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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter Of: WORLD COLOR (USA) CORP., a wholly owned subsidiary of QUAD/GRAPHICS, INC., and GRAPHIC COMMUNICATIONS CONFERENCE OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 715-C,	Case Nos. 32-CA-062242 32-CA-063140 **WORLD COLOR (USA) CORP., A WHOLLY OWNED SUBSIDIARY OF QUAD/GRAPHICS, INC.,'S MOTION TO STAY ENFORCEMENT OF BOARD ORDER PENDING JUDICIAL REVIEW OF ORDER**

I. INTRODUCTION

Employer World Color (USA) Corp.[1], a wholly owned subsidiary of Quad/Graphics, Inc. ("World Color" or "the Company") hereby moves the National Labor Relations Board ("Board") for an order temporarily staying the enforcement of the Board's Order in the above-mentioned case ("Order"). The interests of justice would be served by granting a stay pending the decision of the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") on World Color's Petition for Review of the Board's Order, filed on February 24, 2014.[2] A stay is necessary and appropriate in this case because World Color is likely to prevail on the merits of its petition for review, as the Board incorrectly interpreted the Company's policy to include restrictions on union insignia that simply do not exist. The Board also improperly placed the burden on the Company to establish special circumstances in the absence of a policy that prevented union insignia, which is contrary to existing Board law. Furthermore, World Color will suffer irreparable harm in the absence of a stay, as the Board's Order provides no guidance to the Company as to how to remedy what it believes to be an unlawful hat policy. Based on the Order, it is entirely unclear what, precisely, World Color must do or how it must revise its policy to comply with the Order and with the Act. Last, a temporary stay while the D.C. Circuit reviews the Order would alleviate the significant harm to World Color without substantially harming the other parties to this case and would benefit the public by providing guidance to other employers in creating their policies.

Accordingly, the Board should stay enforcement of that portion of its Order directing World Color to (1) rescind its policy pertaining to employees' wearing of baseball caps, (2) issue revised employment guidelines to the employees at its Fernley, Nevada location, and (3) post the Board's Order.

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[1] World Color (USA) Corp. is now doing business as QG Printing Corp., which is a wholly-owned subsidiary of Quad/Graphics, Inc. For purposes of consistency with the proceedings below, the Employer will refer to this entity as "World Color."

[2] *See* Exhibit B to the Declaration of Ronald J. Holland in Support of this Motion to Stay Enforcement ("Holland Decl.").

II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

Quad/Graphics, Inc. ("Quad") is a multi-national commercial printing corporation that is based in Sussex, Wisconsin. On July 2, 2010, Quad acquired World Color (USA) Corp., including its location in Fernley, Nevada. That facility prints retail advertisements to be inserted in newspapers. (Rec: 40:12-15.)[3]

A. The Quad Uniform And Hat Policy

Quad maintains a Company-wide uniform policy which includes some mandatory and some optional components. (*See* Joint Exhs. 2, 4-5.) Known as "Quad/Blues," the minimum required uniform consists of navy blue pants, shorts or skirt and a navy blue shirt with the Quad logo and employee name. Optional clothing under the policy, which includes vests, t-shirts and sweaters, may be purchased through Quad's website and must contain the Quad logo. (*See* Joint Exh. 2, 4, 5.) The Quad/Blues uniform serves as a reminder that everyone employed by Quad is a production employee regardless of their role and promotes inclusion at every level of the Company – from the Press Room floor in Fernley, Nevada to Corporate Headquarters in Sussex, Wisconsin. The Company-wide uniform policy described above is written, among other places, in the "Employee Guidelines For U.S. Employees" ("Employee Guidelines"). (*See* Joint Exh. 2.)

In the proceedings below, the Government conceded that the uniform policy is lawful,"not in dispute" and that it does "**not have a problem with an employer asking employees to wear a uniform** that depicts a logo of the Company." (Rec: 37:18-21: 103:25-104:1, 105:18-106:2, 133:21-22 (emphasis added).

Quad's uniform policy applies to all classifications of employees throughout the country, including World Color employees, but employees may have "additional or different" uniform requirements depending on an employee's job classification. (Joint

[3] References to the transcript of the July 31, 2013 hearing before the ALJ on this matter are designated as "Rec: ___; to Joint Exhibits as "Joint Exh. ___; to the General Counsel's Exhibits as "GC Exh: ___; to the Company's Exhibits as "Resp. Exh: ___; to the ALJ's Order and Report and Recommendations as "ORD:page:line number"; and to the Board's Order as "B. ORD at [page number]."

Exh. 2.) Due to the obvious dangers of bodily injury posed by the printing presses, in addition to the Quad/Blues, Quad's production employees are also required to secure to their heads "all hair hanging past the bottom of the collar." (*See* Joint Exhs. 2 and 5.) Further, even if "hair does not hang past the collar but could potentially be caught in equipment, it must be secured with a hairnet or by other means." (*Id.*)

Due to the increased frequency of employees wearing hats in the workplace, in mid-2010, Quad decided to formalize a written Company-wide policy allowing hats to be worn to work and applied it to all of its facilities throughout the country. (Rec: 203:1-10, 206:1-4, 207:11-20.) Three departments were involved in formulating this new corporate policy: Safety, Security, and Human Resources. (Rec: 204:10-205:25, 211:21-212:2.) Safety wanted to ensure "that the hat was appropriate for the production floor, safe, as well as making sure that it could secure hair to the head." (Rec: 206:5-11.) With the operation of high-speed presses at the plant locations, the Safety Department had concerns, among others, about hats falling into the equipment. (Rec: 206:12-17.) Security had concerns about gang insignia and symbolism, specifically the colors of the hats and the direction of the bill. (Rec: 206:18-207:6.) Human Resources "wanted to make sure the hat aligned with the uniform policy from a presentation standpoint." (Rec: 207:7-14.)

The three departments ultimately decided that, as an optional part of the uniform (like a vest or a sweater) and as an optional means of securing hair hanging past the bottom of the collar, all employees who needed to secure their hair to their head for safety purposes would be allowed to wear hats with Quad's logo if they chose to do so. The hat policy, in effect during the relevant timeframe, states:

> All hair hanging past the bottom of the collar must be secured to the head while in the production areas. If hair does not hang past the collar but could potentially get caught in our equipment, it must be secured to the head with a hairnet or by other means. Baseball caps are prohibited except for Quad/Graphics baseball caps with the bill facing forward. Ponytails are strictly prohibited. Facial hair longer than the base of the neck must be secured.

(Joint Exh. 2.) Consistent with Quad's uniform policy, just as employees cannot wear optional vests with a non-Quad logo, employees cannot wear baseball caps displaying

logos for sports teams, clothing apparel, vacation destinations or other non-Quad logos. (*Id*.) While the hat policy is consistent with and is a part of the uniform policy, the hat policy is spelled out specifically in the Safety Section of the Employee Guidelines, which appears a few pages after the uniform policy. (*See* Joint Exh. 2.) Nothing in the policy is intended to restrict the rights guaranteed to employees by Section 7 of the NLRA.

On February 8, 2011, the uniform policy (which included the optional Quad hat for certain employees) was announced to the World Color employees at the Fernley facility and rolled out over the next few weeks. (Rec: 208:21-209:6; *See* Joint Exhs. 4 and 5.) A memorandum sent to the employees explained the mandatory requirements of the uniform (Quad shirt/blue plants or skirt) and the optional components which are available for purchase (jackets and hats). Several employees testified at the June 2013 hearing that they understood that the hat was an optional component of the Company's uniform policy. (Rec: 64:13-20, 121:15-22, 129:17-21.) Importantly, the policy does ***not*** prohibit employees from wearing union insignia or any clothing or accessories that demonstrate union support. (*See* Joint Exhs. 4 and 5). For example, rather than wearing a Quad hat, employees can use any safety-compliant device, of any color, with any symbol or picture, to secure their hair to their heads in order to ensure their safety.[4]

B. Procedural History of the Case

The hearing was held before ALJ William Cates on June 4, 2013, in Reno, Nevada. (Rec:1.) On July 31, 2013, the ALJ issued his Report and Recommendations. (ORD: 13:8.) The ALJ found that the hat policy was separate and distinct from the uniform policy, discriminatory, and interfered with the exercise of employees' Section 7 rights. (*Id.* at 11:27-33, 12:11-14, 12:25-28.)[5] On or about August 28, 2013, the Company filed

[4] At the hearing in front of the ALJ in June 2013, the Government presented no admissible evidence that Company policy prohibits employees from wearing union insignia on their hats or elsewhere. (*See generally* Record.) There was no evidence of discrimination or that employees had been prohibited from wearing union insignia or even union hats under the so-called overbroad policy. (*See also* B. ORD. at 1 n.3.)

[5] Importantly, the Complaint did not allege that the policy is discriminatory, a fact which the Board noted in its Order. (B. ORD. at 1 n.3.) The evidence presented at the hearing confirmed that the Company does not apply its policy in a discriminatory manner. (*See* Rec: 100:18-102:1.)

exceptions to the ALJ's findings and to his recommended Order on the grounds that the findings, conclusions, recommended order and notice requirements were not supported by the record, substantial evidence or the law. (Holland Decl., ¶ 2, Exh. A.) On February 12, 2014, the Board issued the instant Order, affirming the ALJ's finding in part. The Board held that the policy "that prohibits employees from wearing any baseball caps other than company caps is overbroad and in violation of Sec. 8(a)(1)." The Board further found that "the policy on its face prohibits employees from engaging in the protected activity of wearing caps bearing union insignia" and stated that no special circumstances exist to justify the prohibition. (B. ORD. at 1 n.3.)[6]

Because World Color believes that the Board's Order was incorrect based on the factual evidence as well as on the applicable legal authority, on February 24, 2014, World Color filed a Petition for Review of the Board's Order with the D.C. Circuit, which was amended on February 25, 2014. (Holland Decl., ¶ 3, Exh. B.) World Color now seeks, through this Motion, a stay of enactment of the Board's Order pertaining to its hat policy pending the D.C. Circuit's review of the Order.

III. ENFORCEMENT OF THE BOARD'S ORDER MUST BE STAYED PENDING JUDICIAL REVIEW.

A. Legal Standard

A Petition for judicial review of an order of the Board does not automatically result in a stay of that order. 28 U.S.C. § 160(g). However, stays are available in certain situations. *Pratt Institute*, 339 NLRB 971, 971 (2003). A number of federal courts, including the Supreme Court, have found that a four-factor test is appropriate when determining whether to issue a stay in a given case. In *Hilton v. Braunskill*, 481 U.S. 770, 776-77 (1987), the Supreme Court stated, "the factors regulating the issuance of a stay are generally . . . (1) whether the stay applicant has made a strong showing that he is likely to

[6] The Board also found that the ALJ erred in finding a violation of section 8(a)(1) based on statements allegedly made to an employee. (B. ORD. at 1.) That finding is not the subject of World Color's Petition for Review and World Color does not seek a stay of that portion of the Board's Order.

succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *See also Adams v. Walker,* 488 F.2d 1064, 1065 (7th Cir. 1973); *Assoc. Sec. Corp. v. SEC,* 283 F.2d 773, 774-75 (10th Cir. 1960); *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n,* 259 F.2d 921, 925 (D.C. Cir. 1958); *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.,* 559 F.2d 841, 843 (D.C. Cir. 1977); *Denver Rockets v. All-Pro Management, Inc.,* 197 U.S. App. Lexis 11846, *1-2 (9th Cir. Feb. 16, 1971). Furthermore, "since the traditional stay factors contemplate individualized judgments in each case, the formula cannot be reduced to a set of rigid rules." *Hilton*, 481 U.S. at 777. Rather, each case must be considered individually, based on the circumstances of that case. *Id*.

Here, enforcement of the Board's Order should be stayed pending the D.C. Circuit's resolution of World Color's Petition for Review of the Order, as all of the elements set forth above are met.

B. World Color Is Likely To Prevail On The Merits Of Its Petition for Review.

First, World Color is likely to prevail on the merits of its Petition for Review to the D.C. Circuit, as the Board's Order is based on clearly erroneous factual and legal conclusions.[7] The ALJ determined, and the Board affirmed, that the optional hat policy "prohibits employees from engaging in the protected activity of wearing caps bearing union insignia" and thus violates Section 8(a)(1) of the Act. Respectfully, World Color asserts that this decision is incorrect because the Board unreasonably failed to apply applicable Board precedent which allows employers to maintain lawful, non-discriminatory uniform policies. Significantly, the Board improperly shifted the burden to require that the Company establish "special circumstances" for its hat policy, even in the

[7] Federal Rule of Appellate Procedure 18 directs that this Motion to Stay Enforcement is properly filed with this Board prior to any such filing in the D.C. Circuit.

absence of any evidence that its hat policy is discriminatory or that World Color prohibits employees from displaying union support by wearing other types of union insignia at work.

1. The Policy Is Not Facially Invalid.

The Board incorrectly found that the Company's policy is facially invalid in violation of the Act. Employers are permitted to enact uniform policies so long as those policies are enforced consistently and are not used to target union insignia. *See NLRB v. St. Francis Healthcare Center*, 212 F.3d 945 (6th Cir. 1993); *Burger King Corp v. NLRB*, 725 F.2d 1053 (6th Cir. 1984) (no violation of the Act where employer consistently enforced a policy requiring the wearing of uniforms only with authorized name tags). By extension, this means that an employer may lawfully require uniforms and prohibit the wearing of hats other than those bearing the employer's logo, so long as the prohibition applies to all other types of hats.

In fact, the Board has specifically allowed employers to require employees to wear uniforms with company-approved logos so long as the rules do not otherwise prohibit employees from wearing union insignia. For example, in *Meijer, Inc.,* 318 NLRB 50 (1995), *aff'd*, 130 F.3d 1209 (6th Cir. 1997), a case directly on point here, the NLRB upheld the ALJ's decision that the employer's hat policy was lawful, even though it provided that employees could only wear hats issued or approved by the company. The ALJ in that case found, and the NLRB affirmed, that "the hat policy became part of the uniform and maintained Respondent's desired uniformity" and wearing union hats "stands on different footing" from the wearing of union pins on uniforms.[8] *Id.* at 57. *See also Noah's New York Bagels,* 324 NLRB 266, 275 (1997) (finding that an employer lawfully enforced policy requiring employees to wear a company t-shirt and lawfully insisted that she remove a company shirt with an added phrase).

[8] In *Meijer*, the ALJ engaged in the "special circumstances" analysis because the employer prohibited employees from wearing union insignia of all kinds at work. That is not the case here. See Section III.B.3, *infra*.

The Board incorrectly concluded that World Color's hat policy is facially invalid because it "prohibits employees from engaging in the protected activity of wearing caps bearing union insignia." (B. ORD. at 1 n.3.) The Board reached this conclusion by relying only on the text of the policy, which says "baseball caps are prohibited except for Quad/Graphics baseball caps." However, this interpretation is plainly incorrect. The policy simply prevents employees from *replacing* the Company hat with any hat of their own choosing, including a union hat. Nothing in the policy prevents an employee from attaching a union pin, sticker, button or other removable logo to their Quad/Graphics hat. The Government presented *no* evidence to the contrary at the hearing.

The Board's interpretation of the hat policy includes restrictions which simply do not exist. World Color is likely to succeed on its Petition for Review of the Order because the Board issued an overbroad order redefining the law on company uniform policies and improperly shifting the burden to employers to defend such policies by establishing "special circumstances." The Board's overbroad order now allows the Board to replace the discretion of management with its own and endorses a policy permitting employees to wear what they want to work if the employer at issue cannot establish "special circumstances" for its uniform policy. That is simply not the current law, except as written in this Order, and it is unlikely to stand.

2. <u>The Hat Policy Is Not Overbroad.</u>

Moreover, contrary to the Board's holding, the Government in this case failed to present adequate evidence that the hat policy is overbroad in violation of the Act. In the absence of a facially invalid rule, to find a work rule unlawfully overbroad, the Government must show one of the following: (1) the rule has been applied to restrict the exercise of Section 7 activity; (2) employees would reasonably construe the language to prohibit Section 7 activity; or (3) the rule was promulgated in response to Section 7 activity. *Martin Luther Memorial Home, Inc.,* 343 NLRB 646, 647 (2004).

First, there is no evidence that the hat policy has been applied to restrict Section 7 activity. The Government presented no evidence that employees have been prohibited

from adorning the hat (or any other parts of their person or uniform) with union insignia. In addition, the Government presented no evidence of actual interference, coercion, or restraint in employees' exercise of their Section 7 rights. Indeed, there was no evidence that ***any*** employee attempted—or even desired—to wear union logos or insignia in the workplace and was denied that opportunity. Second, employees would not reasonably interpret the hat policy as restricting Section 7 activity.[9] As stated above, while the hat policy requires any ***hat*** to have the Quad/Graphics logo on it, the policy does not prevent employees from wearing union insignia, such as stickers, pins, bracelets, or socks, to name a few.

Third, there was absolutely no evidence in the record that the hat policy was enacted in response to employees' lawful Section 7 activity. Undisputed evidence demonstrated that the hat policy was implemented for legitimate business reasons and uniformly applies to all Quad employees nationally. The Government presented no evidence, and neither the ALJ nor the Board issued a finding, that the policy was targeted at union activity.

Finally, the Board's decision that the policy is overbroad is irreconcilable with the *Meijer* decision, *supra*. In *Meijer*, like this case, the employees were required to restrain their hair for safety reasons. However, the *Meijer* employees were more limited than the employees at issue here, as in that case the employees were required to wear the company-provided hats as hair restraints, whereas World Color permits employees to use any number of different devices to restrain their hair—***including*** a device that demonstrates union support. *Compare* 130 F.3d 1209 *with* Joint Exhibit 2. For example, the World Color policy would not prevent an employee from using a union ribbon or hairnet to restrain her hair, whereas the policy at issue in *Meijer* did. *Id.* As such, the Company's

[9] Furthermore, the evidence in the record clearly establishes that the World Color employees understand that hats are an optional uniform item whose sole purpose is to offer employees a variety of options of how to secure hair to the head. (*See* Joint Exhs. 2-3, and 5.) It is worth noting that, while the Government called several employee witnesses to testify at the June 2013 hearing, ***none*** testified that the hat policy prohibited employees engaging in protected Section 7 activity at work. (*See generally* Record.)

policy is significantly less broad than the policy that the Board found lawful in *Meijer*. Under *Meijer*, contrary to the Board's decision, World Color's policy is not overbroad in violation of the Act, since it is much less restrictive and permits employees to display more union insignia than the policy in *Meijer*.

3. <u>The Company Was Not Required To Establish Special Circumstances In This Case.</u>

World Color's likelihood of success of the merits is further buttressed by the Board's misapplication of the special circumstances analysis. It is well settled that where an employer prohibits employees from wearing union insignia while at work, it must establish "special circumstances" that justify this prohibition. *Republic Aviation v. NLRB*, 324 US 793, 801-803 (1945). However, employers may establish uniform or dress code requirements **without** a showing of special circumstances, so long as those requirements do not ban the wearing of union insignia.[10] *Sears Roebuck & Co.,* 300 NLRB 804, 807 (1990); *Coca-Cola Bottling Co*., 311 NLRB 509, 515 (1993); *Meijer*, 318 NLRB at 56.

In *Meijer*, *supra*, the ALJ engaged in the special circumstances analysis only because the employer prohibited employees from wearing union insignia of all kinds at work. 318 NLRB at 56 (where an employee is prevented from wearing union insignia at work, employer must establish special circumstances). World Color's uniform policy, in contrast, simply states that "employees are required to dress and groom professionally at all times. While accessorizing the uniform in good taste and in accordance with safety rules is acceptable, your name (first and last) and the Quad/Graphics logo must show at all times." (*See* Joint Exh. 2). The policy at issue does *not* prohibit employees from wearing union insignia on their uniforms, and *expressly contemplates* the "accessorizing" of the uniform. (*Id*.) Despite these facts, the Board improperly placed the burden on World

[10] This standard was noted by the ALJ in his Recommendations. (ORD: 9:14-16) ("An employer may prohibit the wearing of union insignia by its employees if, and only if, the employer can demonstrate substantial evidence of special circumstances that would outweigh the employees' rights protected by Section 7 of the Act.").

Color to establish special circumstances in the absence of a policy that prevents union insignia. (B. ORD at 1 n.3; ORD:11:13-15.)

The Board inappropriately read into the hat policy restrictions that exist neither on the policy's face nor as it has been applied. For these reasons, World Color is likely to succeed on the merits of its Petition for Review of the Order to the D.C. Circuit.

C. World Color Will Suffer Irreparable Injury Unless A Stay Is Granted.

A stay is necessary to avoid the irreparable injury to World Color that will result should the stay be denied. First, the Board's Order provides virtually no guidance to the Company (or to other employers) as to what sort of policy *is* lawful under the Act. The Order merely states that World Color must rescind its hat policy and either advise its employees that the policy has been withdrawn or "provide the language of a lawful policy." (B. ORD. AT 2.) What that language should be, however, is not specified, and neither the ALJ's nor the Board's decisions provide any hints. World Color has been given no direction, for example, if the Board's Order means that: (1) employees have a statutory right under the Act to wear any hat they choose whenever they are at work; (2) World Color may prohibit all hats; (3) World Color may prohibit all hats except union hats; or (4) that the policy is saved by simply revising it to state that nothing in the policy shall be construed to prevent the exercise of employees' Section 7 rights under the NLRA. These are all questions left unanswered by the Order.[11]

Because of the lack of any real guidance in the Order, a stay is needed in this case as World Color is unable to comply with its requirements and unable to determine exactly what type of hat policy, if any, it is permitted to enact. In addition, until World Color receives further direction following the D.C. Circuit's review of the case, it is at risk of inadvertently violating the Order. The D.C. Circuit's review of the Order will assist the

[11] Indeed, when Counsel for World Color asked the Region 32 Compliance Officer if World Color could simply prevent employees from wearing baseball hats entirely by rescinding the policy, the Compliance Officer said she did not know if that was consistent with the Board's order. (Holland Decl. ¶ 4.)

Company in answering these questions, and the Board should stay enforcement of the Order pending that review.

D. **No Substantial Harm Will Result To Other Parties As A Result Of The Stay.**

On the other hand, the risk of substantial harm to the other parties in this case is extremely small, if not nonexistent. First, there is no risk that the World Color employees will be constrained in exercising their Section 7 rights, as the Government offered no evidence at all at the hearing that employees attempted to wear union hats or other insignia at work but were prohibited from doing so. To the contrary, the plain language of the uniform policy expressly contemplates that employees will "accessorize" their uniforms. Second, there is also no risk that the Union will be harmed as a result of a temporary stay of the Board's order. Although the Union was a party to this case, the Union was decertified by the employees four years ago,[12] and is not involved in the day-to-day operations at the facility. Moreover, there was no evidence of Union organizing offered at the hearing that would suggest that staying enforcement of the Order would harm the Union's right to try to organize the World Color employees. Finally, the stay will not negatively impact the employees' Section 7 right to communicate pro-union (or anti-union) support, because there is no evidence that World Color prohibits such expression at work. In fact, if the Board's Order is not stayed, unions will unfairly benefit from the erroneous legal conclusions in this case, including the interpretation that employees can disregard lawful uniform policies completely in favor of wearing union apparel or anything they choose at work.

Third, the Board will benefit from the D.C. Circuit's decision on World Color's Petition for Review, in that that Court will, at the very least, shed some light on the complicated—and sometimes apparently conflicting—rules that govern an employer's right to enact uniform policies for its employees. *See Pratt Institute*, 339 NLRB at 971

[12] (Rec: 23:17-19, 50:3-7.)

(stay appropriate pending outcome of another case, even if state of law remained the same, in part because case could "give guidance to the parties."). There is also a very real possibility that "copycat" Board cases may be filed in response to the Order and that the Board will have to analyze similar employers' policies. Guidance from the federal judiciary on this issue will only assist the Board in engaging in these analyses.

Last, the World Color employees will benefit from a temporary stay because such a stay will promote stability in the terms and conditions of their employment, rather than having those terms changed in response to the Board's Order and then perhaps changed again once the D.C. Circuit rules on the Petition for Review. Thus, because no substantial harm will result to the other parties as a result of the stay, but irreparable harm will result to the Company in the absence of the stay, the Board should grant this Motion and temporarily stay enforcement of its Order.

D. A Stay Is In The Public's Interest.

Finally, the Board should stay the enforcement of its Order because a stay is in the public's interest. As stated above, the Board's Order does not inform employers how to enact similar policies that are lawful under the Act, but merely directs World Color to create such a policy. Moreover, the Board has improperly shifted the burden to employers to prove special circumstances to justify such policies. This new rule of law must be reviewed by the Court of Appeal. A stay of the Order would allow employers to have the benefit of the D.C. Circuit's guidance while drafting their policies.

IV. CONCLUSION

A stay is appropriate in this case because it is likely that World Color will prevail on the merits of its Petition for Review to the D.C. Circuit. Additionally, the stay is necessary because World Color will be irreparably harmed without the stay, while the other involved parties and the public will suffer no harm as a result of a temporary stay. For these reasons, World Color respectfully requests that the Board stay enforcement of that portion of its Order directing the Company to rescind its policy pertaining to

employees' wearing of baseball caps, issue revised employment guidelines to the employees at its Fernley, Nevada location, and post the Board's Order.

Dated: March 11, 2014

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

WORLD COLOR (USA) CORP., a wholly-owned subsidiary of QUAD GRAPHICS, INC. **and** **GRAPHIC COMMUNICATIONS CONFERENCE OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 715-C**	**Case(s)** **32-CA-062242** **32-CA-063140** **Date:** **March 11, 2014**

AFFIDAVIT OF SERVICE OF WORLD COLOR (USA) CORP., A WHOLLY OWNED SUBSIDIARY OF QUAD/GRAPHICS, INC.,'S MOTION TO STAY ENFORCEMENT OF BOARD ORDER PENDING JUDICIAL REVIEW OF ORDER

I, the undersigned employee of Sheppard Mullin Richter & Hampton LLP say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

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