

No. 16-72963, consolidated with 16-73186 & 16-73279

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

WAL-MART STORES, INC.,

Petitioner/Cross-Respondent/Intervenor,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent/Cross-Petitioner,

ORGANIZATION UNITED FOR RESPECT AT WALMART (OUR WALMART),

Intervenor/Petitioner.

On Appeal from the National Labor Relations Board
Cases 32-CA-090116, 32-CA-092512, 32-CA-092858, 32-CA-094004, 32-CA-
094011, 32-CA-094381, & 32-CA-096506

**WAL-MART STORES, INC.'S AND OUR WALMART'S JOINT MOTION
FOR CLARIFICATION OF ORDER SETTING ORAL ARGUMENT**

WEINBERG ROGER & ROSENFELD

David A. Rosenfeld

Caren Sencer

1001 Marina Village Parkway, Ste. 200
Alameda, California 94501

**UNITED FOOD & COMMERCIAL
WORKERS INTERNATIONAL**

George Wiszynski

Joey James Hipolito

1775 K Street, N.W.

Washington, D.C. 20006-1598

Attorneys for OUR Walmart

STEPTOE & JOHNSON LLP

Steven D. Wheelless

Douglas D. Janicik

201 E. Washington St., Suite 1600
Phoenix, Arizona 85004-2382
(602) 257-5200

Attorneys for Wal-Mart Stores, Inc.

Wal-Mart Stores, Inc. (“Walmart”) and Organization United for Respect at Walmart (“OUR Walmart”) jointly move for clarification of this Court’s January 29, 2018 Order setting this appeal for oral argument on April 11, 2018, at 9 a.m. in San Francisco. [Dkt. Entry 92.] The National Labor Relations Board (“NLRB”), a Respondent/Cross-Petitioner, does not oppose this Joint Motion.

The Court’s Order states that each side has twenty (20) minutes of argument time. In this case, there are three sides—both Walmart and OUR Walmart petitioned for review from the NLRB’s August 27, 2016 decision, and the NLRB petitioned for enforcement of its decision. On December 15, 2016, this Court consolidated all three appeals [Dkt. Entry 28], and briefing proceeded as follows:

OUR Walmart’s Opening Br.	March 3, 2017
Walmart’s Answering/Opening Br.	May 22, 2017
NLRB’s Answering Br.	July 13, 2017
OUR Walmart’s Answering/Reply Br.	August 22, 2017
Walmart’s Reply Br.	October 12, 2017

Counsel for the parties conferred, and agreed to seek clarification from this Court that each party (OUR Walmart, Walmart, and the NLRB) has 20 minutes of argument time, for a total of 60 minutes. The parties also agreed to propose to this Court that, assuming each of them does have 20 minutes of argument time, the oral argument proceed as follows:

OUR Walmart	20 minutes, with the right to ask the Court to reserve some time for rebuttal
Walmart	20 minutes, with the right to ask the Court to reserve some time for rebuttal
NLRB	20 minutes
OUR Walmart	Rebuttal time
Walmart	Rebuttal time

Accordingly, the parties respectfully request that the Court issue an order (i) confirming that the parties' proposed sequence and allocation of time for oral argument is acceptable, or (ii) clarifying what the Court will permit by way of a sequence and allocation of time for oral argument.

RESPECTFULLY SUBMITTED this 5th day of March, 2018.

STEPTOE & JOHNSON LLP

By s/ Douglas D. Janicik
Steven D. Wheelless
Douglas J. Janicik
201 E. Washington St., Suite 1600
Phoenix, Arizona 85004-2382

Attorneys for Petitioner/Cross-
Respondent/Intervenor Wal-Mart
Stores, Inc.

WEINBERG ROGER & ROSENFELD

By s/ David A. Rosenfeld

David A. Rosenfeld

Caren Sencer

1001 Marina Village Parkway

Ste. 200

Alameda, California 94501

UNITED FOOD & COMMERCIAL
WORKERS INTERNATIONAL

George Wiszynski

Joey James Hipolito

1775 K Street, N.W.

Washington, D.C. 20006-1598

Attorneys for Intervenor/Petitioner
Organization United for Respect at
Walmart

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. I certify that those parties or counsel for parties listed below who are registered CM/ECF users have been served through the appellate CM/ECF system.

Ms. Linda Dreeben
Ms. Ruth Burdick
Mr. Micah Prieb Stoltzfus Jost

Counsel for National Labor Relations Board

David A. Rosenfeld
Caren Sencer
George Wiszynski
Joey Hipolito

Counsel for Organization United for Respect at Walmart

s/ Douglas D. Janicik