

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

TRUMP RUFFIN COMMERCIAL, LLC,

Petitioner,

Case No. 16-1386

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

**PETITIONER'S PRELIMINARY STATEMENT
OF ISSUES TO BE RAISED**

Pursuant to this Court's November 7, 2016 Order, Petitioner Trump Ruffin Commercial, LLC ("Petitioner") submits its preliminary Statement of Issues to be Raised in this case, as follows:

1. Whether the National Labor Relations Board's (the "Board") Decision and Order that Petitioner violated Sections 8(a)(1) and (5) of the National Labor Relations Act, 29 U.S.C. §§ 158(a)(1), (5), by failing and refusing to bargain with the Local Joint Executive Board of Las Vegas, affiliated with UNITE HERE International Union (the "Union") should be overturned and denied enforcement because the Board's underlying decision certifying the Union as the collective bargaining representative for a group of Petitioner's employees is not supported by substantial evidence and is contrary to the law.

2. Whether the Board erred in finding that the Union's employee organizing "committee leaders" were not acting as Union agents and that their conduct could not be attributed to the Union.

3. Whether the Board erred in finding that there was insufficient evidence of election misconduct under an agency or third-party conduct standard to set aside the results of the December 4-5, 2015 representation election in NLRB Case 28-RC-153650 (the "election").

4. Whether the Board denied Petitioner its right to due process during the proceedings on Petitioner's objections to the election.

5. Whether the Board erred in refusing to order the Union and other witnesses to produce relevant, material evidence responsive to Petitioner's subpoenas duces tecum regarding Petitioner's objections to the election.

Dated: December 7, 2016

Respectfully submitted,

By: /s/ Matthew J. Cute

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2016, I electronically filed the foregoing **PETITIONER'S PRELIMINARY STATEMENT OF ISSUES TO BE RAISED** with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the CM/ECF system, which will send notice and accomplish service of such filing to the following registered CM/ECF users:

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By: /s/ Matthew J. Cute

Matthew J. Cute