

Ten actions that hurt workers during Trump's first year

How Trump and Congress further rigged the economy in favor of the wealthy

By [Josh Bivens](#), [Daniel Costa](#), [Celine McNicholas](#), [Heidi Shierholz](#), and [Marni von Wilpert](#) • January 12, 2018

The tax cut law that President Trump boasts will make his wealthy friends “a lot richer” is just the latest in a series of betrayals of working people by the administration and Congress since Trump took the oath of office on January 20, 2017. In addition to passing a massive tax cut for wealthy business owners, Trump and Republicans in Congress have rolled back important worker protections, advanced nominees to key administration posts who have a history of exploiting working people, and taken other actions that further rig the system in favor of corporate interests and the wealthiest Americans.

Here are the 10 worst things Congress and Trump have done to undermine pay growth and erode working conditions for the nation's workers.

Enacting tax cuts that overwhelmingly favor the wealthy over the average worker

The Tax Cuts and Jobs Act (TCJA) signed into law at the end of 2017 provides a *permanent* cut in the corporate income tax rate that will overwhelmingly benefit capital owners and the top 1 percent. It also includes temporary reductions in the tax rates faced by the richest households and a temporary tax cut for “pass-through” business owners—a provision that has been marketed as a small business tax cut but that will actually deliver an even higher share of benefits to **top one percenters** than the corporate rate cuts will. While TCJA also includes some temporary cuts that could potentially benefit some low- and moderate-income families, these benefits are both stingy and temporary, whereas the tax cuts for the largest corporations have no expiration date. President Trump’s boast to diners at the \$200,000-initiation-fee Mar-a-Lago Club during the holidays says it best: “**You all just got a lot richer.**”

The net effect of the TCJA is clearly regressive, with 83 percent of the benefits accruing to the top 1 percent by the time it is fully phased in, in 2027, according to the **Tax Policy Center**. Defenders of the TCJA argue that the benefits of corporate tax cuts will trickle down to workers in the form of faster productivity growth and higher wages, but this claim **falls apart** in the face of many real-world data points; for one thing, the **historically high level of corporate profits** proves we do not need to redistribute wealth upward through the tax code to give corporations funds for productivity-enhancing capital investment—they already have the funds they need.

A wide body of research finds that the benefits of a cut in corporate income taxes accrue overwhelmingly to **owners of capital instead of to workers**. In turn, capital ownership is extraordinarily concentrated at the top of the income distribution. For example, the top 1 percent of households own roughly **40 percent of all stocks**, including those owned indirectly in 401(k)s and other savings vehicles.

Besides the permanent cut to corporate tax rates, the TCJA’s temporary cuts to individual income taxes includes a preferential rate for “pass-through” businesses—businesses that pay no corporate taxes but whose owners must pay taxes on profits on their individual tax returns when those profits are “passed through” to them. While this is often described as a tax cut for “small businesses,” that description is misleading. Pass-through income is even

more concentrated in the very upper reaches of the income distribution than corporate income, with **69 percent of pass-through income** claimed by the richest 1 percent of households. This means that the lion's share of benefits from a preferential pass-through rate will not go to archetypal small businesses like neighborhood stores or day care operations, but instead to hedge funds, white-shoe law firms, and consulting and accounting firms. And, notably, almost surely the companies that make up the Trump Organization.

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Taking billions out of workers' pockets by weakening or abandoning regulations that protect their pay

In 2017 the Trump administration hurt workers' pay in many ways, including acts to dismantle two key regulations that protect the pay of low- to middle-income workers: it failed to defend a 2016 rule strengthening overtime protections for these workers, and it took steps to gut regulations that protect servers from having their tips taken by their employers. These failures to protect workers' pay could cost workers an estimated \$7 billion per year.

Early on the administration voiced opposition to the central component of a 2016 rule updating overtime regulations and, in October 2017, the administration **effectively killed the 2016 rule**. This action deprived **12.5 million workers** of automatic overtime protection and will cost workers an estimated **\$1.2 billion a year**. The 2016 overtime rule was promulgated by the Department of Labor (DOL) to **restore lost overtime pay** to America's workers by raising the salary threshold below which workers are automatically eligible for overtime pay—from \$23,660 to \$47,476. Prior to the 2016 rule, the threshold had not been adequately raised in more than 40 years. As a result, low-level managers at retail and fast food outlets who made only \$23,660 a year—lower than the poverty rate for a family of four—could be required to work long hours without any extra pay for the extra hours worked. DOL's overdue attempt to restore lost pay to America's workers was blocked in the courts by business interests, while Trump administration officials claimed that the new \$47,476 threshold was “too high.” On October 31, 2017, the administration made clear in legal proceedings that it would not defend the rule. This stance ignores the link between outdated worker protections and stagnant wage growth. One reason Americans' paychecks **have not been keeping pace** with productivity growth is that millions of low- and middle-wage workers who should have access to overtime protections have been working overtime but not getting paid for it.

In December 2017 the administration took the first step toward weakening the tip protections, which would cost workers another **\$5.8 billion a year** in tips they earned but that would likely be pocketed by employers. The **current restrictions** on “tip pooling,” instituted by DOL in 2011, allow restaurants to pool the tips servers receive but stipulate that the employer may only share pooled tips with other workers who customarily receive tips, such as bussers and bartenders. Employers are prohibited from retaining any of the pooled tips themselves. On December 4, the Trump Department of Labor took its first major step toward allowing employers to legally take tips earned by workers who rely on tips when it **proposed rescinding those restrictions**. At first glance, the proposal seems benevolent: restaurants would be able to pool the tips servers receive and share them with untipped employees such as cooks and dishwashers. But, crucially, the repeal would mean that employers are no longer required to distribute pooled tips to other workers: as long as tipped workers earn the minimum wage, *the employer can legally pocket their tips*. EPI estimates that employers will likely pocket nearly \$6 billion per year of their workers' hard-earned tips each year—around \$1,000 a year per tipped worker. As a result of this rule, workers will take home less, and their loss will be employers' gain.

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Blocking workers from access to the courts by allowing mandatory arbitration clauses in employment contracts

In 2017, the Trump administration—in a virtually unprecedented move—switched sides in a case before the U.S. Supreme Court and is now [fighting on the side of corporate interests](#) and against workers. When the Supreme Court was first considering *Murphy Oil v. NLRB* in 2016, the Obama Justice Department sided with workers. If, as expected, the now-Trump-backed plaintiffs prevail, companies will be able to continue to require employees to sign arbitration agreements with class action waivers—forcing workers to give up their right to file class action lawsuits, taking them out of the courtrooms and into individual private arbitration when their rights on the job are violated. And employers’ use of such agreements is likely to increase if the court rules in favor of the plaintiff.

Forced arbitration is a tool employers use to prevent their employees from seeking justice in court when disputes arise in the workplace. American employers are increasingly requiring workers to sign arbitration agreements in order to get, or keep, their jobs. Arbitration is like a private, for-profit court system, in which the employer usually gets to pick the judge.

Mandatory arbitration panels [overwhelmingly favor employers](#), with employees in mandatory arbitration winning only just about a fifth of the time (21.4 percent). In contrast, they win 36.4 percent of the time in the federal courts and 57.0 percent of the time in state

courts. Differences in damages awarded are even greater, with the median or typical award in mandatory arbitration being only about one-fifth of the median award in the federal courts and well under half (43.0 percent) of the median award in the state courts.

Among private-sector nonunion employees, 56.2 percent are subject to mandatory employment arbitration procedures. This means that **60.1 million American workers** no longer have access to the courts to protect their legal employment rights and instead must go to arbitration.

Moreover, the events of 2017 brought national attention to what many women have known privately for years: there is still a vast amount of sexual harassment and gender discrimination in America's workplaces. Mandatory arbitration of employment disputes has fueled the sexual abuse of women by powerful men in politics, business, and the media by **barring women from seeking justice** against their abusers in court. Forced arbitration prevents victims of sexual harassment from taking their employers to court or even speaking out—under arbitration, most accusations are kept confidential and companies can decide who adjudicates the case.

In 2014, the National Labor Relations Board issued its decision in the *Murphy Oil* case, finding that arbitration agreements that include class action waivers of all work-related claims are prohibited by the National Labor Relations Act. When the *Murphy Oil* case was originally headed to the Supreme Court's docket in 2016, Obama's Department of Justice filed a brief arguing in favor of the workers. But when Justice Scalia died, the Supreme Court continued this case to the 2017 term. When the briefing resumed in 2017, the Trump Department of Justice switched sides and filed a brief on the side of employers. The Supreme Court heard oral arguments in the case in October 2017 and is expected to deliver a decision before June 2018. And with Justice Gorsuch on the bench, the court will likely give a green light to the proliferation of mandatory arbitration agreements with class action waivers.

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Pushing immigration policies that hurt all workers

The Trump administration has taken a number of extreme actions that will hurt all workers, including pursuing and detaining unauthorized immigrants who were victims of **employer abuse** and **human trafficking**—while they were **trying to enforce their rights in court**—and **ending Temporary Protected Status** for hundreds of thousands of immigrant workers, many of whom have resided in the United States for two decades. But perhaps the most inhumane and ill-advised example has been the administration’s termination of Deferred Action of Childhood Arrivals (DACA).

Ending DACA is forcing young immigrant workers out of the regulated labor market and into the shadow labor market, where they are **easily exploitable by employers** by virtue of losing their ability to work lawfully. While a federal district court in California **temporarily enjoined** the Trump administration on January 10, 2018, from continuing the phase-out of DACA, and ordered that it continue accepting applications for renewals, the impact of the decision is **unclear**. The government will quickly appeal the decision, the timeline for processing renewals is unclear, and no new applications from potential DACA beneficiaries will be permitted.

If the Trump administration’s termination of DACA is allowed to proceed, then each of the nearly 700,000 DACA recipients who are now working with **valid work permits** will—once those permits expire—become vulnerable to wage theft and other forms of exploitation. That hurts not just them, but it also diminishes the earnings and bargaining power of the U.S. citizens and authorized immigrants who work alongside them.

On September 5, 2017, Attorney General Jeff Sessions announced that the Trump administration would gradually **“wind down” and end DACA**, a Department of Homeland Security initiative from 2012 that temporarily deferred the deportation of **approximately 800,000** young immigrants who were brought to the United States as children. DACA was implemented by the Obama administration after Congress failed to pass the Dream Act, a bill that would have shielded young immigrants brought here illegally by their parents from deportation and offered them a path to permanent residence and citizenship.

On average, DACA recipients saw their wages increase significantly after DACA was implemented; those who were 25 and older **increased their average hourly wages by 84 percent**. The vast majority—**nearly 700,000**—of those original DACA recipients are still enrolled in DACA and are employed via **two-year work permits** that recipients have been able to apply for and renew. DACA has been an unqualified success and has benefited not

only the DACA recipients themselves, but also [the country](#) and [the economy](#).

Prior to the January 10 injunction, it had been estimated that approximately [122 DACA](#) recipients were losing their work authorization and protection from deportation *every day*—and that after March 5, 2018, the number losing protection would rapidly increase. Unless the January 10 injunction remains in effect and survives the forthcoming appeals, or Congress passes legislation to give DACA recipients a new immigration status, these workers will continue to be vulnerable. While President Trump has called on Congress to [pass a bill to legalize “dreamers” and DACA recipients](#), he has made any legislation on DACA [contingent on building a border wall and other immigration enforcement measures](#), making a bipartisan deal more difficult to achieve.

The end of DACA means nearly 700,000 young immigrants will become deportable as their protections expire. By losing the ability to work legally and contribute to the United States, DACA recipients will effectively be left without labor rights and employment law protections in the workplace. The United States is the only country many have DACA recipients have ever known since they were small children, which means they are unlikely to “self-deport” as the Trump administration would like them to do. When their permits expire, DACA recipients will be pushed into the informal labor market in order to survive, and as a result will earn lower wages and lose the ability to exercise their workplace rights. This loss of rights and wages en masse for so many workers will in turn degrade labor standards for the American workers employed alongside them.

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Rolling back regulations that protect worker pay and safety

President Trump and congressional Republicans have blocked regulations that protect workers’ pay and safety. Two of the blocked regulations are the Workplace Injury and Illness recordkeeping rule, and the Fair Pay and Safe Workplaces rule. By blocking these rules, the president and Congress are raising the risks for workers while rewarding companies that put their employees at risk.

On April 3, 2017, Trump signed a congressional resolution [blocking the Workplace Injury and Illness recordkeeping rule](#), which clarifies an employer’s obligation under the

Occupational Safety and Health Act to maintain accurate records of workplace injuries and illnesses. Recordkeeping is about more than paperwork. If an employee is injured on the job (for example, is cut or burned, or suffers an amputation), contracts a job-related illness, or is killed in an accident on the job, then it is the employer's duty to record the incident and work with the Occupational Safety and Health Administration (OSHA) to investigate what happened. Failure to keep injury/illness records means that employers, OSHA, and workers cannot learn from past mistakes, and makes it harder to prevent the same tragedies from happening to others. By signing the resolution to block this rule, Trump gave employers a **get-out-of-jail-free card** when they fail to maintain or when they falsify—their injury/illness logs. Workers who could have been saved from preventable accidents on the job will have to pay the price with their health or even their lives.

On March 27, 2017, Trump signed a congressional resolution **blocking the Fair Pay and Safe Workplaces rule**, which sought to ensure that government contracts are not going to companies with a record of violating workers' rights or putting workers in danger. Under the rule, companies applying for federal contracts must disclose certain violations of federal labor laws and executive orders—specifically violations of laws and orders addressing wage and hour, safety and health, collective bargaining, family medical leave, and civil rights protections. By blocking the rule, Trump leaves civil servants who are awarding federal contracts with no effective system for distinguishing between law-abiding contractors and those that do not take worker protections seriously. **Billions of taxpayers' dollars** have been awarded to companies that harm America's working people by failing to pay minimum wages or overtime or violating other important labor and employment laws and regulations.

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Stacking the Federal Reserve Board with candidates friendlier to Wall Street than to working families

The Trump administration inherited three vacancies on the Federal Reserve Board of Governors and got two more vacancies to fill when **Federal Reserve Chair Janet Yellen** and **Vice Chair Stanley Fischer** announced their resignations. President Trump's actions so far—including his choice **not to reappoint Yellen** as chair, and his nomination of **Randal Quarles** to fill one of the inherited vacancies—suggest that he plans to tilt the board toward the interests of Wall Street rather than those of working families.

Actions taken by the Federal Reserve can either help raise living standards and reduce income inequality—or prolong wage stagnation and **make our economy even more unequal**. That is because the Fed largely sets interest rates for the economy and acts as the chief regulator of the nation's big banks, with a Fed mandate to rein in risky Wall Street activities that have so many times hurt Main Street.

Higher interest rates are used to tamp down inflationary pressures, but when used too aggressively during times when inflation is not rising (as it is not right now), raising rates will throw people out of work and drive down wages. Outbreaks of unexpected inflation are particularly bad for wealth-holders while periods of too-high unemployment are particularly bad for low- and moderate-wage workers. In recent decades, the Fed has far too often yielded to the political preferences of wealth-holders and kept rates too high, hurting workers.

Trump's first appointment to fill Fed vacancies was Quarles, who has **consistently defended Wall Street** against sensible regulation that would make it less crisis-prone, and has supported **baseless criticisms** of the Fed's commitment to low interest rates during the recovery from the Great Recession. Trump also replaced Janet Yellen as the Federal Reserve chair. Yellen has been consistently supportive of monetary policy that targets low unemployment through low interest rates as well as of the Fed's role as chief financial watchdog. **She should have been reappointed as chair**. Both she and Stanley Fischer have announced their resignations from the full board, giving Trump two more vacancies to fill. This means that the Trump administration will be able to fully pack the Fed's Board of Governors with **Quarles-like candidates**, who will give Wall Street free rein while prematurely raising interest rates to slow the economic expansion just as it has finally begun to reach many working families.

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Ensuring Wall Street can pocket more of workers’ retirement savings

The Trump administration’s repeated delays to a rule protecting retirement savers from “conflicted” investment advice will cost retirement savers an estimated **\$18.5 billion** over the next 30 years in hidden fees and lost earning potential.

Since Trump took office, the Department of Labor has actively worked to weaken or rescind the “fiduciary” rule, which requires financial advisers to act in the best interests of their clients when giving retirement investment advice. The rule was finalized by the Department of Labor in April 2016 after an **exhaustive economic analysis** found that

“adviser conflicts are inflicting large, avoidable losses on retirement investors, that appropriate, strong reforms are necessary, and that compliance with this final rule and exemptions can be expected to deliver large net gains to retirement investors.” The rule was supposed to go into effect in April 2017 but key provisions were delayed multiple times, with the most recent 18-month delay pushing back the ability to enforce the rule to July 1, 2019. EPI estimates that retirement savers who will get, or have already received, advice tainted by conflicts of interest during the delays will lose a total of \$18.5 billion out of their retirement savings over the next 30 years.

The rule is being delayed with the clear intent of **never fully implementing it**. Instead, the Trump administration is buying time until it can permanently dismantle core elements, including the enforcement provisions that put teeth in the “best interest” requirements. The administration claims that it needs extra time to assess the rule’s effect on access to retirement investment advice—but the rule has already undergone a six-year vetting process on the likely impact of the rule, a process that incorporated feedback from four days of hearings, more than 100 stakeholder meetings, thousands of public comments, and a detailed review of the academic literature. According to the Consumer Federation of America, industry claims that the rule harms investors are based on **“flimsy and biased evidence.”**

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Stacking the Supreme Court against workers by appointing Neil Gorsuch

On April 7, 2017, the Senate confirmed Trump’s nominee to the Supreme Court, Neil Gorsuch, who has a record of ruling against workers and siding with corporate interests. Now on the Supreme Court, Gorsuch may cast the deciding vote in significant cases challenging workers’ rights. Cases involving collective bargaining, forced arbitration and class action waivers in employment disputes, and joint-employer doctrines are already on the court’s docket this term or are likely to be considered by the court in coming years.

The Senate confirmed Gorsuch after refusing to consider President Obama’s nominee to the Supreme Court for an unprecedented 293 days. During his confirmation hearing, Gorsuch was questioned extensively about his dissent in the *TransAm Trucking, Inc. v. Administrative Review Board* case. The case involved a trucker who had been fired for leaving his stranded trailer to seek shelter in subzero temperatures. An administrative law judge, the Administrative Review Board, and the Tenth Circuit majority held that the driver had been unlawfully fired. Only Gorsuch dissented. In his dissent, Gorsuch described health and safety goals as “ephemeral and generic” and a worker having to wait in subzero temperatures with no access to heat while experiencing symptoms of hypothermia as merely “unpleasant.” This dissent indicates that Judge Gorsuch does not understand workers’ lives or the laws that protect them, and suggests a hostility to fundamental worker protections.

One of the most fundamental worker protection issues on the docket is the right of workers to form a union and negotiate wages and working conditions with employers. In February the court will hear arguments in *Janus v. AFSCME*, a case involving public-sector unions’ ability to collect “fair share” fees. Fair share fees are paid by workers who choose not to join their workplace’s union but who are still represented by the union, and benefit from union contract negotiations and have a union advocate working for them if they file a sexual harassment complaint or other grievance with their employer. Taking away public-sector unions’ ability to collect these fair share fees—while the unions are nonetheless required to provide services and representation to these workers—would threaten the unions’ very existence by weakening their financial stability. These unions have worked for decades to protect the rights of the teachers, nurses, firefighters, police officers, and other public service workers that communities depend on.

The very day the Supreme Court agreed to hear the *Janus* case, Gorsuch was the keynote speaker at an event sponsored in part by the Bradley Foundation. The Bradley Foundation has helped pay for the litigation expenses of the plaintiffs in *Janus*.

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9

Trying to take affordable health care away from millions of working people

The Trump administration and congressional Republicans spent much of 2017 attempting to repeal the Affordable Care Act (ACA). They finally succeeded in repealing a well-known provision of the ACA—the penalty for not buying health insurance—in the tax bill signed into law at the end of 2017. According to the Congressional Budget Office (CBO), the repeal of this provision will raise the number of uninsured Americans by **13 million in 2027**.

The individual mandate aims to stop **free-riding by healthy people** that could threaten the efficiency of insurance markets (people not paying premiums when they're healthy, only diving into insurance pools and paying premiums when they are sick). As an article in *Time* explains, "Many healthy people would voluntarily opt to go without coverage, and insurers could raise their premiums to cover the remaining, sicker population. These higher premiums would in turn cause more consumers to become priced out of the market." While reports of massive coverage losses ultimately tanked congressional efforts to totally repeal the ACA last fall, the inclusion of the individual mandate repeal in the Tax Cuts and Jobs Act and the Trump administration's **cuts to ACA advertising and outreach** signal a persistent desire to weaken or abolish the ACA.

It's no surprise that the latest hit to the ACA will result in millions losing coverage. Congress spent the **first half of 2017** trying to push through various versions of an ACA repeal bill called the American Health Care Act (AHCA). At every iteration, CBO analysis revealed the act would leave **tens of millions** without access to health care (with millions losing coverage even under a so-called **skinny repeal** that eliminated just a few key elements of the ACA). The AHCA would have also hurt those Americans who managed to retain health care coverage. It would have raised premiums and out-of-pocket costs, with out-of-pocket costs alone rising by **\$33 billion annually**. And the AHCA would have slowed

job growth significantly: working families' spending would be curbed by the much higher out-of-pocket health expenses they face, which would lower demand for goods and services and thus slow job growth. See EPI's [interactive map](#) showing how many jobs the AHCA could have cost each state.

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10

Undercutting key worker protection agencies by nominating anti-worker leaders

Trump has appointed—or tried to appoint—individuals with records of exploiting workers to key posts in the U.S. Department of Labor (DOL) and the National Labor Relations Board (NLRB). DOL is supposed to promote the welfare of job seekers, wage earners, and retirees by, among other things, protecting them from hazards on the job and ensuring they are paid for their work. The NLRB is charged with protecting the rights of most private-sector

employees to join together, with or without a union, to improve their wages and working conditions. Nominees to critical roles at DOL and the NLRB have—in word and deed—expressed hostility to the worker rights laws they are in charge of upholding.

On January 20, 2017—his very first day in office—Trump failed workers when he nominated Andrew Puzder, then-CEO of CKE Restaurants (the parent company of Carl’s Jr. and Hardee’s), to be secretary of the Department of Labor. Puzder has opposed raising the minimum wage and the overtime salary threshold, criticized paid sick time proposals and health and safety regulations, and was CEO of a company with a record of violating worker protection laws and regulations. While his nomination **was ultimately withdrawn** due in great part to intense pressure from workers’ rights advocates, Trump’s original selection made a powerful statement—the president was prepared to support a labor nominee **who is hostile to policies that would benefit the nation’s workers**.

On September 2, 2017, Trump nominated Cheryl Stanton to serve as the administrator of the U.S. Department of Labor’s Wage and Hour Division (WHD). In addition to enforcing fundamental minimum wage and overtime protections, WHD has a full host of responsibilities and enforcement authorities that include labor protections for workers in low-wage industries where workers are most vulnerable, such as agriculture. Stanton has spent much of her career **representing employers, not workers**, in cases alleging violations of workplace laws, including wage theft and discrimination. And Stanton **was sued** by a cleaning services provider who alleged that Stanton failed to pay for multiple housecleaning visits. Stanton has not been confirmed by the full Senate, but will likely be renominated by President Trump again this year.

The NLRB’s role is to protect workers’ rights under the National Labor Relations Act, deciding cases involving when and how workers can form a union and what types of activities employees can engage in to try to improve their working lives. Yet Trump has appointed leaders to the NLRB who have no record of supporting working people. On September 25, 2017, the Senate confirmed Trump nominee **Rob Emanuel**—an attorney at the Littler Mendelson law firm who had regularly represented large employers—to become a member of the NLRB. On November 8, 2017, the Senate confirmed Trump nominee **Peter Robb** as the general counsel to the NLRB. Robb has spent much of his career as a management-side labor and employment lawyer.

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“[Senate Confirms Peter Robb as General Counsel to the National Labor Relations Board](#),” Worker Rights and Wages Policy Watch, Economic Policy Institute, November 8, 2017.