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November 13, 2017

Office of the Clerk
Court of Appeals, Ninth Circuit
95 Seventh Street
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *NLRB v. IATSE Local 720*
Case No. 16-72174

Dear Clerk:

This letter is written pursuant to FRAP 28(j) to bring to the attention of the Court the recent decision of the California Supreme Court in *Williams v. Superior Court*, 3 Cal.5th 531 (2017).

This case involved the scope of discovery available to plaintiffs asserting claims under California's Labor Code Private Attorney General Act. Williams, who filed a representative action seeking to vindicate the rights of himself and his fellow employees, sought to discover the names, addresses, and telephone numbers for fellow California employees.

The California Supreme Court affirmed that "home contact information is generally considered private" and that "absent employees have a bona fide interest in the confidentiality of their contact information." *Williams*, 3 Cal.5th at 554. The Court ruled that the employees' "privacy interests and any potential desire to avoid disclosure or contact could be protected by conditioning disclosure" on the issuance of "*Belaire-West* notices affording notice and an opportunity to opt out from disclosure." *Id.* at 553-54.

This ruling is significant because, even in the context of representative actions where employees "might reasonably expect, and even hope that their names and addresses would be given to a plaintiff seeking to vindicate their rights," *Id.* at 554, the privacy interests of employees were still substantial enough to require notice and an opportunity to opt out before their home phone numbers and addresses were disclosed to lawyers.

Here, Elias seeks to obtain information even lawyers in representative actions don't get without some protection in place under court supervision. All the Union sought to do was to preserve its well-established policy, under which employees had come to expect that their information would not be disclosed without their permission and that any contact with members would be done by the Union first contacting the member.

The Court's attention is also called to the NLRB's decision in *IATSE Local 838*, 364 NLRB No. 81 (2016), which reaffirmed that the proper standard to apply in evaluating the rules applied by a Union in the operation of an exclusive hiring hall is the Duty of Fair Representation rational basis standard.

Sincerely,

/s/ David A. Rosenfeld

David A. Rosenfeld

DAR:kk

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cc: See Certificate of Service attached

Certificate of Service

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

I hereby certify that on November 13, 2017, I electronically filed the foregoing Letter Pursuant to FRAP 28(j) with the United States Court of Appeal for the Ninth Circuit, by using the Court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Notice of Electronic Filing by CM/ECF system.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda, California, on November 13, 2017.

/s/ Karen Kempler
Karen Kempler