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## WLF Asks Texas Federal Court to Strike Down DOL Persuader Rule for Violating the First Amendment

*(National Federation of Independent Business v. Perez)*

**“The federal rules governing who must file disclosure reports and what they must disclose have been in force for over half a century. DOL’s gambit ... to create leverage against law firms and others who counsel the management side of labor disputes runs headlong into First Amendment limits on compelled speech.”**

**—Mark Chenoweth, WLF General Counsel**

WASHINGTON, DC—Washington Legal Foundation yesterday asked the U.S. District Court for the Northern District of Texas to decide that the Department of Labor’s new so-called Persuader Rule violates First Amendment protections against compelled speech. In a brief filed in *National Federation of Independent Business v. Perez*, WLF argues that because the new rule facially discriminates on the basis of the content of speech, strict scrutiny applies.

The Department of Labor (DOL) has read the disclosure requirements in Section 203 of the Labor Management Reporting and Disclosure Act of 1959 narrowly for more than five decades—across multiple administrations of both political parties—as not applying to entities that have no direct contact with employees and who merely provide advice on labor relations to employers. By simultaneously shrinking the definition of exempt “advice” and expanding the definition of what entities count as “persuaders,” the Department’s aggressive reinterpretation of this statutory provision is unconstitutional.

WLF’s brief points out that DOL’s views receive no deference when it comes to whether or not the statute as newly interpreted violates the First Amendment. The Persuader Rule cannot possibly survive strict scrutiny, because it fails to directly advance any compelling government interest and its mandates are not the least restrictive means of advancing the rule’s supposed objective. WLF’s brief was prepared with substantial *pro bono* assistance from Thomas Julin, Gregory Robertson, and Alan Marcuis of the Hunton & Williams law firm.

After filing its brief, WLF issued the following statement by General Counsel Mark Chenoweth: “The federal rules governing who must file disclosure reports and what they must disclose have been in force for over half a century. DOL’s latter-day gambit would overturn longstanding bipartisan consensus and dramatically expand reporting requirements. Fortunately, its effort to create leverage against law firms and others who counsel the management side of labor disputes runs headlong into First Amendment limits on compelled speech.”

*WLF is a national, public-interest law firm and policy center that regularly advocates in support of free speech rights, including where governments attempt to mandate or ban speech.*

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