

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS

ASSOCIATED BUILDERS AND  
CONTRACTORS OF ARKANSAS, et al.,

PLAINTIFFS,

v.

Case No. 4:16-cv-169 (KGB)

THOMAS E. PEREZ, et al.,

DEFENDANTS.

**DEFENDANTS' STATUS REPORT REGARDING SCHEDULING MATTERS**

With respect to matters discussed during the status conference held on April 13, 2016, the undersigned have been authorized to inform the Court that the position of the U.S.

Department of Labor is as follows:

On March 24, 2016, the Department of Labor's ("the Department") Office of Labor-Management Standards published a rule entitled "Interpretation of the 'Advice' Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act," 81 Fed. Reg. 15924 ("the Rule"). While the effective date of the Rule is April 25, 2016, the rule is only applicable to arrangements and agreements made on or after July 1, 2016, and to payments made pursuant to arrangements and agreements entered into on or after July 1, 2016. 81 Fed Reg. 15924. The Rule revises the reporting requirements, and related recordkeeping requirements, for certain agreements and arrangements entered into between employers and labor relations consultants or other independent contractors, and payments made pursuant to those agreements and arrangements. The Department will not apply the Rule to arrangements or agreements entered into prior to July 1, 2016, or payments made pursuant to such arrangements or agreements. Consequently, under the Rule no employer, labor relations consultant, or other independent contractor will have to report or keep records on any activities engaged in prior to July 1 that are not presently subject to reporting, or file the new Forms LM-10 or LM-20 (revised pursuant to the Rule) for any purpose prior to July 1.

Counsel for plaintiffs has authorized the undersigned to report to the Court that, in light of the position of the Department of Labor as stated above, plaintiffs consent to an extension of defendants' time to respond to the Motion for Preliminary Injunction through and including April 28, 2016, and to a continuance of the hearing on that motion until May 9, 2016, provided that plaintiffs be afforded the opportunity to file a reply brief, which the undersigned understand plaintiffs would seek to file no later than May 5, 2016. Defendants would consent to plaintiffs filing a reply brief by no later than May 5, 2016.

Dated: April 14, 2016

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

CHRISTOPHER R. THYER  
United States Attorney for the Eastern District of Arkansas

JUDRY L. SUBAR  
Assistant Director, Federal Programs Branch

/s/ Elisabeth Layton  
ELISABETH LAYTON (DC Bar No. 462227)  
Senior Counsel  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, NW, Rm 7110  
Washington, DC 20530  
Tel: (202) 514-3183, Fax: (202) 616-8470  
[Elisabeth.Layton@usdoj.gov](mailto:Elisabeth.Layton@usdoj.gov)

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

**Maurice Baskin**  
Littler Mendelson, P.C.  
815 Connecticut Avenue, NW  
Suite 400  
Washington, DC 20006  
202-772-2526

**J. Bruce Cross**  
Cross, Gunter, Witherspoon & Galchus, P.C.  
Post Office Box 3178  
Little Rock, AR 72203-3178  
501-371-9999  
[bcross@cgwg.com](mailto:bcross@cgwg.com)

**Abtin Mehdizadegan**  
Cross, Gunter, Witherspoon & Galchus, P.C.  
Post Office Box 3178  
Little Rock, AR 72203-3178  
501-212-1814  
[abtin@cgwg.com](mailto:abtin@cgwg.com)

**Andrew King**  
Kutak Rock LLP  
124 West Capitol Avenue  
Suite 2000  
Little Rock, AR 72201-3740

**Jess L. Askew, III**  
Kutak Rock LLP  
124 West Capitol Avenue  
Suite 2000  
Little Rock, AR 72201-3740

**Jim L. Julian**  
Chisenhall, Nestrud & Julian, P.A.

Regions Center  
400 West Capitol Avenue  
Suite 2840  
Little Rock, AR 72201-3415  
(501) 372-5800  
jjulian@cnjlaw.com

**Lee Rudofsky**  
**Michael Cantrell**  
Arkansas Attorney General's Office  
Catlett-Prien Tower Building  
323 Center Street, Suite 200  
Little Rock, AR 72201-2610

I hereby certify that on April 14, I mailed copies of the foregoing document by United States Postal Service to the following non CM/ECF participants:

**Natasha Baker**  
**Christin Lawler**  
Hirschfeld Kraemer LLP  
505 Montgomery Street, Suite 13000  
San Francisco, CA 94111

**Louis P. DiLorenzo**  
Bond, Schoeneck & King  
600 Third Avenue  
New York, NY 10016  
646-253-2300  
646-253-2301 (fax)

**Adam G. Unikowsky**  
Jenner & Block – DC  
1099 New York Avenue, NW  
Washington, DC 20001

**Anna Elento-Sneed**  
ES&A, Inc  
Pauahi Tower  
Suite 2700  
1003 Bishop Street

Honolulu, HI 96813

**David Shane Jones**

**Kameron W. Murphy**

Tueth Keeney Cooper Mohan & Jackstadt P.C.

34 N. Meramec Avenue

Suite 600

St. Louis, MO 63105

**Kate Comerford**

**Steven P. Lehotsky**

**Warren Postman**

U.S. Chamber Litigation Center

1615 H Street, NW

Washington, DC 20062

*/s/ Elisabeth Layton*

ELISABETH LAYTON

Senior Counsel

United States Department of Justice

Civil Division, Federal Programs Branch

20 Massachusetts Avenue, NW, Rm 7110

Washington, DC 20530

Tel: (202) 514-3183, Fax: (202) 616-8470

[Elisabeth.Layton@usdoj.gov](mailto:Elisabeth.Layton@usdoj.gov)