

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

International Union of Operating Engineers, Local 18,)	
)	
Petitioner/Cross-Respondent)	
)	
v.)	
)	Case Nos. 16-1800/16-1969
National Labor Relations Board,)	
)	
Respondent/Cross-Petitioner)	
)	
Construction Employers Association, Donley’s, Inc.,)	
Hunt Construction, Precision Environmental)	
Company, Cleveland Cement Contractors, B&B)	
Wrecking & Excavating, Inc.)	
)	
Intervenors)	

On Petition for Review filed by International Union of Operating
Engineers Union, Local 18 and Cross-Petition for
Enforcement filed by the National Labor Relations Board

Case Nos. 08-CD-081840, 08-CD-091637, 08-CD-133957, 08-CD-091683, 08-CD-091684,
08-CD-091686, 08-CD-091770, 08-CD-091773, and 08-CD-130178

**REQUEST FOR ORAL ARGUMENT
ON BEHALF OF CHARGING PARTY INTERVENORS**

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Pursuant to Sixth Circuit Rule 34(e) and this Court's order granting their Motion to Intervene, Intervening Parties Construction Employers Association, Donley's, Inc., Hunt Construction (AECOM), Precision Environmental Company, Cleveland Cement Contractors, and B&B Wrecking & Excavating, Inc. ("Charging Parties") respectfully move for leave to participate in oral argument.

This case involves the administrative appeal of Charging Parties' unfair labor practice charges under the National Labor Relations Act. Charging Parties request permission to use five (5) minutes of the National Labor Relations Board's time in which to argue their substantial legal interests in the issues presented by this appeal.

As the Court recognized in granting their Motion to Intervene, the Charging Parties have considerable legal interest in this litigation. The action was initiated upon their complaints to the National Labor Relations Board that the Appellant Union had engaged in unfair labor practices under the National Labor Relations Act. Further, this case arises out of a complex and extensive campaign by the Appellant to take work away from the Laborers International Union of North America, which has resulted in no fewer than thirteen (13) reported cases,¹ with more to come. As such, this case involves a lengthy and extensive factual record with which the Charging

¹ Operating Engineers' campaign concerning forklift and skid steers in Cleveland area building construction sites has thus far resulted in the following reported decisions: Operating Engineers Local 18 (Donley's, Inc.) ("Donley's I"), 360 NLRB No. 20 (2014); Operating Engineers Local 18 (Donley's, Inc.) ("Donley's II"), 360 NLRB No. 113 (2014); Laborers Local 310 (KMU Trucking & Excavating) ("Donley's III"), 361 NLRB No. 37 (2014); Operating Engineers Local 18 (Nerone & Sons) (Nerone), 363 NLRB No. 19 (2015); Int'l Union of Operating Engineers, Local 18 (Donley's, Inc.) ("Donley's IV"), 363 NLRB No. 184 (2016); Int'l Union of Operating Engineers Local 18 (Nerone & Sons, Inc.), 365 NLRB No. 18 (2017); Laborers Int'l Union (Ballast Construction, Inc.), 364 NLRB No. 126 (Sept. 23, 2016). The Operating Engineers have lost all of these cases. Other reported cases that are part of the Operating Engineers' campaign outside of Cleveland area building construction include the following: Int'l Brotherhood of Teamsters Union Local 407 (Norris Brothers Co., Inc.), 362 NLRB No. 42 (2015); Laborers Int'l Union, Local 265 (Henkels & McCoy, Inc.), 360 NLRB No. 102 (2014); Laborers Local 860 (Ronyak Paving, Inc.), 360 NLRB No. 40 (2014); Laborers International Union of North America (McNally/Kiewit), 359 NLRB No. 89 (2013); Laborers' District Council of Ohio, Local 265 (AMS Construction, Inc.), 356 NLRB No. 57 (2010). The Operating Engineers have lost all of these cases as well. The Operating Engineers Union has also enlisted its trust funds as an ally in its campaign by having them sue these same employers (other than the CEA) for contributions on work performed by Laborers. That effort was recently rejected by this Court in Orrand v. Hunt Construction Corp., Inc., No. 2:13-cv-00481 (6th Cir. March 30, 2017).

Parties and their counsel are intimately familiar. Thus, Charging Parties request the opportunity to use five (5) minutes of the National Labor Relations Board's allotted 15 minutes for oral argument.

The National Labor Relations Board has no objection to ceding to the Charging Parties five (5) minutes of its time.

Respectfully submitted,

/s/ Meredith C. Shoop

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2017, a copy of the foregoing Request for Oral Argument on Behalf of Employer Intervenors, was electronically filed and served by operation of the Court's CM/ECF system to all parties indicated on the electronic filing receipt.

/s/ Meredith C. Shoop

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