December 13, 2018

Roxanne Rothschild  
Associate Executive Secretary  
National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570


Dear Mrs. Rothschild:

The undersigned write to express their continued support for the National Labor Relations Board’s (NLRB) efforts to solidify a standard that clarifies Joint Employer status for our nation’s business community. The current proposed rulemaking would appropriately eliminate the Board’s controversial Browning-Ferris Industries decision of August 2015. In that ruling, the NLRB overturned decades of bipartisan legal precedent by replacing the predictable and clear “direct and immediate control” standard for determining joint employer status with a vague test based on “indirect” and “potential” control over workers’ terms and conditions of employment. The decision exposed a huge swath of the business community – from contractors and service providers to franchisors and franchisees – to workplace liability under the National Labor Relations Act (NLRA) for another employer’s actions and a potential obligation to collectively bargain with workers they did not employ.

In a move to restore a commonsense understanding of the joint employer standard, in November 2017 the U.S. House of Representatives passed the “Save Local Business Act” (H.R. 3441), legislation meant to update both the NLRA and Fair Labor Standards Act to provide clarity for local businesses on what it means to be a joint employer. The legislation remains stalled in the U.S. Senate, reinforcing the need for the Board to engage in joint employer rulemaking. Given the vacuum created by uncertainty and a lack of legislative action, we support the NLRB’s decision to step forward and fill the void.

The expanded joint employer standard will continue to have a deleterious effect on the U.S. economy and the business community until the Board’s rules are clarified. This much needed clarification by the NLRB will provide answers to the many legal questions that have plagued our nation’s small business owners, putting local businesses and jobs in jeopardy. We urge the NLRB to make permanent the “direct, actual, and immediate” standard for the joint employer definition. This remains an important step toward providing clarity and restoring the support services needed by small, local businesses to enable them to flourish and create the jobs so sorely needed in their communities.

Sincerely,

[Signature]

Bradley Byrne  
Member of Congress
Rick Crawford  
Member of Congress

Warren Davidson  
Member of Congress

Daniel M. Donovan, Jr.  
Member of Congress

Ron Estes  
Member of Congress

Chuck Fleischmann  
Member of Congress

Matt Gaetz  
Member of Congress

Greg Gianforte  
Member of Congress

Glenn Grothman  
Member of Congress

Henry Cuellar  
Member of Congress

Rodney Davis  
Member of Congress

Sean Duffy  
Member of Congress

Drew Ferguson  
Member of Congress

Bill Flores  
Member of Congress

Mike Gallagher  
Member of Congress

Bob Gibbs  
Member of Congress

Brett Guthrie  
Member of Congress
Frank Lucas
Member of Congress

Tom Marino
Member of Congress

Paul Mitchell
Member of Congress

Martha Roby
Member of Congress

Mike Rogers
Member of Congress

Francis Rooney
Member of Congress

John Rutherford
Member of Congress

Austin Scott
Member of Congress

Tom MacArthur
Member of Congress

Mark Meadows
Member of Congress

Dan Newhouse
Member of Congress

David P. Roe, M.D.
Member of Congress

Todd Rokita
Member of Congress

David Rouzer
Member of Congress

Steve Scalise
Member of Congress

F. James Sensenbrenner, Jr.
Member of Congress
Jason Smith
Member of Congress

Lloyd Smucker
Member of Congress

Elise Stefanik
Member of Congress

Lamar Smith
Member of Congress

Mike Simpson
Member of Congress

Steve Stivers
Member of Congress

Glenn 'GT' Thompson
Member of Congress

Ann Wagner
Member of Congress

Tim Walberg
Member of Congress

Mark Walker
Member of Congress

Jackie Walorski
Member of Congress

Randy K. Weber
Member of Congress

Brad Wenstrup
Member of Congress

Joe Wilson
Member of Congress

Rob Woodall
Member of Congress