

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

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

*also admitted in Ohio

of counsel
Neal R. Cramer

ALLEGHENY COUNTY LABOR COUNCIL REPORT OF LEGAL COUNSEL September 7, 2017

I. Current Makeup of the N.L.R.B. under Trump

Republicans are no longer the minority at the National Labor Relations Board after the Senate confirmed Marvin Kaplan on August 10, 2017. The Senate voted 50-48 to approve the Kaplan nomination to serve on the Board. With Kaplan's appointment, the NLRB now consists of a 2-2 split between management-side and labor-side appointees. While this makes it unlikely that the current NLRB will overturn any of its controversial precedent, as the NLRB will refrain from overturning precedent without a majority, another management-side appointment is currently pending before the Senate in William Emanuel.

William Emanuel is a management-side attorney and a member of the conservative Federalist Society. He is also a shareholder of Littler Mendelson, an infamous union busting firm that was most recently brought in by Long Island beer distributor Clare Rose to negotiate a contract full of pay cuts. After being selected, Emanuel disclosed 49 former clients and declared he would recuse himself for up to a year if any of the companies found themselves in front of the NLRB. The list included multiple businesses that have clashed with the labor board, including Uber. Uber's ongoing battles with the NLRB have been the most publicized. Should Emanuel be confirmed, the Board will then have the opportunity to roll-back certain pro-union measures taken by the NLRB over the last five plus years.

II. Fight to Organize Uber and Lyft

On August 25, 2017 a federal judge rejected a challenge to Seattle's first-in-the-nation law allowing drivers of ride-hailing companies such as Uber and Lyft to unionize over pay and working conditions. The suit was filed by a group of Uber drivers, along with National Right to Work Legal Defense Foundation and the Freedom Foundation, both of whom support anti-union, right-to-work measures. The suit had argued that the law violates the National Labor Relations Act because drivers are independent contractors. However, in rejecting this challenge to the law, the court recognized the public importance of maintaining and promoting the safety and reliability of the for-hire transportation industry in the City of Seattle, goals which the law advances. The 2015 Seattle law requires companies that hire or contract with drivers of taxis, for-hire transportation companies and app-based services to bargain with them if a majority show they want to be represented.

Respectfully submitted,
Joseph S. Pass

