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MEMORANDUM FOR: KATE S. O'SCANNLAIN  
Solicitor of Labor  
Designated Agency Ethics Official

FROM: DAVID M. JONES  
Senior Associate Counsel to the President  
Alternate Designated Ethics Official  
The White House

SUBJECT: Certification of Limited Waiver of Section 1, Paragraph 6 of  
Executive Order 13770

Upon review of the request for a limited waiver of Section 1, Paragraph 6, of Executive Order 13770, "Ethics Commitments by Executive Branch Employees," dated January 28, 2017 ("Ethics Pledge") to allow Secretary of Labor Eugene Scalia to participate in the Department of Labor's litigation of *Chamber of Commerce, et al. v. DHS, et al.*, 20-cv-07331 (N.D. Cal. filed October 19, 2020) (*Chamber of Commerce*), I hereby grant a Limited Waiver pursuant to my authority under Section 3 of the Ethics Pledge as the designee of the President.

In addition to other restrictions within the Ethics Pledge, Secretary Scalia is restricted from participating in any particular matter involving specific parties that is directly and substantially related to his former employer or former clients for a period of two years following the date of his appointment.<sup>1</sup>

This Limited Waiver hereby waives the requirements of Section 1, Paragraph 6 of the Ethics Pledge to permit Secretary Scalia to participate in the Department of Labor's *Chamber of Commerce* litigation. This shall not include matters in which he otherwise is recused from participation under the Ethics Pledge.

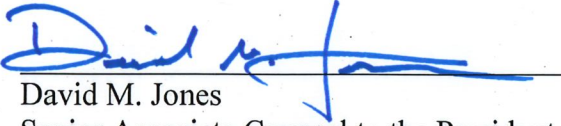
After careful consideration, I find that it is appropriate and in the public interest to grant this Limited Waiver to allow Secretary Scalia to be involved in the defense of the *Chamber of Commerce* lawsuit. The matter concerns an Administration priority, there are two similar suits in other jurisdictions challenging the Department of Labor's interim final rule from which he is not disqualified from participating, and he was significantly involved in the development, review, and clearance of the interim final rule. In addition, his prior experience and expertise as Solicitor of Labor and an attorney in private practice as an Administrative Procedure Act expert demonstrate that his ability to be involved in the defense of the *Chamber of Commerce* lawsuit is critical for the Administration and the Department of Labor.

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<sup>1</sup> The Ethics Pledge defines a "former client" as "any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services." Executive Order 13770, Sec. 2(i).

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This Limited Waiver does not affect the application of any other provision of law, including any other provision of the Ethics Pledge; the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635); the criminal bribery and conflict of interest statutes (18 U.S.C. §§ 201-209); or the Hatch Act (5 U.S.C. § 7323).

  
David M. Jones  
Senior Associate Counsel to the President  
Alternate Designated Ethics Official  
The White House

11-13-2020  
DATE