advice during a time when they need it the most. Labor law is extraordinarily complex and a small business owner could easily find themselves in hot water if they don’t understand the rules governing union elections. The new persuader rule is a perverse attempt to tilt the playing field in favor of unions.”

The Lubbock Chamber of Commerce represents over 2,000 businesses and over 79,000 employees on the South Plains which accounts for over \$2 billion in annual household earnings in Lubbock and West Texas. The Chamber has twice earned the distinguished 5-Star Accreditation from the U.S. Chamber of Commerce and is a two-time Chamber of the Year recognized by the Association of Chamber of Commerce Executives.

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