



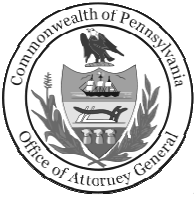
# Pennsylvania Conference of Teamsters

## Strength in Numbers 95,000

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# LEGISLATIVE ACTION ALERT

## PA Attorney General Josh Shapiro Stands Up For Working People and Labor



### Attorney General Josh Shapiro Files *Amicus* Brief in U.S. Supreme Court in Support of Employees' Rights

Attorney General Josh Shapiro and a coalition of 17 states have filed an amicus brief in the United States Supreme Court in support of the National Labor Relations Board (“NLRB”) and several employees who are alleging violations of their legal rights. In these three consolidated cases—*Epic Systems Corp. v. Lewis*, *NLRB v. Murphy Oil USA*, and *Ernst & Young v. Morris*—the Supreme Court will decide whether employers may force their employees, as a condition of employment, to sign arbitration agreements that bar them from joining together to pursue work-related claims on any collective or class basis.

“All employees have a fundamental right to go to court to seek remedies to protect their rights as workers, and I’ll stand up to protect them,” said Attorney General Shapiro. “This right is particularly important for low-wage workers, who are less able to enforce their legal rights standing alone.”

In the [Amicus Brief](#), the states argue that their residents have long held a “fundamental right” under the National Labor Relations Act (“NLRA”) to engage “in concerted activities” for their “mutual aid or protection.” As the states explain, Congress has dictated in the NLRA and

the 1932 Norris-LaGuardia Act that individual employees may not be forced to sign away this fundamental right to act collectively merely to earn a living. Similarly, “many states have enshrined that same right in our own labor statutes and have rendered unenforceable in state court any contract that requires an individual employee to waive the ability to engage in concerted activities.” Together, these statutes ensure that employees may act collectively to assert their legal rights.

The states also contend that the right of employees to join together to bring legal claims is necessary to vindicate workers’ rights under other vital workplace statutes, including minimum-wage and overtime laws as well as anti-discrimination provisions: Because the federal government and the states, the states write, “do not have the resources to enforce every violation of these laws, we rely on individual employees to help. In turn, these private enforcers often depend on their ability to join together to assert their rights. Experience shows that without that ability to join together, many fewer employees will

pursue claims, thus placing additional burdens on already over-burdened state regulators and leading to the under-enforcement of state and federal workplace protections.”

The states conclude that employer-imposed bans on collective legal action allow many employers to insulate themselves from liability for their legal violations, and they urge the Supreme Court not to “sanction employers’ efforts to ‘free themselves to violate wage and hour laws, to discriminate, to

impose unsafe working conditions, and to otherwise violate federal and state labor and employment laws with impunity.””

In addition to Pennsylvania, the states that joined in the filing of the *amicus* brief include: **California, Connecticut, the District of Columbia, Delaware, Iowa, Illinois, Maryland, Massachusetts, Minnesota, New York, North Carolina, Oregon, Rhode Island, Washington, Virginia and Vermont.**

## **BACKGROUND**

In *NLRB v. Murphy Oil*, the Fifth Circuit held that an employment contract requiring an employee to resolve all disputes through individual arbitration, and thereby waiving any ability to proceed collectively, is enforceable pursuant to the Federal Arbitration Act, despite language in the National Labor Relations Act giving employees the right to engage in “concerted activities.”

In *Epic Systems Corp. v. Lewis* and *Ernst & Young LLP v. Morris*, the Seventh Circuit and the Ninth Circuit came to the opposite conclusion, finding that a similar arbitration agreement was not enforceable under the National Labor Relations Act. These two courts reasoned that there was no conflict between the Federal Arbitration Act and the National Labor Relations Act because the Federal Arbitration Act includes a “saving clause,” which provides that an agreement to arbitrate “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” These courts held that when an agreement is illegal under federal labor law that constitutes such a ground for the revocation of any contract.

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# **Report: Soda tax decreased sales in Philly, boosted sales beyond border**

*PHILLY.COM* © AUGUST 21, 2017

According to an article in *Philly.com*© Michael Solomon is a regular for hoagies at Bruno’s Pizza on Cheltenham Avenue. He also loves soda. But since Philadelphia’s tax on sweetened beverages went into effect, the 33-year-old West Oak Lane man has stopped buying soda with his sandwich. Instead he crosses the street and hits the Fresh Grocer, where he can get a two-liter bottle for as little as 88 cents, about a third what it costs in the city. “People around this area will just go to the market over there,” Solomon said one afternoon last week, pointing to the other side of Cheltenham Avenue as he stood at Bruno’s waiting for

a hoagie. Solomon is not the only one to cross the city boundary to avoid the 1.5-cent-per-ounce tax, according to a report released Tuesday. Catalina, a Florida-based digital marketing firm, said its review of sales data from nearly 1,000 stores in the region found soda at franchised grocery and drug stores dropped 55 percent inside the city after the tax went into effect this year, while sales spiked by 38 percent at stores just outside the border. “Many shoppers are now traveling outside the city to buy their sweetened beverages,” the report concluded. *To view and read entire article go to:*

<http://www.philly.com/philly/news/pennsylvania/philadelphia/philadelphia-soda-tax-sales-20170822.html>