

**CASE NO. 18-1236 [Consolidated with 18-1288, 18-1291]**

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IN THE UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH  
RESORT SPA CASINO,

*Petitioner and Respondent,*

v.

NATIONAL LABOR RELATIONS BOARD,

*Respondent and Petitioner.*

INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 501, AFL-CIO

*Petitioner and Intervenor.*

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**MOTION FOR SUMMARY ENFORCEMENT**

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INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 501, AFL-CIO

1. International Union of Operating Engineers Local 501, the Union involved in this matter, submits this motion for summary affirmance of the Board's Order for the following reasons.

2. The Board's Decision and Order requires the Employer to provide information to the Union. As reflected in the Employer's Opening Brief, it does not challenge most of the Board's order with respect to the information because the request as to that information is presumptively relevant. Its only challenge is to the underlying representation case and its assertion that the slot technicians are guards. That representation question has been resolved by the Ninth Circuit on February 7, 2020, which issued its opinion finding that the slot technicians in this case are not guards. *See Int'l Union of Operating Eng'rs Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020). Furthermore, on April 17, the Ninth Circuit denied the Employer's Petition for Rehearing *En Banc*. Order Denying Petition for Rehearing *En Banc*, *Int'l Union of Operating Eng'rs Local 501*, 949 F.3d 477, DktEntry 65. The Mandate has issued in that case. Finally, on April 30, the Union was advised by a letter that the employer was withdrawing all legal challenges to the Union's representation status. *See Exhibit A*.

3. In light of the fact that most of the information requests in this case are not contested on any grounds, the Court should summarily enforce that portion of the Board's Order. This is now even more relevant since the employer has stated it is withdrawing any legal challenge to the Union's status as the collective bargaining representative and bargaining should commence. *See Exhibit A*. The Court should not countenance any further delay in an Order from this Court that

the Employer comply with the Board Order and supply that information. Thus, the Board's Order with respect to information requests, which are not contested, should be enforced.

4. With respect to those information requests which are challenged regarding any confidentiality concern, the employer has now agreed to bargain. The letter agreeing to bargain, however, did not offer to accommodate any confidentiality concern. Having failed to do so, the employer has now plainly waived again the right to insist on any accommodation with respect to any confidentiality concerns. *See NP Palace*, 368 N.L.R.B. No. 148 (2019), Case Nos. 19-1272, 20-1008, and 20-1042, pending in this Court.

5. Further, because the Ninth Circuit enforced the Board's Order that Green Valley bargain on February 7, and the employer waited until April 30 before stating it was withdrawing any legal challenge, Green Valley further waived any right to bargain during that lengthy delay from February 7 until April 30.

6. Because at this point, all the information requests, except those concerning confidentiality,<sup>1</sup> are now subject to the Board's Order requiring that they be provided without any objection, that portion of the Board's Order should be summarily enforced. With respect to any information request that may concern confidentiality, the employer's April 30 letter did not offer to bargain on that issue

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<sup>1</sup> In *NP Palace*, there was an additional issue about customer complaints. That issue has not been raised either to the Board or in Green Valley's Opening Brief and has been waived. 29 U.S.C. § 160(e).

and, for that reason, it has waived its right to do so, and the Board's Order should be enforced in full.

Dated: May 12, 2020

Respectfully Submitted,

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

By: /s/ David A. Rosenfeld  
David A. Rosenfeld

*Attorneys for Petitioner and Intervenor,*  
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**CERTIFICATE OF COMPLIANCE PURSUANT TO F.R.A.P. 27(d)(2)(A)**

Pursuant to Federal Rule of Appellate Procedure 27(d)(2)(A), Petitioner and Intervenor International Union of Operating Engineers Local 501, AFL-CIO certifies that the foregoing motion contains 557 words, proportionally spaced, 14-point type in a Times New Roman font style, and the word processing system used was Microsoft Word 2010.

Dated: May 12, 2020

Respectfully Submitted,

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

By: */s/ David A. Rosenfeld*  
David A. Rosenfeld

*Attorneys for Petitioner and Intervenor,*  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,  
AFL-CIO

# **EXHIBIT A**



Via email @ [tom@local501.org](mailto:tom@local501.org) and certified mail, return receipt requested

April 30, 2020

Thomas O'Mahar, President  
International Union of Operating Engineers, Local 501  
301 Deauville St  
Las Vegas NV 89106-3912

In re: Station GVR Acquisition, LLC d/b/a Green Valley Ranch  
Station Casino, NLRB Case No. 28-RC-203653

Mr. O'Mahar:

Station GVR, LLC Acquisition d/b/a Green Valley Ranch Station Casino, (Company), will immediately be taking steps to withdraw all pending legal challenges to the NLRB's certification of representative in the above referenced case.

Effective immediately the Company recognizes the International Union of Operating Engineers, Local 501 as the authorized representative of the bargaining unit described in NLRB Case No. 28-RC-203653.

If you wish to meet, please contact me.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Phil Fortino".

Phil Fortino  
Senior Vice President – Human Resources

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rules of Appellate Procedure 26.1, Proposed Intervenor, INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO, is an unincorporated association and is a labor organization.

Dated: May 12, 2020

Respectfully Submitted,

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

By: */s/ David A. Rosenfeld*  
David A. Rosenfeld

*Attorneys for Petitioner and Intervenor,*  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,  
AFL-CIO

