JUBELIRER, PASS & INTRIERI, P.C.
Attorneys-at-Law

Joseph J. Pass
Edward H. Walter
James A. Welker
Joseph Santino Pass*
Steven E. Winslow
Patrick K. Lemon

*also admitted in Ohio

of counsel
Neal R. Cramer

Ben Paul Jubelirer (1904–1983)
Frank P. G. Intrieri (1942–1976)

TEAMSTERS JOINT COUNCIL 40
REPORT OF LEGAL COUNSEL
October 18, 2017

Legislative Initiatives Designed to Return to a Restrictive NLRB Joint Employer Standard

In the Summer of 2015, the National Labor Relations Board ("NLRB") issued a decision called Browning-Ferris Industries which refined the standard used for determining whether an employer constitutes a joint employer. Essentially, the Board broadened its prior standard and ruled that two or more entities could be considered "joint employers" if they share or both determine matters governing the essential terms and conditions of employment. Practically speaking, this ensured that workers could hold their employers and parent companies accountable for violating the National Labor Relations Act. For instance, this allowed workers to pursue unfair labor practice claims against McDonald's as a parent corporation instead of merely against each individual local franchise restaurant. Given the proliferation of subcontractors and temporary agency employment, this was an overdue and important expansion of the protections of the NLRA.

Now certain members in the United States Congress are attempting to roll back this critical protection for workers employed by subcontractors or franchises. The House of Representatives is currently attempting to revert back to the prior state of the law where an unfair labor practice claim could only be pursued against a workers immediate employer or a parent organization which exercises "direct control" over this subsidiary business. This would make it more difficult for workers to pursue unfair labor practice charges and easier for businesses to insulate themselves from liability. Make no mistake… this is an obvious attempt by anti-

219 Fort Pitt Boulevard 1st Floor, Pittsburgh, PA 15222-1576 Ph: 412.281.3850 • 412.261.0147 F: 412.281.1985
facebook.com/jpilaw www.jpilaw.com

union forces to further restrict workers' rights. We will be following these developments closely and will keep Joint Council 40 updated.

Respectfully submitted,

STEVEN E. WINSLOW, ESQUIRE