

February 9, 2022

Sen. Charles Schumer
S-221 The Capitol
U.S. Senate
Washington, DC 20510

Sen. Mitch McConnell
S-230 The Capitol
U.S. Senate
Washington, DC 20510

Dear Majority Leader Schumer and Minority Leader McConnell:

The undersigned firmly oppose David Weil, President Biden's nominee to lead the Wage and Hour Division of the Department of Labor. We strongly urge the Senate to reject this nominee.

The signatories represent many thousands of small businesses, self-employed, independent contractors, interstate motor carriers, and individuals and businesses in transportation sectors that rely on or operate as independent contractors.

Professor Weil is a known quantity. It is no secret that he will make it a top priority to eliminate independent contractor status and close off expansive areas of economic freedom. He has pursued such an agenda in academia, as a private activist, and in his previous appointment at the Labor Department in the same job to which he has again been nominated.

Professor Weil's political agenda will disrupt the lives and livelihoods of millions of Americans—from plumbers and electricians to consultants and self-employed proprietors to drivers for ride-sharing and delivery services. These Americans share independent contractor status, while the breadth and variety of their work spans a wide range of business models, economic sectors, and forms of work. Beyond unnecessarily disrupting the lives of millions, Professor Weil's ideological blinders will wreak havoc across our economy and supply chains.

In trucking, many interstate truck drivers are independent contractors who lease their own trucks (called power units) and hire themselves and their power units to motor carriers to haul freight loads. Many of these owner-operators operate under their own U.S. Department of Transportation-registered authority. This is like any self-employed person who runs a solo business. For over 40 years, this model has come to dominate interstate trucking; America's economy would come to a halt without owner-operators available to contract independently to carry the load.

In addition to the threat of forcing employee status on millions of independent contractors, Professor Weil has shown himself less than scrupulous with regard to following the constraints of due process and abiding by statutory limits. HELP Committee Ranking Member Richard Burr, in expressing his opposition to this nomination, said, "As Administrator Dr. Weil avoided even the most basic transparency in his actions. Instead of following the law to provide for notice-and-comment rulemaking or even soliciting feedback from stakeholders, Dr. Weil issued interpretation letters attempting to implement via executive fiat what he could not achieve by legislation, or even rulemaking. Dr. Weil used an interpretation letter to dramatically expand joint-and-several liability to franchisors that exert little to no direct control over the work rules of their franchisees. When asked by my staff why he failed to submit such controversial, substantively new enforcement policies to notice-and-comment rulemaking, Dr. Weil evaded."

Senator Burr further noted, "Under Dr. Weil's tenure, the Wage and Hour Administration promulgated a rule grossly overstepping its authority to set overtime eligibility. A federal court

later struck down the rule, noting in its opinion the brazenness with which the Wage and Hour Division failed to honor the plain language of the Fair Labor Standards Act.”

As the Wall Street Journal put it, “Mr. Weil’s history has managed the rare feat of uniting major corporations and small contractors against him.” He has disqualified himself from this or any position of public trust by his contempt and disregard for mainstream policy and for mainstream procedural norms and standards.

Therefore, we strongly urge the Senate not to take up this controversial, ideologically extremist nominee on the Senate floor. He must be rejected.

Respectfully,

David Owen
President
National Association of Small Trucking Companies

Joel E. Franklin
General Manager
Mercer Transportation Co., Inc.

Joe Rajkovacz
Director of Governmental Affairs
Western States Trucking Association

Guy Young
President
Auto Haulers Association of America

Joanne Blyton
President
Towing and Recovery Association of America, Inc.

John Lyboldt
President
Truckload Carriers Association

David Gee
President
Alliance for Safe, Efficient and Competitive Truck Transportation

Lisa Yakomin
President
Association of Bi-State Motor Carriers

George Pezold
President
Transportation & Logistics Council

Ray Shannon
President
Air & Expedited Motor Carriers Association

Dan Hunt
President/CFO
American West Worldwide Express

Mike Johnson
President
The Expedite Alliance of North America

William D. Bierman
Executive Director
Transportation Loss Prevention & Security Association