

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
AT LEXINGTON**

MATTHEW T. DENHOLM, REGIONAL DIRECTOR
OF THE NINTH REGION OF THE NATIONAL LABOR
RELATIONS BOARD, FOR AND ON BEHALF OF THE
NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

Civil No. 5:20-cv-00320-REW-MAS

SMYRNA READY MIX CONCRETE, LLC

Respondent

PETITIONER'S MOTION TO PUBLISH OPINION

Petitioner Matthew T. Denholm, Regional Director (“Director”) of the Ninth Region of the National Labor Relations Board (“the Board”), for and on behalf of said Board, moves for publication of the Opinion & Order of Honorable United States District Judge Robert E. Wier, which issued on January 28, 2021, and which granted Petitioner’s Petition for Temporary Injunction under Section 10(j) of the National Labor Relations Act (herein Section 10(j)) in the above-captioned matter, for the following reasons:

1. Judge Wier’s Order is detailed and fully addresses the District Court’s role in granting injunctions under Section 10(j) of the National Labor Relations Act, what standards the Sixth Circuit uses to consider such injunctions, whether there is reasonable cause to believe that there has been a violation of the National Labor Relations Act under Sixth Circuit precedent and the facts of the underlying administrative case, whether Petitioner’s requested remedy is just and proper, and what the appropriate remedy is in granting such injunctions.

2. Judge Wier's Order is significant because it is one of the first decisions by a district court judge within the Sixth Circuit that specifically addresses the argument that the two-prong standard for granting 10(j) relief in the Sixth Circuit was altered by *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365 (2008).

3. Judge Wier's Order is also significant because it appears to be the first decision in the Eastern District of Kentucky to address the appropriateness of temporary injunctions under Section 10(j) of the Act where an employer partially shuts a plant in response to protected concerted activity and union activity. Given the relative dearth of legal opinions in this area of the law, publication of Judge Wier's Order will further the development of case law and provide useful guidance to litigants involved in future Section 10(j) injunction proceedings in the Eastern District of Kentucky, the Sixth Circuit, and beyond.

4. The Order, which is of general precedential value, fully sets forth the facts and the applicable law, and is suitable for publication without modification.

5. Petitioner does not request a hearing or oral argument.

Based on the foregoing, Petitioner respectfully requests that Judge Wier's Order be published.

Dated: February 11, 2021

Respectfully submitted,

/s/ Zuzana Murarova
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CERTIFICATE OF SERVICE

February 11, 2021

I hereby certify that on this date, I filed this Petitioner's Motion to Publish Opinion with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

/s/ Zuzana Murarova
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