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**ALLEGHENY COUNTY LABOR COUNCIL
REPORT OF LEGAL COUNSEL
October 3, 2013**

At the last labor council meeting, Joe Pass spoke about the case called *Noel Canning* that was appealed to the Supreme Court. This case pertains to the recess appointments President Obama made in January of 2012. The implications of this case are huge: it leaves open the possibility that the Supreme Court could strike down the appointments. If the appointments were struck down, it would invalidate all decisions that not only these Board members had made, but decisions the 329 recess appointees have made since 1981.

The Supreme Court released its argument dates for October, November and December of 2013 and *Noel Canning* was not given a date. *Noel Canning* will still be decided, but it will not be argued until 2014.

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As you all have undoubtedly heard, the federal government has been shut down because Congress has been unable to agree on a budget. This shutdown really impacts working people who rely on several agencies to protect them. The Equal Employment Opportunity Commission (EEOC), which handles discrimination claims, is functioning currently with 107 of its 2,164 employees. The Wage and Hour Division of the Department of Labor, which handles minimum wage and overtime claims, is shut down and all but 6 employees have been furloughed. The Occupational Safety and Health Administration (OSHA), has temporarily ceased all operations except for those which relate to “emergencies involving the safety of human life or protection of property.”

The two biggest agencies that unions use, the National Labor Relations Board (NLRB) and the Federal Mediation & Conciliation Service (FMCS), have been hit hard as well. All NLRB field offices are shut down and new charges cannot be filed. All current NLRB investigations are on hold. Only 11 employees, the Board Members, the Acting General Counsel, and a few other senior leadership personnel, are exempted from the agency-wide furlough. The agency released a policy prior to the shutdown explaining how it plans to ensure time limits do not run out during shutdown. The FMCS is shut down as well. It will only provide “essential collective bargaining mediation” in labor negotiations that involve national defense industries,

health care industries, and utilities. This means that unions cannot get arbitration panels nor can they can they get FMCS commissioners to assist in labor negotiations.

**RESPECTFULLY SUBMITTED,
ROBERT A. EBERLE, ESQUIRE**