COALITION FOR A
DEMOCRATIC WORKPLACE

May 25, 2017

Dear Senator Isakson:

On behalf of the millions of American businesses concerned with the National Labor Relations Board's (NLRB) unprecedented overreach into workplaces across the country, I write to share the Coalition for a Democratic Workplace's (CDW) strong support for S. 1217, the Representation Fairness Restoration Act. CDW urges Congress to pass this bill in order to restore balance to labor relations nationwide.

CDW is a broad-based coalition of over 600 organizations united in opposition to the tenets of the so called "Employee Free Choice Act" (EFCA) and alternatives that pose a similar threat to workers, businesses, and the American economy. In recent years, the NLRB has attempted to enact many EFCA-like policies through administrative rulings and regulations. In response, much of CDW's focus has been directed toward the NLRB.

In 2011, the NLRB issued its unprecedented decision in *Specialty Healthcare and Rehabilitation Center of Mobile and United Steelworkers, District 9, 357 NLRB No. 83 (2011)*. The Board's decision radically changed the standard for determining an appropriate bargaining unit for the estimated six million workplaces covered by the National Labor Relations Act (NLRA), allowing unions to gerrymander bargaining units and organize "micro-unions." This new standard makes it easier for unions to organize by permitting them to form smaller, cherry-picked bargaining units that often exclude similarly situated employees who oppose unionization. This effectively disenfranchises those employees and fractures the workplace.

Prior to the *Specialty Healthcare* decision, bargaining units had to include employees who shared a "community of interest." Smaller units were only permissible where the employees in the proposed unit had interests that were "sufficiently distinct from those of other employees to warrant the establishment of a separate unit." This prevented swarms of small, fractured units of similarly situated employees. However, as a result of the *Specialty Healthcare* ruling, businesses now face the possibility of having to manage multiple small units of similarly situated employees with increased chances of work stoppages as well as potentially different pay scales, benefits, work rules and bargaining schedules. Micro-unions greatly limit an employer's ability to cross-train and meet customer and client demands via flexible staffing, because employees are no longer able to perform work assigned to other units. Accordingly, employees suffer from reduced job opportunities, as promotions and transfers will be hindered by organizational unit barriers.

Since 2011, employers across the country in numerous industries have suffered from the Board's sanctioning of these disruptive micro-unions. For example, in a suburb of Boston, an NLRB regional office found employees in the fragrance and cosmetics department of a large department store to be an appropriate unit under *Specialty Healthcare*, despite the same regional office deeming the "appropriate unit" to be all employees in the store just a few years prior. S. 1217 would reverse the unprecedented

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decision in *Specialty Healthcare* and re-instate the standard for determining bargaining units that has been in place for over half a century.

We look forward to working together to advance the Representation Fairness Restoration Act and appreciate your continued efforts to restore certainty in labor relations. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, the U.S. workers they have hired or would like to hire, and the economy.

Sincerely,

Coalition for a Democratic Workplace