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November 20, 2020

Mark J. Langer, Clerk
United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866

RE: *Leggett & Platt v. NLRB*, Case Nos. 20-1060, 20-1061, 20-1134
(oral argument set for December 2, 2020)

Dear Mr. Langer:

On behalf of Petitioner Keith Purvis I am responding to the Board's November 20, 2020, FRAP 28(j) submission.

The Board's citation of this Court's unpublished opinion in *Wyman Gordon v. NLRB*, No. 19-1263 (Nov. 13, 2020) (per curiam) is inapposite for a simple reason: *Wyman* was not a case of a union surreptitiously collecting a petition to counter evidence showing loss of majority support. In *Wyman*, the Board ruled that the employees' decertification petition was *never* supported by a majority of employees. To the contrary, the Court held the petition itself was defective on its face because several of its pages were blank and lacked "showing of interest" language. *Id.* slip op. at 9. Here, there is no dispute Purvis' petition was supported by a majority of employees, both at the time it was presented to Leggett and when Leggett announced it would withdraw of recognition at the expiration of the collective bargaining agreement. Instead, this case is akin to *Scomas of Sausalito, LLC v. NLRB*, 849 F.3d 1147 (D.C. Cir. 2017), where this Court rejected a bargaining order in a nearly identical case and noted an election was the proper remedy.

Moreover, the employer in *Wyman* committed numerous other unfair labor practices that arguably prevented a fair election from being held. *See Wyman*, slip op. at 10 ("an alternative remedy would not be sufficient to remediate *Wyman Gordon's* many violations of the Act."). Such unfair labor practices are entirely absent here. The proper remedy, if one is required at all, is for the Board to hold an election per this Court's ruling in *Scomas*.

Respectfully,

/s/ Aaron Solem

Aaron Solem

Attorney for Keith Purvis