

Joe Trauger

Vice President

Human Resources Policy

March 20, 2013

The Honorable John Kline
Chairman
Committee on Education & the Workforce
2181 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20510

The Honorable George Miller
Ranking Member
Committee on Education & the Workforce
2181 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20510

Dear Chairman Kline and Ranking Member Miller:

On behalf of the National Association of Manufacturers (NAM), I am writing to express manufacturers' strong support for H.R. 1120, the Preventing Greater Uncertainty in Labor-Management Relations Act.

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million workers, and contributes nearly \$1.6 billion to the U.S. economy. The NAM's mission is to enhance the competitiveness of the manufacturing economy by advocating policies that are conducive to U.S. economic growth and to increase understanding among policymakers, the media and the general public about the vital role of manufacturing to America's economic future and living standards.

The recent decision by the U.S. Court of the Appeals for the D.C. Circuit in the *Noel Canning* case held that the three recess appointments made to the National Labor Relations Board (NLRB), by President Obama on January 4, 2012, were made contrary to the provisions of the Constitution. As such, the NLRB has been invalidly constituted since that time. Despite the Court's ruling, the Administration and the NLRB have continued normal operations. Since January 4, 2012, the Board has published another 238 case decisions, leaving to question whether these decisions are invalid or should be followed.

In accordance with the Supreme Court opinion in *New Process Steel*, there is a requirement the Board have at least three of the five of its members in order to issue case decisions, promulgate regulations or implement any rules. Clearly, any actions taken by the Board from January 4, 2012 carry with them a tremendous amount of uncertainty as to whether case decisions are valid and/or enforceable. The questions raised by *Noel Canning* create instability between the workforce and management on what is to be followed.

Due to the significance of the *Noel Canning* decision, and the impact it could have on hundreds of cases, it is only right and fair to employers and employees that the NLRB refrain from issuing any further case decisions. It is extremely likely any decisions made at this point will immediately be appealed and held in abeyance until the appointment issues are resolved

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and a proper quorum restored. Rather than create more confusion among employers and employees, or jeopardize the integrity and credibility of the NLRB, the NAM supports the Preventing Greater Uncertainty in Labor-Management Relations Act.

The NAM looks forward to continuing to work with you on our shared goals for a strong economy, job creation and promoting fair and balanced labor laws. Thank you for bringing the Preventing Greater Uncertainty in Labor-Management Relations Act forward in the Committee. I urge its swift enactment.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Trauger", is centered on a light green rectangular background.

Joe Trauger
Vice President
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