



United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

March 25, 2021

Molly Dwyer
Clerk of the Court
United States Court of Appeals
for the Ninth Circuit
Post Office Box 193939
San Francisco, CA 94119-3939

Re: *Kava Holdings, LLC, d/b/a Hotel Bel-Air v. NLRB*
9th Cir. Nos. 21-70225, 21-70638 Board No. 31-CA-074675

Dear Ms. Dwyer:

I am transmitting the Certified List of the contents of the Agency Record in the above-captioned case.

Very truly yours,

/s/ Ruth E. Burdick

Ruth E. Burdick
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

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

KAVA HOLDINGS, LLC, d/b/a HOTEL BEL-AIR)	
Petitioner/Cross-Respondent)	Nos. 21-70225,
)	21-70638
v.)	
)	Board Case No.
NATIONAL LABOR RELATIONS BOARD)	31-CA-074675
Respondent/Cross-Petitioner)	

CERTIFIED LIST OF THE NATIONAL LABOR RELATIONS BOARD

Pursuant to authority delegated in Section 102.115 of the National Labor Relations Board’s Rules and Regulations, 29 C.F.R. § 102.115, I certify that the list set forth in the attached Index, consisting of three volumes, fully describes all documents, transcripts of testimony, exhibits, and other material constituting the record before the Board in Kava Holdings, LLC, d/b/a Hotel Bel-Air, Case No. 31–CA–074675.

Roxanne L. Rothschild

Roxanne L. Rothschild
Executive Secretary
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

March 25, 2021

<u>VOLUME I - Transcript of Hearing</u>	<u>Pages</u>
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VOLUME II - General Counsel's Exhibits¹

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25 (rejected)
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- Respondent's (Kava) Exhibits

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2 (rejected)
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42 (pages 2-3 & 4-5)
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¹ There are no General Counsel's Exhibit 26-27, 48, or 52 in the record, nor were they mentioned in the transcript.

² There are no Respondent's Exhibit 14-16, 37, 41, 73, 75-79, 85-89, 98-109, or 111 in the record, nor were they mentioned in the transcript.

Respondent's (Kava) Exhibits Continued

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- Charging Party's (UNITE HERE) Exhibits

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- Administrative Law Judge's Exhibits

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VOLUME III - Pleadings

<u>No.</u>	<u>Date</u>	<u>Documents</u>
01.	08/01/16	Respondent's (Kava) Letter Requesting Postponement of hearing
02.	08/15/16	Charging Party's (UNITE HERE) Letter Opposing Respondent's (Kava) Request for Postponement
03.	03/13/17	Respondent's (Kava) Amendment to Answer
04.	03/14/17	General Counsel's Opposition to the Respondent's (Kava) Motion to Dismiss on the Basis of the Affirmative Defense of Laches
05.	03/15/17	General Counsel's Opposition to the Respondent's (Kava) Motion to Dismiss Pursuant to Section 10(b) of the Act
06.	03/16/17	General Counsel's Response Brief Addressing Certain Allegations in Respondent's (Kava) Amendment to Answer

07. 03/16/17 Charging Party's (UNITE HERE) Opposition to the Respondent's (Kava) Affirmative Defenses in Its Amendment to Answer
08. 03/20/17 Respondent's (Kava) Reply to General Counsel's And Charging Party's (UNITE HERE) Opposition to Respondent's (Kava) Affirmative Defense
09. 04/03/17 Respondent's (Kava) Objection and Motion for Reconsideration of the *Sua Sponte* Order to Hold the Hearing in Abeyance
10. 04/04/17 Administrative Law Judge's Order to Show Cause Why Respondent's (Kava) Motion for Reconsideration Of the Administrative Law Judge's Order Holding Case in Abeyance Should Not Be Granted
11. 04/05/17 General Counsel's Response to the Respondent's (Kava) Objection and Motion for Reconsideration
12. 04/13/17 Administrative Law Judge's Notice of Rule 102.177
13. 04/25/17 Respondent's (Kava) Notice of Intent to Call Expert Witnesses
14. 04/26/17 Administrative Law Judge's Order to Show Cause Why Respondent's (Kava) Notice of Intent to Call Expert Witnesses Should Not be Granted
15. 10/18/17 Respondent's (Kava) Motion for Protective Order
16. 11/01/17 General Counsel's Opposition to the Respondent's (Kava) Motion for Protective Order
17. 11/08/17 Respondent's (Kava) Reply Memorandum In Support of Its Motion for Protective Order
18. 11/09/17 Administrative Law Judge's Order Denying Respondent's (Kava) Motion for Protective Order

19. 11/30/17 Respondent's (Kava) Motion for Special Permission to Appeal Administrative Law Judge's Order Denying Motion for Protective Order and Appeal of Administrative Law Judge's Denial of Respondent's Motion for Protective Order
20. 12/05/17 General Counsel's Opposition to the Respondent's (Kava) Motion for Special Permission to Appeal and to Respondent's Appeal of Administrative Law Judge's Denial of Respondent's Motion for Protective Order
21. 01/26/18 Respondent's (Kava) Objection and Motion for Reconsideration of the *Sua Sponte* Decision to Continue Holding the Hearing in Abeyance
22. 01/29/18 Administrative Law Judge's Order to Show Cause
23. 02/02/18 General Counsel's Response to Respondent's (Kava) Objection and Motion for Reconsideration of the *Sua Sponte* Decision to Continue Holding the Hearing in Abeyance
24. 02/07/18 Administrative Law Judge's Case Management Order
25. 02/08/18 Administrative Law Judge's Order Denying Respondent's (Kava) Objection and Motion for Reconsideration of Order Holding Case in Abeyance and Order Lifting Stay to Resume Proceedings
26. 02/13/18 Administrative Law Judge's Amended Case Management Order
27. 02/13/18 Administrative Law Judge's Order Regarding Respondent's (Kava) Objection and Motion for Reconsideration of *Sua Sponte* Decision to Continue Holding Case in Abeyance
28. 02/27/18 General Counsel's Motion to Compel Disclosure of Expert Witness Reports Or, Alternatively, Preclude Testimony by Experts
29. 03/08/18 Respondent's (Kava) Response to General Counsel's Motion to Compel Disclosure of Expert Witness Reports Or, Alternatively, Preclude Testimony by Experts

30. 03/16/18 Administrative Law Judge's Order Rendering General Counsel's Motion to Compel Disclosure of Expert Witness Reports Moot and Order Precluding Testimony by Respondent's (Kava) Proposed Expert Witnesses
31. 03/20/18 Board Order Granting Respondent's (Kava) Request for Special Permission to Appeal ALJ's Order Denying Motion for a Protective Order and Denying Respondent's Appeal
32. 03/23/18 Respondent's (Kava) Motion for Special Permission to Appeal Pursuant to Rule 102.26 ALJ's Order Dated March 16, 2018 and Respondent's Appeal of that Order
33. 03/29/18 General Counsel's Response to Respondent's (Kava) Motion for Special Permission to Appeal Pursuant to Rule 102.26 and to Respondent's Appeal of ALJ's Order
34. 04/03/18 Respondent's (Kava) Motion for Disqualification and Recusal of the Administrative Law Judge
35. 04/05/18 Charging Party's (UNITE HERE) Response to Respondent's (Kava) Motion for Disqualification and Recusal of the Administrative Law Judge
36. 04/05/18 Respondent's (Kava) Reply in Support of Motion for Special Permission to Appeal Pursuant to Rule 102.26 ALJ's Order Dated March 16, 2018
37. 04/05/18 General Counsel's Opposition to the Respondent's (Kava) Motion for Disqualification and Recusal of the Administrative Law Judge
38. 04/06/18 Administrative Law Judge's Order Denying Respondent's (Kava) Motion for Disqualification and Recusal of the Administrative Law Judge
39. 04/11/18 Respondent's (Kava) Motion on Objection of Testimony of Eleanor McCloskey
40. 04/15/18 Respondent's (Kava) Opposition to the General Counsel's Request to Admit GC Exhibit 53 as an Opposing Party Statement

41. 04/18/18 Board Order Denying Respondent's (Kava) Request for Special Permission to Appeal ALJ's Order Dated March 16, 2018
42. 04/23/18 Respondent's (Kava) Opposition to General Counsel's Request that Respondent's Counsel be Reprimanded
43. 04/23/18 Order Granting General Counsel's and Charging Party's (UNITE HERE) Request for the Issuance of a Reprimand Against Respondent (Kava) Counsel and Second Notice of Rule 102.177
44. 04/27/18 Respondent's (Kava) Request for Copy of Audio Recording of Hearing
45. 04/30/18 Administrative Law Judge's Order Denying Respondent's (Kava) Request for a Copy of Audio Recording of Hearing
46. 04/30/18 Respondent's (Kava) Second Amended Answer Following and in Response to the Amendment to the Amended Complaint Filed on April 17, 2018
47. 05/03/18 Respondent's (Kava) Second Request for Copy and/or Preservation of Audio Recording of Hearing
48. 05/04/18 Respondent's (Kava) Renewed Motion for Disqualification and Recusal of the Administrative Law Judge (no action found)
49. 05/04/18 Administrative Law Judge's Order Denying Respondent's (Kava) Second Request for Copy of Audio Recording of Hearing
50. 05/07/18 Respondent's (Kava) Motion to Dismiss As a Matter of Law
51. 05/10/18 General Counsel's Opposition to Respondent's (Kava) Motion to Dismiss as a Matter of Law
52. 05/11/18 Administrative Law Judge's Order Denying Respondent's (Kava) Request for More Time to Obtain Co-Counsel and/or Seek Permission to File a Special Appeal

53. 05/11/18 General Counsel's Opposition to Respondent's (Kava) Renewed Motion for Disqualification and Recusal of the Administrative Law Judge
54. 05/11/18 Charging Party's (UNITE HERE) Opposition to Respondent's (Kava) Motion to Dismiss as a Matter of Law
55. 05/11/18 Charging Party's (UNITE HERE) Opposition to Respondent's (Kava) Renewed Motion for Disqualification and Recusal of the Administrative Law Judge
56. 05/11/18 Respondent's (Kava) Motion for Special Permission to Appeal Pursuant to Rule 102.26 Various Orders of the Administrative Law Judge
57. 05/14/18 Respondent's (Kava) Motion to Admit Testimony of Louise Drohan and Gauvin Couper by Videoconference
58. 05/14/18 Respondent's (Kava) Motion to Exclude or Require Completeness of Exhibits GC-29 and GC-30
59. 05/18/18 Administrative Law Judge's Order Denying Respondent's (Kava) Motion to Dismiss as a Matter of Law
60. 05/18/18 General Counsel's Response to Respondent's (Kava) Motion for Special Permission to Appeal
61. 05/18/18 Charging Party's (UNITE HERE) Response to Respondent's (Kava) Motion for Special Permission to Appeal
62. 06/05/18 Administrative Law Judge's Revised Order with Attachment Granting General Counsel's Request to Direct Respondent (Kava) to Properly Produce Documents Contained in Respondent's (Kava) Proposed Exhibits 110 and 112
63. 06/12/18 Board Order Denying Respondent's (Kava) Motion for Special Permission to Appeal
64. 06/15/18 Respondent's (Kava) Motion for Relief and Reconsideration of Revocation of the Admission in Evidence of Respondent's Exhibits 110 and 112

65. 06/15/18 Administrative Law Judge's Order to Show Cause
66. 06/22/18 General Counsel's Response to Respondent's (Kava) Motion for Relief and Reconsideration and Motion for Sanctions
67. 07/10/18 Administrative Law Judge's Order Denying Respondent's (Kava) Second Request to Admit Respondent's Proposed Exhibits 110 and 112 into Evidence
68. 07/18/18 Respondent's (Kava) Motion for Special Permission to Appeal Administrative Law Judge's Revocation of the Admission in Evidence of Respondent's Exhibits 110 and 112
69. 07/23/18 General Counsel's Response to Respondent's (Kava) Motion for Special Permission to Appeal
70. 07/25/18 Charging Party's (UNITE HERE) Response to Respondent's (Kava) Motion for Special Permission to Appeal
71. 07/30/18 Board Order Denying Respondent's (Kava) Motion for Special Permission to Appeal
72. 12/19/19 Administrative Law Judge's Decision
73. 12/19/19 Order Transferring Proceeding to the National Labor Relations Board
74. 12/20/19 Respondent's (Kava) Request for Extension of Time to File Exceptions to the Administrative Law Judge's Decision
75. 01/02/20 Executive Secretary's Letter Granting Extension of Time to File Exceptions
76. 02/18/20 General Counsel's Exceptions to the Administrative Law Judge's Decision
77. 02/19/20 Respondent's (Kava) Exceptions to the Administrative Law Judge's Decision

78. 02/19/20 General Counsel's Request for Extension of Time to File Answering Brief
79. 02/20/20 Executive Secretary's Letter Granting Extension of Time to File Answering Briefs
80. 03/03/20 Respondent's (Kava) Answering Brief to the General Counsel's Exceptions
81. 03/17/20 Request for Extension of Time to File Answering Brief
82. 03/17/20 Executive Secretary's Letter Granting Extension of Time to File Answering Briefs
83. 03/26/20 Charging Party's (UNITE HERE) Request for Extension of Time to File Answering Brief
84. 03/27/20 Executive Secretary's Letter Granting Extension of Time to File Answering Briefs
85. 04/16/20 General Counsel's Request for Extension of Time to File Answering Brief
86. 04/20/20 Executive Secretary's Letter Granting Extension of Time to File Answering Briefs
87. 05/22/20 Charging Party's (UNITE HERE) Answering Brief to Respondent's (Kava) Exceptions
88. 05/22/20 General Counsel's Answering Brief to Respondent's (Kava) Exceptions
89. 05/28/20 General Counsel's Reply Brief to Respondent's (Kava) Answering Brief to the General Counsel's Exceptions
90. 06/05/20 Respondent's (Kava) Reply Brief to General Counsel's and Charging Party's (UNITE HERE) Answering Briefs to Respondent's Exceptions
91. 01/05/21 Respondent's (Kava) Motion to Include in the Record the Findings and Decision of the Associate to the General Counsel in Case AD-85

92. 01/06/21 General Counsel's Response to Respondent's (Kava) Motion to Include in the Record the Findings and Decision of the Associate to the General Counsel in Case AD-85
93. 01/07/21 Executive Secretary's Letter Acknowledging Receipt of Respondent's (Kava) January 5, 2021 Motion and the General Counsel's Response Thereto, and Informing Parties that Respondent's Motion would be Treated as a Motion for the Board to Take Administrative Notice
94. 01/08/21 Respondent's (Kava) Reply Concerning Motion to Take Administrative Notice
95. 01/25/21 Decision and Order (370 NLRB No. 73)

**UNITED STATES COURT OF APPEALS
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Petitioner/Cross-Respondent)	Nos. 21-70225,
)	21-70638
v.)	
)	Board Case No.
NATIONAL LABOR RELATIONS BOARD)	31-CA-074675
Respondent/Cross-Petitioner)	

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2021, I filed the foregoing document 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 the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ Ruth E. Burdick
Ruth E. Burdick
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, DC
this 25th day of March 2021