Pursuant to Section 102.26 of the Rules and Regulations of the National Labor Relations Board (the Board), Counsel for the General Counsel (CGC) respectfully requests special permission to appeal and appeals the Administrative Law Judge’s order to conduct the remainder of the unfair labor practice hearing in this matter in person.

I. PROCEDURAL HISTORY

The complaint in this matter (GCX 1(i)), issued on January 5, 2022, scheduled a hearing commencing on February 1, 2022, and on consecutive days thereafter until concluded, at a
location and by a means and method to be determined. The hearing was rescheduled to commence on February 23, 2022, by order (GCX 1(m)) issued by the Regional Director on January 19, 2022.

On February 14, 2022, the Administrative Law Judge (the ALJ) issued an order (GCX 1(u)) directing that the hearing commence by videoconference in light of the “high” level of community transmission of COVID-19 in Clark County, Nevada, and the lack of safety protocols for resumption of in-person hearings at that time. (GCX 1(u))

The hearing convened as scheduled but was adjourned pending CGC’s review of subpoenaed documents. (Tr. 84) Due to the small size of the hearing room at the Board’s Las Vegas Resident Office (CGC Special Appeal Exhibit 1), the ALJ directed that Region 28 secure an alternative hearing space for use in the event that conditions were such that a hearing could safely be held in person when the hearing resumed. (Tr. 84)

Although CGC objected to the hearing being conducted in person, CGC reserved a room at the bankruptcy court in Las Vegas, Nevada, as instructed, and the hearing was conducted on May 3 through 6, 2022. (Tr. Vol. 5-7) On May 8, 2022, the parties, the court reporter, and the staff of the Las Vegas Resident Office were informed that a participant who was present throughout the hearing had tested positive for COVID-19. The ALJ ordered that the hearing would resume in person on June 21, 2022, and, on June 13, 2022, CGC moved for the remainder of the hearing to be conducted by videoconference. (CGC Special Appeal Exhibit 2) The ALJ issued an order to show cause (CGC Special Appeal Exhibit 3), and the parties each filed responses, with Respondent 3 Corners, LLC being the only party seeking in-person hearing. (CGC Special Appeal Exhibits 4, 5, & 6)
On June 13, 2022, a General Services Administration (GSA) Property Manager informed tenants at the Federal Building where the bankruptcy court and Las Vegas Resident Office are located that, due to Clark County’s return to a “high” level of community transmission of COVID-19, heightened safety standards, including a masking requirement, were being implemented at the building. (CGC Special Appeal Exhibit 7)

On June 14, 2022, a bankruptcy court representative informed Region 28 that the creditor’s meeting room used for the hearing on May 3 through 6, 2022, was not the room the GSA intended to authorize the Board to use and that it had intended to authorize use of a much smaller conference room. (CGC Special Appeal Exhibit 8)

On June 17, 2022, in an on-the-record telephone conference, the ALJ directed that the hearing be conducted in person once Region 28 had secured a space sufficient in size to accommodate a hearing adhering to Agency safety protocols. The ALJ made clear that he was directing in-person hearing due to lack of an available space and not due to the “high” level of community transmission of COVID-19 in Clark County. (Transcript not yet available.)

II. REQUEST FOR SPECIAL PERMISSION TO APPEAL AND APPEAL

CGC respectfully requests that the Board reverse the ALJ’s order that the resumed hearing in this matter be held in person and requests that the Board direct the ALJ to commence the remainder of the hearing by videoconference on June 21, 2022, or, immediately after the issuance of the Board’s Order, if the Order issues on or after June 21, 2022.

a. The Current COVID-19 Positivity Rates are a Compelling Circumstance Warranting a Videoconference Hearing.

In Aspirus Keweenaw, 370 NLRB No. 45 (2020), the Board provided guidance and parameters applicable to determining whether in-person voting should occur during the COVID-
19 pandemic. These include whether: (1) the Agency is operating under “mandatory” telework status; (2) the 14-day trend in new COVID-19 cases in the relevant county is increasing, or the 14-day positivity rate in the county is 5% or higher; (3) a facility is available that avoids violating state or local laws relating to maximum gathering size; (4) the employer will abide by Agency required COVID-19 protocols; (5) there is a current COVID-19 outbreak at the employer (or the employer refuses to disclose and certify its current status); and (6) there are other similarly compelling circumstances. The existence of one or more of these situations will normally suggest that a mail ballot is appropriate under the “extraordinary circumstances presented by this pandemic.” *Id.* While *Aspirus Keweenaw* involved a representation election, these guidelines are also informative in determining whether it is in the interest of public safety to hold an in-person unfair labor practice hearing. *Cf. William Beaumont Hospital, 370 NLRB No. 9* (2020) (ALJ properly relied upon Board R-Case precedent for determining whether the COVID-19 pandemic constituted “compelling circumstances” for a video hearing).

Several of the *Aspirus Keweenaw* factors are not relevant to a determination here. Regarding the second consideration – whether the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher – the Board directs Regional Directors to utilize the data published by Johns Hopkins University, or from official state or local government sources. Here, the 14-day trend in the number of confirmed cases of COVID-19 is generally increasing according to the Southern Nevada Health District and the Centers for Disease Control and Prevention, the COVID-19 testing positivity rate is at 30% or over. (CGC Special Appeal Exhibit 9) This is six times the testing positivity rate considered appropriate and safe in *Aspirus Keweenaw* and is almost double the positivity rate at the time of
the ALJ’s February 14, 2022 order directing a videoconference hearing due to safety concerns. Consistent with the Board’s direction, holding the hearing via videoconference is appropriate under the extraordinary circumstances presented by the pandemic.

Further, on information and belief, CGC is aware that there are at least two cases, including this one, in which participants have tested positive for COVID-19 immediately after participation in in-person administrative or court hearings in which Board personnel have participated.

b. The COVID-19 Pandemic Has Affected the Availability of Space for In-Person Hearings and Presented Administrative Challenges

On information and belief, in this and other Regions, ALJs have been directing Regions to secure spaces for in-person hearings when they believe the Regions’ hearing rooms are insufficient in size to accommodate a hearing in which participants can adhere to the Board’s safety protocols. This presents a significant administrative challenge as spaces that have been available for use for Board cases in the past, such as the tax court in Las Vegas, Nevada, have not been available recently, likely due to the COVID-19 pandemic. This poses a particular challenge at this time due to staffing of the Board’s Regional Offices. In Region 28, for example, there are only three administrative professionals across the Region, including the Phoenix Regional Office and the Las Vegas and Albuquerque Resident Office, and there is no office manager or compliance assistant, meaning that the Region’s administrative professionals are having to perform work ordinarily performed by people in two or more different positions.

Securing spaces and setting them up for a Board hearing adhering to the Board’s safety protocols imposes a significant burden on Regions’ very limited administrative staff. Reserving and setting up a space for a hearing requires more than just a telephone call or email. In many cases, likely due to the COVID-19 pandemic, spaces the Region has used for hearings in the past
are no longer available, resulting in the need for sustained efforts to locate and reserve space. Once a space has been reserved, the furniture in the space needs to be arranged for a hearing; ALJ’s sometimes have special requests for the set-up of the space, such as requests for equipment to stream proceedings or to allow for participation or observation by videoconference; and equipment and supplies, such as filters and cleaning and sanitizing supplies, need to be made available to ensure participants’ safety. If in person hearings requiring the booking and setup of outside spaces are directed in every trial or even at many trials, this becomes a significant and unsustainable burden given Regions’ current resources.

c. The Board Has Established That Zoom Hearings Are Warranted Under Compelling Circumstances, Allow for Credibility Findings, and Protect Due Process

Section 102.35(a)(6) of the Board’s Rules gives the trial judge the discretion to conduct and regulate the course of an unfair labor practice hearing and Section 102.35(c) authorizes administrative law judges to receive evidence in Board hearings, in whole or in part, by videoconference, so long as there is “a showing of good cause based on compelling circumstances.” Even prior to the current COVID-19 pandemic, and the wide adoption of Zoom for hearings over the past two years, the Board held that videoconference testimony can adequately address any concerns of “the judge and the parties being able to observe the witness for credibility, due process, and other reasons.” EF Int’l Language Schools Inc., 363 NLRB No. 20, slip op. at 1, fn.1 (2015) enfd. 673 Fed. Appx. 1 (D.C. Cir. 2017) (rejecting respondent’s argument that the Board cannot make use of videoconference technology for witness testimony). The finding that videoconference technology is a suitable medium for conducting Board hearings has been further confirmed in additional cases since the pandemic began. See, e.g., Morrison Healthcare, 369 NLRB. No. 76, slip op. at 2 (2020) (directing Regional Director to hold pre-
election hearing via videoconference where witness testimony is necessary); *XPO Cartage, Inc.*, 370 NLRB No. 10, slip op. at 1 (2020) (finding that respondent’s speculative concerns about holding a videoconference unfair labor practice hearing were insufficient to necessitate an in-person hearing and, in any event, respondent could raise those concerns in exceptions to the Board or address them through pre-trial stipulations).

Indeed, Section 102.35(c) mirrors Rule 43(a) of the Federal Rules of Civil Procedure, which considers remote testimony to be an exception to the rule favoring in-person testimony. However, the Board has consistently held that “to the extent the judge’s action is in tension with Section 102.35, or any other Board rule or regulation, the Board is permitted to apply its rules flexibly to meet the demands of a given case.” *XPO Cartage*, 370 NLRB slip op. at 2 citing *NLRB v. Grace Co.*, 184 F.2d 126, 129 (8th Cir. 1950) (“The Board is not the slave of its rules.”); see also Section 102.121 of the Board’s Rules stating that the Board will “liberally construe []” its rules “to effectuate the purposes and provisions of the Act”). Although the Federal Rules of Evidence prefer that witnesses be made to present live testimony, the Board and the reviewing courts agree that holding a videoconference hearing is well within the Board’s purview and will not be subject to challenge simply on the basis that there may be other more preferable means of holding the hearing. *Times Union, Capital Newspapers*, 356 NLRB 1339, 1339 fn. 1 (2011) (Board holds that it is not required to apply the Federal Rules of Evidence strictly); *Orange Place Ltd. Partnership v. NLRB*, 333 F.3d 646, 666 (6th Cir. 2003) (“[T]he ALJ was not obliged to strictly adhere to the Federal Rules of Evidence.”). On the other hand, relying on the Federal Rules of Evidence to determine that the hearing must be held in-person opens the door to the reviewing courts deciding whether, and to what extent, the Board correctly applied the Federal Rules of Evidence, especially in light of the compelling circumstances of the
COVID-19 pandemic. See NLRB v. Augusta Bakery Corp., 957 F.2d 1467, 1479 (7th Cir. 1992) (where the Board or ALJ purports to rely on the Federal Rules of Evidence, the reviewing court evaluates whether it did so correctly). Subjecting the ministerial aspects of the case to scrutiny from the reviewing courts serves only to complicate and delay final resolution of the matter and can be avoided by utilizing the well-established videoconference alternative.

Moreover, as recognized by the Board in William Beaumont Hospital, ALJs retain the discretion to determine whether to order a remote hearing, considering whether the case is “too complex, cumbersome; or witness, document, and fact heavy to be heard remotely.” 370 NLRB No. 9 (2020). In the almost two years since William Beaumont, the General Counsel and the Division of Judges have consistently proven that the Agency’s work could proceed expeditiously, with cases of considerable complexity and evidentiary breadth handled aptly and efficiently. Weeks-long cases conducted via Zoom have been tried, decided, appealed, and upheld. See, e.g. NP Red Rock LLC., et al. Cases 28-CA-244484, et al. (videoconference hearing lasting 58 days, calling 77 witnesses, introducing 400 exhibits including emails, text messages, and audio recordings, and alleging over 50 violations of the Act); Stations Casinos, Inc. et al., Cases 28-CA-228052, et al. (estimated 75 days of hearing tentatively scheduled for videoconference with over 100 witnesses and Spanish interpretation); Cemex Construction Materials Pacific, LLC, Cases 28-CA-230115, et al. (24-day videoconference hearing with dozens of witnesses and exhibits); Amazon.com Services LLC, Case 29-RC-288020 (multi-week objections hearing with over 100 witnesses appearing via videoconference from multiple different states); Amazon.com Services LLC, Case 29-CA-261755 (multi-week Zoom hearing conducted over the course of six months); Reith-Riley Construction Co., Inc., 07-CA-234085 (17-day hearing held over two year period via videoconference); Amazon.com Services LLC,
Case 10-RC-269250 (multi-week objections hearing conducted via Zoom including hundreds of party exhibits); *c.f.* *Flores v. Town of Islip*, 2020 WL 5211052 (E.D. N.Y. 2020) (granting plaintiffs’ application, over the defendant’s objections, to conduct the bench trial using the Zoom for Government video platform); *Gould Electronics Inc. v. Livingston County Road Commission*, 470 F.Supp.3d 735 (E.D. Mich. 2020) (ordering that the bench trial would be conducted via videoconference notwithstanding the objections and concerns raised by both parties). While the issues in the instant case are complex, the experience gained over the past two years of holding videoconference hearings will enable the Charging Parties, Counsel for the General Counsel, Respondent, and the ALJ to hold a safe and effective hearing in this matter. In addition, the Agency has established tools and procedures for the electronic exchange of documents, either through email or an Agency SharePoint account. *See also ALJ Bench Book §§ 12-400 and 12-500, revised January 2022* (discussing the procedures for taking witness testimony remotely and conducting a videoconference hearing).

The Board’s experience with videoconference hearings both before and during the COVID-19 pandemic show that conducting the hearing in this manner adequately protects due process\(^1\), is approved by the reviewing courts, can be utilized to resolve complex and lengthy litigation, and protects all individuals involved from unnecessary risk of illness. Therefore, conducting the hearing by videoconference is the appropriate method for litigating this case.

**III. CONCLUSION**

\(^1\) The ALJ suggested that allowing CGC to pick and choose who testifies virtually interferes with due process. However, CGC has never requested in-person hearing in this matter. CGC reserved a space for an in-person hearing per the ALJ’s direction and participated in an in-person hearing per the ALJ’s order. CGC has consistently taken the position that the hearing in this matter should be conducted by videoconference for safety reasons. CGC is not attempting to pick and choose who testifies virtually. Had CGC’s position been adopted, all witnesses would have testified virtually. Moreover, as explained above, hearings can be conducted by videoconference in a manner that ensures due process. Taking some witnesses’ testimony by videoconference for safety reasons does not give any party advantage over any other.
The delay of the hearing until a time when the hearing can safely be held in person is unacceptable due to the urgency of the issues involved in this discharge-organizing campaign case. For the foregoing reasons, CGC respectfully requests that the Board reverse the ALJ’s order that the resumed hearing in this matter be held in person and requests that the Board direct the ALJ to commence the remainder of the hearing by videoconference on June 21, 2022, or, immediately after the issuance of the Board’s Order, if the Order issues after June 21, 2022.

Respectfully submitted at Phoenix, Arizona, this 17th day of June 2022.

/s/ Judith E. Dávila
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing COUNSEL FOR THE GENERAL COUNSEL’S EMERGENCY REQUEST FOR SPECIAL PERMISSION TO APPEAL AND APPEAL OF ADMINISTRATIVE LAW JUDGE’S ORDER TO CONDUCT REMAINDER OF UNFAIR LABOR PRACTICE HEARING IN PERSON in 3 Corners, LLC et al., Cases 28-CA-273948 et al., was served via EGov, E-Filing, and E-mail, on this 17th day of June 2022, on the following:

Via E-Gov, E-Filing:

Executive Secretary Roxanne L. Rothschild
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

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CGC Special Appeal Exhibit 2
MOTION TO HOLD REMAINDER OF HEARING VIA ZOOM VIDEOCONFERENCE

Pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board (NLRB), as amended, Counsel for the General Counsel respectfully requests that the hearing in this matter scheduled to resume on June 21, 2022, and all proceeding hearing days, be conducted via Zoom videoconference.

I. BACKGROUND

On January 5, 2022, the Regional Director for NLRB Region 28 issued an Order Consolidated Cases, Consolidated Complaint and Notice of Hearing in this matter, and scheduled the hearing to open on February 1, 2022, at a location and by a means and method to be determined. On January 19, 2022, the Regional Director rescheduled the hearing to open on February 23, 2022.
On February 4, 2022, the Administrative Law Judge issued an Order directing briefing on the hearing location. In response to the Order, Respondent 3 Corners sought an in-person hearing, and Counsel for the General Counsel and Respondent QLI sought to have a video hearing. On February 14, 2022, the Administrative Law Judge issued an Order directing a video hearing citing, among other things, the high COVID positivity rate, the rate of hospitalizations and deaths in the relevant county, Clark County, Nevada, as compelling circumstances for the hearing to open via videoconference. At the time of the Administrative Law Judge’s Order, the Center for Disease Control (CDC) ranked Clark County as having “High” community transmission, with a percent-positivity rate of 15.74%. The CDC continues to label Clark County as having “High” community transmission; however, the percent-positivity rate has since ballooned to 29.93%.

On February 22, 2022, the hearing opened via videoconference and recessed on February 25, 2022. The matter resumed in person at a location in Las Vegas, Nevada, from May 3-6, 2022.

As described below, the trend in new COVID-19 cases in the relevant county has increased substantially. Accordingly, this presents compelling circumstances warranting the use of a videoconference hearing for the remainder of the proceedings. In addition, the NLRB has established that Zoom hearings are warranted under compelling circumstances, allow for credibility findings, and protect due process, demonstrating that the matter can successfully be executed via videoconference.

II. ARGUMENT

a. The Current COVID-19 Positivity Rates are a Compelling Circumstance Warranting a Videoconference Hearing.

1 See https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=Nevada&data-type=Risk&list_select_county=32003
On June 10, 2022, the Southern Nevada Health District issued an advisory stating that Clark County has reached a high community level for COVID-19. As of June 6, 2022, per the most current date available, Clark County is experiencing a seven-day average test positivity rate of 30%. The fact that local officials have sounded the alarm regarding a high community level for COVID-19 is evidence that there is a significant risk to everyone participating in an in-person hearing where the presence of multiple party representatives and witnesses for an undefined amount of time is required. In addition, there are multiple individuals travelling from out of state where the situation could be even worse. Certainly, the goal for everyone involved in the hearing is that it be conducted in the safest manner possible but bringing all of these individuals into one place for a prolonged period of time is, mathematically, asking for an infection. The current COVID-19 infection rates in Clark County in particular, present compelling circumstances warranting a videoconference hearing.

Furthermore, although not controlling on unfair labor practice hearings, the Board’s decision in Aspirus Keweenaw offers helpful insight into determining the types of “compelling circumstances” that the Board considers when determining if in-person meetings are warranted for Agency personnel. 370 NLRB No. 45 (2020) (discussing that in-person elections are the preferred method but recognizing that the compelling circumstances of the COVID-19 pandemic warrant remote representation elections). Specifically, if “either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher”

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3 See Exhibit A.
then it is inappropriate to hold in-person meetings with employers, their attorneys, employees, and union representatives. *Id.* at *7-11.

The same logic holds here, as the Respondents’ representatives and its attorneys, as well as the Administrative Law Judge, the court reporter, and Counsel for the General Counsel, would be meeting for extended periods with witnesses during an in-person hearing. There is no difference in the risk presented between an in-person election and an in-person unfair labor practice hearing, except that in the instant case the risk is exacerbated by requiring that everyone be in the same room for far longer than the duration attributed with a manual election. It logically follows that where the positivity rate is *six times the acceptable maximum* to justify cancelling in-person elections, there are compelling circumstance warranting resuming the proceedings with a videoconference hearing here.

Accordingly, the alarmingly increasing trend in new cases shows that a videoconference hearing is warranted for the remainder of the proceedings.

b. The Board Has Established That Zoom Hearings are Warranted Under Compelling Circumstances, Allow for Credibility Findings, and Protect Due Process.

Section 102.35(a)(6) of the Board’s Rules gives the trial judge the discretion to conduct and regulate the course of an unfair labor practice hearing and Section 102.35(c) authorizes administrative law judges to receive evidence in Board hearings, in whole or in part, by videoconference, so long as there is “a showing of good cause based on compelling circumstances.” Even prior to the current COVID-19 pandemic, and the wide adoption of Zoom for hearings over the past two years, the Board held that videoconference testimony can adequately address any concerns of “the judge and the parties being able to observe the witness for credibility, due process, and other reasons.” *EF Int’l Language Schools Inc.*, 363 NLRB No.
The finding that videoconference technology is a suitable medium for conducting Board hearings has been further confirmed in additional cases since the pandemic began. *See, e.g., Morrison Healthcare*, 369 NLRB. No. 76, slip op. at 2 (2020) (directing Regional Director to hold pre-election hearing via videoconference where witness testimony is necessary); *XPO Cartage, Inc.*, 370 NLRB No. 10, slip op. at 1 (2020) (finding that respondent’s speculative concerns about holding a videoconference unfair labor practice hearing were insufficient to necessitate an in-person hearing and, in any event, respondent could raise those concerns in exceptions to the Board or address them through pre-trial stipulations).

Indeed, Section 102.35(c) mirrors Rule 43(a) of the Federal Rules of Civil Procedure, which considers remote testimony to be an exception to the rule favoring in-person testimony. However, the Board has consistently held that “to the extent the judge’s action is in tension with Section 102.35, or any other Board rule or regulation, the Board is permitted to apply its rules flexibly to meet the demands of a given case.” *XPO Cartage*, 370 NLRB slip op. at 2 citing *NLRB v. Grace Co.*, 184 F.2d 126, 129 (8th Cir. 1950) (“The Board is not the slave of its rules.”); *see also* Section 102.121 of the Boards Rules stating that the Board will “liberally construe []” its rules “to effectuate the purposes and provisions of the Act”). Although the Federal Rules of Evidence prefer that witnesses be made to present live testimony, the Board and the reviewing courts agree that holding a videoconference hearing is well within the Board’s purview and will not be subject to challenge simply on the basis that there may be other more preferable means of holding the hearing. *Times Union, Capital Newspapers*, 356 NLRB 1339, 1339 fn. 1 (2011) (Board holds that it is not required to apply the Federal Rules of Evidence
Orange Place Ltd. Partnership v. NLRB, 333 F.3d 646, 666 (6th Cir. 2003) (“[T]he ALJ was not obliged to strictly adhere to the Federal Rules of Evidence.”). On the other hand, relying on the Federal Rules of Evidence to determine that the hearing must be held in-person opens the door to the reviewing courts deciding whether, and to what extent, the Board correctly applied the Federal Rules of Evidence, especially in light of the compelling circumstances of the COVID-19 pandemic. See NLRB v. Augusta Bakery Corp., 957 F.2d 1467, 1479 (7th Cir. 1992) (where the Board or ALJ purports to rely on the Federal Rules of Evidence, the reviewing court evaluates whether it did so correctly). Subjecting the ministerial aspects of the case to scrutiny from the reviewing courts serves only to complicate and delay final resolution of the matter and can be avoided by utilizing the well-established videoconference alternative.

Moreover, as recognized by the Board in William Beaumont Hospital, ALJs retain the discretion to determine whether to order a remote hearing, considering whether the case is “too complex, cumbersome; or witness, document, and fact heavy to be heard remotely.” 370 NLRB No. 9 (2020). In the almost two years since William Beaumont, the General Counsel and the Division of Judges have consistently proven that the Agency’s work could proceed expeditiously, with cases of considerable complexity and evidentiary breadth handled aptly and efficiently. Weeks-long cases conducted via Zoom have been tried, decided, appealed, and upheld. See, e.g. NP Red Rock LLC., et al. Cases 28-CA-244484, et al. (videoconference hearing lasting 58 days, calling 77 witnesses, introducing 400 exhibits including emails, text messages, and audio recordings, and alleging over 50 violations of the Act); Stations Casinos, Inc. et al., Cases 28-CA-228052, et al. (estimated 75 days of hearing tentatively scheduled for videoconference with over 100 witnesses and Spanish interpretation); Cemex Construction Materials Pacific, LLC, Cases 28-CA-230115, et al. (24-day videoconference hearing with
dozens of witnesses and exhibits); Amazon.com Services LLC, Case 29-RC-288020 (multi-week objections hearing with over 100 witnesses appearing via videoconference from multiple different states); Amazon.com Services LLC, Case 29-CA-261755 (multi-week Zoom hearing conducted over the course of six months); Reith-Riley Construction Co., Inc., 07-CA-234085 (17-day hearing held over two year period via videoconference); Amazon.com Services LLC, Case 10-RC-269250 (multi-week objections hearing conducted via Zoom including hundreds of party exhibits); c.f. Flores v. Town of Islip, 2020 WL 5211052 (E.D. N.Y. 2020) (granting plaintiffs’ application, over the defendant’s objections, to conduct the bench trial using the Zoom for Government video platform); Gould Electronics Inc. v. Livingston County Road Commission, 470 F.Supp.3d 735 (E.D. Mich. 2020) (ordering that the bench trial would be conducted via videoconference notwithstanding the objections and concerns raised by both parties). While the issues in the instant case are complex, the experience gained over the past two years of holding videoconference hearings will enable the Charging Parties, Counsel for the General Counsel, Respondent, and the ALJ to hold a safe and effective hearing in this matter. In addition, the Agency has established tools and procedures for the electronic exchange of documents, either through email or an Agency SharePoint account. See also ALJ Bench Book §§ 12-400 and 12-500, revised January 2022 (discussing the procedures for taking witness testimony remotely and conducting a videoconference hearing).

The Board’s experience with videoconference hearings both before and during the COVID-19 pandemic show that conducting the hearing in this manner adequately protects due process, is approved by the reviewing courts, can be utilized to resolve complex and lengthy litigation, and protects all individuals involved from unnecessary risk of illness. Therefore, conducting the hearing by videoconference is the appropriate method for litigating this case.
III. CONCLUSION

Counsel for the General Counsel respectfully requests that the Administrative Law Judge issue an Order Directing a Zoom Hearing for the remainder of this matter as the compelling circumstances of the ongoing COVID-19 pandemic so warrant. As evidenced by the numerous multi-month and complex litigation undertaken by the General Counsel and effectively administrated by the Division of Judges, videoconference hearings remain the appropriate method for trying Board cases in light of the compelling circumstances of the COVID-19 pandemic.

Respectfully submitted at Phoenix, Arizona, this 13th day of June 2022.

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Exhibit A
COVID-19 Trends
Clark County, Nevada

Document creation date: June 6, 2022

• General notes: This report uses surveillance data collected by the Southern Nevada Health District. Due to delays related to laboratory processing, reporting, and case investigations, data from the most recent days are less complete than data from older time points. For this reason, as of June 10, 2020 this report will not display data from the previous three days prior to the date that the report was created. As many case investigations are ongoing, all data presented in this report are considered preliminary and subject to change. Data regarding cases, hospitalizations, deaths, and labs were last updated June 6, 2022 at 12:00 AM, and data is reported up through June 2, 2022.

• Cases: Symptom onset date was used for aggregating cases. If symptom onset date was missing, the following dates were substituted in this order: diagnosis date, lab collection date, report date (date case was reported to SNHD), event creation date (date case was entered into TriSano, SNHD's surveillance system).

• Hospitalizations: Admission date reported the the Nevada Hospital Association was used for aggregating hospitalizations. One person could have more than one admissions.

• Deaths: Date of death was used for aggregating deaths. If date of death was missing, report date was used.

• For the "7-Day Average of Daily New Cases per 100K, by Age Group (Years)" graph and table, the population data source for calculating rate estimates was from Nevada State Demographer "2019 ASRHO Estimates and Projections Summary 2000 to 2038", 2020 projection, vintage 2019. Rates for individual age categories may be based on small numbers, which may give unstable estimates.

• All graphs in this report show data from approximately 60 days prior to the date of the report.

• All tables show data from the last 14 days before the current date, with the exception of the "Percent Change in Weekly Totals from Previous Week", which displays data from the previous eight completed weeks.

• For the "Percent of People Receiving COVID-19 PCR Tests Who Have Positive Results" graph, one person who has multiple specimens collected in one day is only reported once. If any test of that person is positive, that person counts as a positive result. If all tests of that individual are negative, that person counts as a negative result. Laboratory tests were included if they were a test assessing for the presence of SARS-CoV-2 viral RNA, for example PCR tests. Antibody and antigen tests were excluded.
COVID-19 Cases
Clark County, NV

Data source: SNHD Office of Epidemiology

Table 1: COVID-19 Cases per Day, Clark County, NV

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<td>637.6</td>
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<td>May 24</td>
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<td>642</td>
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</tr>
<tr>
<td>Jun 02</td>
<td>562</td>
<td>540.0</td>
</tr>
</tbody>
</table>
COVID-19 Hospitalizations
Clark County, NV

Data source: Nevada Hospital Association

Table 2: COVID-19 Hospitalizations per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Hospitalizations Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 20</td>
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<td>46</td>
<td>34.4</td>
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<tr>
<td>Jun 02</td>
<td>50</td>
<td>38.6</td>
</tr>
</tbody>
</table>
Bed Occupancy of COVID-19 Hospitalizations
Clark County, NV

Table 3: Percent of Bed Occupancy per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Bed Occupancy Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 20</td>
<td>2.99%</td>
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</tr>
<tr>
<td>May 21</td>
<td>2.68%</td>
<td>2.76%</td>
</tr>
<tr>
<td>May 22</td>
<td>2.88%</td>
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</tr>
<tr>
<td>May 23</td>
<td>3.16%</td>
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</tr>
<tr>
<td>May 25</td>
<td>3.55%</td>
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</tr>
<tr>
<td>May 26</td>
<td>3.41%</td>
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</tr>
<tr>
<td>May 27</td>
<td>3.71%</td>
<td>3.27%</td>
</tr>
<tr>
<td>May 28</td>
<td>3.52%</td>
<td>3.39%</td>
</tr>
<tr>
<td>May 29</td>
<td>3.74%</td>
<td>3.51%</td>
</tr>
<tr>
<td>May 30</td>
<td>3.55%</td>
<td>3.57%</td>
</tr>
<tr>
<td>May 31</td>
<td>4.15%</td>
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<td>3.80%</td>
</tr>
<tr>
<td>Jun 02</td>
<td>4.62%</td>
<td>3.98%</td>
</tr>
</tbody>
</table>
## COVID-19 Deaths
Clark County, NV

### Table 4: COVID-19 Deaths per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Deaths Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
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</tr>
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<td>1.9</td>
</tr>
<tr>
<td>Jun 01</td>
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<td>1.8</td>
</tr>
<tr>
<td>Jun 02</td>
<td>.</td>
<td>2.0</td>
</tr>
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</table>
Table 5: 7-Day Average of Daily New Cases per 100K, by Age Group (Years)

<table>
<thead>
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<th>18-24</th>
<th>25-49</th>
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<tr>
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<td>May 27</td>
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<tr>
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<td>29.6</td>
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<td>May 29</td>
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<td>34.6</td>
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<tr>
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<td>10.7</td>
<td>25.6</td>
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</tr>
<tr>
<td>Jun 02</td>
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<td>9.5</td>
<td>23.0</td>
<td>28.2</td>
<td>28.3</td>
<td>28.4</td>
</tr>
</tbody>
</table>
Percent of People Receiving COVID-19 PCR Tests Who Have Positive Results
Clark County, NV

7-Day Moving Average

Percent (% of People Tested) vs. Collection Date

Collection Date:
- 03/31/22
- 04/07/22
- 04/14/22
- 04/21/22
- 04/28/22
- 05/05/22
- 05/12/22
- 05/19/22
- 05/26/22
- 06/02/22
Report prepared by: Ying Zhang, PhD, MPH (Office of Epidemiology) and Lei Zhang, MS (Office of Informatics)
CERTIFICATE OF SERVICE

I hereby certify that MOTION TO HOLD REMAINDER OF HEARING VIA ZOOM VIDEOCONFERENCE in 3 Corners, LLC et al., Cases 28-CA-273948 et al., was served via E-Gov, E-Filing, and E-mail, on this 13th day of June 2022, on the following:

Via E-Gov, E-Filing:
Honorable John Giannopoulos
Administrative Law Judge
NLRB Division of Judges
San Francisco Branch
901 Market Street, Suite 300
San Francisco, CA 94103-1779

Via E-Mail:
Gregory J. Kamer, Esquire
Dare E. Heisterman, Esquire
Kamer Zucker Abbott
3000 West Charleston Boulevard, Suite 3
Las Vegas, NV 89102
Email: gkamer@kzalaw.com
dheisterman@kzalaw.com

William M. Thacker, Esquire
Ariana D. Pellegrino, Esquire
Dickinson Wright PLLC
500 Woodward Avenue, Suite 4000
Detroit, MI 48226-5403
Phone: (313) 223-3084
Mobile: (313) 421-9109
Fax: (844) 670-6009
Email: wthacker@dickinsonwright.com
apellegrino@dickinsonwright.com

Daniel R. Barth, Attorney at Law
Wohlner Kaplon Cutler Halford Rosenfeld & Levy
16501 Ventura Blvd., Suite 304
Encino, CA 91436
Phone: (818) 501-8030 Ext: 324
Email: dbarth@wkclegal.com

/s/ Judith E. Dávila

Judith. E. Dávila, Field Attorney
National Labor Relations Board, Region 28
Telephone: (602) 416-4760
E-mail: Judith.Davila@nltb.gov
CGC Special Appeal Exhibit 3
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

3 CORNERS, LLC

and

Cases 28-CA-273948
28-CA-281839
28-CA-281840
28-CA-281867

FREDDY GODINEZ, HEIDI MARTIN,
DANIEL SALAZAR, SCOTT DAVEY, AND
DEE TESTA d/b/a QLI INTERNATIONAL,
Joint Employer

and

GENERAL TEAMSTERS, AIRLINE, AEROSPACE AND
ALLIED EMPLOYEES, WAREHOUSEMEN, DRIVERS,
CONSTRUCTION, ROCK AND SAND, LOCAL 986 a/w
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

ORDER

It is hereby ORDERED that any responsive pleadings to the Counsel for the General
Counsel’s June 13, 2022, Motion to Hold the Remainder of Hearing via Videoconference, need
to be filed by no later than 11:00 a.m. (PACIFIC) on June 16, 2022.

Dated: San Francisco, California
June 13, 2022

John T. Giannopoulos
Administrative Law Judge
On June 13, 2022, approximately one week prior to the resumption of the hearing in the above-captioned matter, Counsel for the General Counsel filed a motion requesting that the
remainder of the hearing be conducted by videoconference. Respondent 3 Corners, LLC (“3 Corners”) opposes the motion.

First, as Judge Giannopoulos recognized, whether the United States District Court for the District of Nevada is holding in-person hearings is relevant to whether this matter should be heard in-person. (See 2/23/22 Hrg. Tr. at 68:20-23 (“I think any party’s hard pressed to say that if the federal district courts can have safe in person hearings that the NLRB cannot have safe . . . in person hearings.”)). The United States District Court for the District of Nevada continues to hold in-person hearings. Rather than conduct those hearings by videoconference, the Court has reinstituted a mask policy for the time being,1 a measure with which 3 Corners and its representatives would be happy to comply.

Second, Counsel for the General Counsel was afforded the ability to put on the General Counsel’s case in person. 3 Corners should be given the opportunity to defend against the charges in the same manner, which includes examining witnesses, reviewing documents, and assessing credibility. 3 Corners’ employees, including those witnesses subpoenaed by Counsel for the General Counsel for testimony, are located in Las Vegas. 3 Corners’ representatives will be traveling to Las Vegas to prepare for the hearing, and booked travel accommodations prior to the filing of the General Counsel’s motion.

Accordingly, 3 Corners opposes conducting the remainder of the hearing by videoconference and respectfully requests that the ALJ proceed with an in-person hearing.

DICKINSON WRIGHT PLLC

BY: /s/ Ariana D. Pellegrino
William M. Thacker
Ariana D. Pellegrino
DICKINSON WRIGHT PLLC

1 See https://www.nvd.uscourts.gov/ (pop-up notification on home page)
Representatives for Respondent 3 Corners, LLC
350 S. Main St., Ste. 300
Ann Arbor, MI 48104
(734) 623-1902
wthacker@dickinsonwright.com
apellegrino@dickinsonwright.com

DATED: June 16, 2022
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

3 CORNERS, LLC

and

FREDDY GODINEZ, HEIDI MARTIN,
DANIEL SALAZAR, SCOTT DAVEY, AND
DEE TESTA d/b/a QLI INTERNATIONAL,
Joint Employer

And

GENERAL TEAMSTERS, AIRLINE
AEROSPACE AND ALLIED EMPLOYEES,
WAREHOUSEMEN, DRIVERS,
CONSTRUCTION, ROCK AND SAND
LOCAL 986 a/w INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Case Nos. 28-CA-273948
28-CA-281839
28-CA-281840
28-CA-281867

RESPONDENT QUALITY LOGISTICS & INSTALLATION’S
RESPONSE TO GENERAL COUNSEL’S MOTION TO HOLD
REMAINDER OF HEARING VIA ZOOM VIDEOCONFERENCE

Quality Logistics & Installation (hereinafter “Respondent”), by and through its counsel of
record, the law firm of Kamer Zucker Abbott, hereby submits its response to the General Counsel’s
Motion to Hold Remainder of Hearing Via Zoom Videoconference (the “Motion”) that was filed
on June 13, 2022. That same day, Administrative Law Judge John T. Giannopoulos (“the ALJ”) ordered a deadline of June 16, 2022, at 11:00 a.m. (PACIFIC) for any responsive pleadings to the
General Counsel’s Motion. As discussed below, Respondent seeks to have the hearing conducted via videoconference.

Respondent agrees with the General Counsel that the current COVID-19 testing positivity rate of nearly 30% in Clark County, Nevada—the site of the hearing—presents a compelling
circumstance warranting a virtual hearing at this time. See generally Aspirus Keweenaw, 370
NLRB No. 45 (2020) (addressing COVID-19 as a compelling circumstance warranting a departure from long standing policy favoring in-person manual elections). Conducting the hearing in-person poses unnecessary risk of illness to the involved parties, witnesses, and public at large, given the heightened COVID-19 positivity rate—that is presently well above the 5% threshold set in Aspirus suggesting the propriety of remote elections—and the rising daily COVID-19 case count.

These risks are further exacerbated due to the travel required for many of those participating in the hearing and the extended period of time that the parties would be together in the hearing room for the duration of the proceeding. Further, Counsel for the General Counsel recently advised the parties that the hearing room available to the parties at resumption will be a smaller room than the one previously utilized when the COVID-19 positivity rates were much lower. See Exhibit A. In addition, as previously stated in response to the ALJ’s February 4, 2022, Order to Show Cause, Respondent believes conducting the hearing virtually is a more convenient, cost effective, and less burdensome method for its business overall.

Given the above, Respondent respectfully requests the hearing be conducted via videoconference.

DATED this 16th day of June, 2022.

KAMER ZUCKER ABBOTT

By: /s/ Dare E. Heisterman
Gregory J. Kamer, Esq.
Dare E. Heisterman, Esq.
3000 West Charleston Boulevard, Suite 3
Las Vegas, Nevada 89102
Tel: (702) 259-8640
Fax: (702) 259-8646

Attorneys for Respondent,
Quality Logistics & Installation
CERTIFICATE OF SERVICE

I hereby certify that on June 16th, 2022, I did serve a copy of the Respondent Quality Logistics & Installation’s Response to General Counsel’s Motion to Hold Remainder of Hearing Via Zoom Videoconference upon:

Division of Judges – San Francisco
National Labor Relations Board
901 Market Street, Suite 485
San Francisco, CA 94013

Judith E. Davila, Esq.
National Labor Relations Board, Region 28
Resident Office
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
judith.davila@nllrb.gov

Cornele A. Overstreet, Regional Director
National Labor Relations Board, Region 28
Resident Office
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
cornele.overstreet@nllrb.gov

William M. Thacker, Esq.
Ariana D. Pellegrino, Esq.
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Ann Arbor, Michigan 48104
wthacker@dickinsonwright.com
apellegrino@dickinsonwright.com

Lewis N. Levy, Esq.
Daniel R. Barth, Esq.
Wohlner Kaplon Cutler Halford Rosenfeld & Levy
16501 Ventura Boulevard, Suite 304,
Encino, California 91436
lnlevy@wkclegal.com
dbarth@wkclegal.com

By:    /s/ Dare E. Heisterman
       An Employee of Kamer Zucker Abbott
Debra Dickinson

From: Dare Heisterman
Sent: Thursday, June 16, 2022 9:39 AM
To: Debra Dickinson
Subject: 3 Corners LLC, QLI International, 28-CA-273948 et al.,

All:

Ms. Moore from our Las Vegas office has informed me that the US Trustee Office (our channel for reserving the hearing space) reserved GSA Conference Room 1-500 for the hearing on Tuesday. We were previously in Room 1500. Ms. Moore has informed me that 1-500 is a smaller room. In addition, the US Trustee Office has informed us that they can no longer share room 1500 with us. Please let me know if you need additional information.

Thank you

From: Giannopoulos, John <John.Giannopoulos@nlrb.gov>
Sent: Monday, June 13, 2022 6:22 PM
To: Davila, Judith E. <Judith.Davila@nlrb.gov>; Daniel Barth <dbarth@wkclegal.com>; wthacker@dickinsonwright.com; apellegrino@dickinson-wright.com <apellegrino@dickinsonwright.com>; Dare Heisterman <dheisterman@kzlaw.com>; Gregg Kamer <gkamer@kzlaw.com>
Subject: 3 Corners LLC, QLI International, 28-CA-273948 et al.,

Counsel,

Please see the attached Order.

John Giannopoulos
Administrative Law Judge
UNITED STATES OF
AMERICA
BEFORE THE NATIONAL LABOR RELATIONS
BOARD
DIVISION OF ADMINISTRATIVE LAW
JUDGES

3 CORNERS, LLC

and

Cases 28-CA-273948
28-CA-281839
28-CA-281840
28-CA-281867

FREDDY GODINEZ, HEIDI MARTIN
DANIEL SALAZAR, SCOTT DAVEY, AND
DEE TESTA d/b/a QLI INTERNATIONAL,
Joint Employer

and

GENERAL TEAMSTERS, AIRLINE,
AEROSPACE AND ALLIED EMPLOYEES,
WAREHOUSEMEN, DRIVERS,
CONSTRUCTION, ROCK AND SAND,
LOCAL 986 a/w INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

__________________________
CHARGING PARTY TEAMSTERS, LOCAL 986’S NOTICE OF JOINDER TO
GENERAL COUNSEL’S REQUEST FOR HEARING TO RESUME VIA ZOOM
VIDEOCONFERENCE

Teamsters, Local 986 (“Charging Party”), by and through its counsel of record, hereby
joins in and does not oppose the General Counsel’s Motion to Hold Remainder of Hearing Via
Zoom Videoconference.

Dated this 16TH day of June 2022

BY:
Daniel R. Barth
Daniel R. Barth, Esq.
Attorneys for Charging Party
Teamsters Local 986
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF ADMINISTRATIVE LAW JUDGES

3 CORNERS, LLC

and

Cases 28-CA-273948
28-CA-281839
FREDDY GODINEZ, HEIDI MARTIN
28-CA-281840
DANIEL SALAZAR, SCOTT DAVEY, AND
28-CA-281867
DEE TESTA d/b/a QLI INTERNATIONAL,
Joint Employer

and

GENERAL TEAMSTERS, AIRLINE, AEROSPACE AND ALLIED EMPLOYEES,
WAREHOUSEMEN, DRIVERS,
CONSTRUCTION, ROCK AND SAND,
LOCAL 986 a/w INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

CERTIFICATE OF SERVICE OF CHARGING PARTY TEAMSTERS, LOCAL 986’S NOTICE OF JOINDER TO GENERAL COUNSEL’S REQUEST FOR HEARING TO RESUME VIA ZOOM VIDEOCONFERENCE
CERTIFICATE OF SERVICE

I certify that a copy of the Charging Party Teamsters, Local 986’s Notice Of Joinder To General Counsel’s Request For Hearing To Resume Via Zoom Videoconference were electronically served on June 16, 2022 to the following parties:

Honorable John Giannopoulos
Administrative Law Judge
NLRB Division of Judges
San Francisco Branch
901 Market Street, Suite 485
San Francisco, CA 94103-1779

Judith E. Davila, Esq.
National Labor Relations Board, Region 28
Resident Office
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
judith.davila@nlrb.gov

Cornele A. Overstreet, Regional Director
National Labor Relations Board, Region 28
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2600 N. Central Avenue, Suite 1400
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cornele.overstreet@nlrb.gov

William M. Thacker, Esq.
Ariana D. Pellegrino, Esq.
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350 South Main Street, Suite 300
Ann Arbor, Michigan 48104
wthacker@dickinsonwright.com
apellegrino@dickinsonwright.com

Gregory J. Kamer, Esq.
Dare E. Heisterman, Esq.
KAMER ZUCKER ABBOTT
3000 West Charleston Boulevard, Suite 3
Las Vegas, Nevada 89102
gkamer@kzalaw.com
dheisterman@kzalaw.com
Brian Swartwood, Human Resource Relations
Manager & Risk Management
3 Corners, LLC
634 North Main Street
Las Vegas, NV 89101
brian.swartwood@thed.com

Dee Testa, QLI Vice President of Operations
QLI International
3250 West Ali Baba Lane
Las Vegas, NV 89118
de@qliinternational.com

Dated this 16th day of June, 2022

BY: Jody Berglund
Jody Berglund
Facility Security Committee Points of Contact:

The U.S. General Services Administration (GSA) is writing to provide you with updated guidelines from the Centers for Disease Control and Prevention (CDC). Consistent with the updated guidance, the Safer Federal Workforce Task Force issued Initial Implementation Guidance for Federal Agencies on COVID-19 Community Levels and Mask-Wearing and related Frequently Asked Questions. Masks are now only required to be worn in facilities under GSA’s jurisdiction, custody, or control (“GSA-controlled facilities”) when CDC characterizes the county in which it is located as having a “High” COVID-19 Community Level, unless a locality imposes more protective pandemic-related safety requirements, in which case those requirements should be followed in GSA-controlled facilities within that locality.

The Foley Federal Building and U.S Courthouse is in an area of high community level, or in an area where masks are required by a local jurisdiction. Effective immediately, masks must be worn by all persons wishing to access and while in GSA-controlled facilities located in areas of high COVID-19 community levels, based on the CDC COVID Data Tracker.

Mask signage will be posted at building entrances and in the lobbies and common areas indicating that masks are required to be worn by all persons while accessing and in the Foley Federal Building and U.S Courthouse.

Also, employees who are not fully vaccinated and who work onsite should undergo regular screening testing through their agency’s screening testing program. Refer to the Safer Federal Workforce Guidance on Updated Screening Testing and vaccine attestation protocols for both Federal and Contractor Employees, as well as for visitors. Attestation signage will be posted at all entrances along with the mask signage.

As additional information is available, in coordination with the Safer Federal Workforce Task Force, I will share that information with you, and request that the Facility Security Committee (FSC) convene to discuss operational considerations, enforcement protocols and any other issues associated with these changes.

Thank you for your prompt attention to this matter, and please contact me with any questions.

Sincerely,

Darrell McGirt
Hi all,
I received word from my contact at the US Trustee office. (see below). The NLRB furniture will be removed this afternoon. Be advised that GSA’s Conference Room 1-500 is a very small room with no capacity for spacing, etc. Judge Giannopoulos should be advised the trial will not be able to resume via in person at this location, and given the uptick in COVID cases in Las Vegas, it may be very difficult to find a suitable space in a week’s time. Thanks.

Hi Dawn,
Thank you for your email. In speaking with Darrell at GSA a couple of weeks ago about the use of our meeting room space by your agency, Darrell informed me that the space reserved for the trial was for Room 1-500 and not Room 1500. With the two rooms having nearly identical numbers, I see where this caused confusion. Yesterday, I was advised by the U.S. Trustee in San Francisco and our Branch Chief for Facilities in D.C. that we are not able to share our meeting room space. We know that this is an inconvenience for your agency, but we appreciate your understanding and cooperation with the removal of the furniture. Let me know if you have any questions.
Thank you.
Terri
From: Moore, Dawn M. <DawnM.Moore@nlrb.gov>
Sent: Tuesday, June 14, 2022 10:57 AM
To: Didion, Terri (USTP) <Terri.Didion@usdoj.gov>
Subject: [EXTERNAL] RE: Trustees Suite 1500 @ Foley: NLRB Trial Space

Good morning Terri,
Wanted to apologize to you for not removing the NLRB’s tables and air filters when our trial was adjourned at the end of last month. Please let me know if the hearing room would still be available for our Agency’s use beginning next Tuesday, June 21st, as the trial is scheduled to resume on that date. If not, the furniture will be removed today. Please contact me with any questions.
Thank you.

Dawn M. Moore
Program Support Assistant
NLRB Region 28 – Las Vegas Resident Office / Foley Federal Courthouse Building 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101-5833
Direct Telephone: (702) 820-7466 / Fax: (702) 388-6248
Office Main Telephone # (702) 388-6416
From: Darrell McGirt - 9PDN <darrell.mcgirt@gsa.gov>
Sent: Tuesday, June 14, 2022 10:51 AM
To: Moore, Dawn M. <DawnM.Moore@nlrb.gov>
Cc: Terri Didion <terri.didion@usdoj.gov>
Subject: Re: Trustees Suite 1500 @ Foley: NLRB Trial Space

Dawn,

Please Contact Terri Didion to arrange the removal. I cc'd her on this email.

Thanks

Darrell McGirt, Asst. Property Manager
U.S. General Services Administration
PBS, Nevada Field Office (9PDN)
333 Las Vegas Blvd, S, Suite 5501
Las Vegas, NV 89101
darrell.mcgirt@gsa.gov
702-388-6794 (office)
702-494-7305 (cell)
702-388-6131 (fax)

On Tue, Jun 14, 2022 at 10:45 AM Moore, Dawn M. <DawnM.Moore@nlrb.gov> wrote:

Hi Darrell,

My apologies for not removing the NLRB’s tables / air filters from the Trustees Suite 1500.

The NLRB trial adjourned and is supposed to resume Tuesday, June 21st. Please let me know who may I contact at the Trustees office to apologize and see if the space may still be able to be used by our Agency?

Thanks much,

Dawn M. Moore
Program Support Assistant
NLRB Region 28 – Las Vegas Resident Office / Foley Federal Courthouse Building
300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101-5833
COVID-19 Trends
Clark County, Nevada

Document creation date: June 13, 2022

• General notes: This report uses surveillance data collected by the Southern Nevada Health District. Due to delays related to laboratory processing, reporting, and case investigations, data from the most recent days are less complete than data from older time points. For this reason, as of June 10, 2020 this report will not display data from the previous three days prior to the date that the report was created. As many case investigations are ongoing, all data presented in this report are considered preliminary and subject to change. Data regarding cases, hospitalizations, deaths, and labs were last updated June 13, 2022 at 12:00 AM, and data is reported up through June 9, 2022.

• Cases: Symptom onset date was used for aggregating cases. If symptom onset date was missing, the following dates were substituted in this order: diagnosis date, lab collection date, report date (date case was reported to SNHD), event creation date (date case was entered into TriSano, SNHD's surveillance system).

• Hospitalizations: Admission date reported the the Nevada Hospital Association was used for aggregating hospitalizations. One person could have more than one admissions.

• Deaths: Date of death was used for aggregating deaths. If date of death was missing, report date was used.

• For the "7-Day Average of Daily New Cases per 100K, by Age Group (Years)" graph and table, the population data source for calculating rate estimates was from Nevada State Demographer "2019 ASRHO Estimates and Projections Summary 2000 to 2038", 2020 projection, vintage 2019. Rates for individual age categories may be based on small numbers, which may give unstable estimates.

• All graphs in this report show data from approximately 60 days prior to the date of the report.

• All tables show data from the last 14 days before the current date, with the exception of the "Percent Change in Weekly Totals from Previous Week", which displays data from the previous eight completed weeks.

• For the "Percent of People Receiving COVID-19 PCR Tests Who Have Positive Results" graph, one person who has multiple specimens collected in one day is only reported once. If any test of that person is positive, that person counts as a positive result. If all tests of that individual are negative, that person counts as a negative result. Laboratory tests were included if they were a test assessing for the presence of SARS-CoV-2 viral RNA, for example PCR tests. Antibody and antigen tests were excluded.
COVID-19 Cases
Clark County, NV

Table 1: COVID-19 Cases per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Cases Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 27</td>
<td>710</td>
<td>708.4</td>
</tr>
<tr>
<td>May 28</td>
<td>521</td>
<td>713.3</td>
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<tr>
<td>May 29</td>
<td>469</td>
<td>700.1</td>
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<td>May 30</td>
<td>366</td>
<td>633.7</td>
</tr>
<tr>
<td>May 31</td>
<td>959</td>
<td>658.9</td>
</tr>
<tr>
<td>Jun 01</td>
<td>950</td>
<td>686.7</td>
</tr>
<tr>
<td>Jun 02</td>
<td>857</td>
<td>690.3</td>
</tr>
<tr>
<td>Jun 03</td>
<td>729</td>
<td>693.0</td>
</tr>
<tr>
<td>Jun 04</td>
<td>542</td>
<td>696.0</td>
</tr>
<tr>
<td>Jun 05</td>
<td>558</td>
<td>708.7</td>
</tr>
<tr>
<td>Jun 06</td>
<td>880</td>
<td>782.1</td>
</tr>
<tr>
<td>Jun 07</td>
<td>818</td>
<td>762.0</td>
</tr>
<tr>
<td>Jun 08</td>
<td>698</td>
<td>726.0</td>
</tr>
<tr>
<td>Jun 09</td>
<td>584</td>
<td>687.0</td>
</tr>
</tbody>
</table>


COVID-19 Hospitalizations
Clark County, NV

Table 2: COVID-19 Hospitalizations per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Hospitalizations Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 27</td>
<td>31</td>
<td>26.9</td>
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<td>May 28</td>
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<td>May 29</td>
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<td>28.1</td>
</tr>
<tr>
<td>May 30</td>
<td>45</td>
<td>29.4</td>
</tr>
<tr>
<td>May 31</td>
<td>42</td>
<td>31.6</td>
</tr>
<tr>
<td>Jun 01</td>
<td>46</td>
<td>34.4</td>
</tr>
<tr>
<td>Jun 02</td>
<td>50</td>
<td>38.6</td>
</tr>
<tr>
<td>Jun 03</td>
<td>38</td>
<td>39.6</td>
</tr>
<tr>
<td>Jun 04</td>
<td>30</td>
<td>40.0</td>
</tr>
<tr>
<td>Jun 05</td>
<td>34</td>
<td>40.7</td>
</tr>
<tr>
<td>Jun 06</td>
<td>38</td>
<td>39.7</td>
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<tr>
<td>Jun 07</td>
<td>41</td>
<td>39.6</td>
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<tr>
<td>Jun 08</td>
<td>45</td>
<td>39.4</td>
</tr>
<tr>
<td>Jun 09</td>
<td>45</td>
<td>38.7</td>
</tr>
</tbody>
</table>
Bed Occupancy of COVID-19 Hospitalizations
Clark County, NV

Data source: Nevada Hospital Association

Table 3: Percent of Bed Occupancy per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Bed Occupancy Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 27</td>
<td>3.71%</td>
<td>3.27%</td>
</tr>
<tr>
<td>May 28</td>
<td>3.52%</td>
<td>3.39%</td>
</tr>
<tr>
<td>May 29</td>
<td>3.74%</td>
<td>3.51%</td>
</tr>
<tr>
<td>May 30</td>
<td>3.55%</td>
<td>3.57%</td>
</tr>
<tr>
<td>May 31</td>
<td>4.15%</td>
<td>3.66%</td>
</tr>
<tr>
<td>Jun 01</td>
<td>4.54%</td>
<td>3.80%</td>
</tr>
<tr>
<td>Jun 02</td>
<td>4.62%</td>
<td>3.98%</td>
</tr>
<tr>
<td>Jun 03</td>
<td>4.41%</td>
<td>4.08%</td>
</tr>
<tr>
<td>Jun 04</td>
<td>4.33%</td>
<td>4.19%</td>
</tr>
<tr>
<td>Jun 05</td>
<td>4.38%</td>
<td>4.28%</td>
</tr>
<tr>
<td>Jun 06</td>
<td>4.78%</td>
<td>4.46%</td>
</tr>
<tr>
<td>Jun 07</td>
<td>5.11%</td>
<td>4.60%</td>
</tr>
<tr>
<td>Jun 08</td>
<td>5.42%</td>
<td>4.72%</td>
</tr>
<tr>
<td>Jun 09</td>
<td>5.64%</td>
<td>4.87%</td>
</tr>
</tbody>
</table>
COVID-19 Deaths
Clark County, NV

Table 4: COVID-19 Deaths per Day, Clark County, NV

<table>
<thead>
<tr>
<th>Date</th>
<th>Deaths Per Day</th>
<th>7-Day Moving Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 27</td>
<td>2</td>
<td>3.6</td>
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<tr>
<td>May 28</td>
<td>1</td>
<td>2.9</td>
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<tr>
<td>May 29</td>
<td>3</td>
<td>2.4</td>
</tr>
<tr>
<td>May 30</td>
<td>2</td>
<td>2.4</td>
</tr>
<tr>
<td>May 31</td>
<td>1</td>
<td>2.3</td>
</tr>
<tr>
<td>Jun 01</td>
<td>1</td>
<td>2.1</td>
</tr>
<tr>
<td>Jun 02</td>
<td>.</td>
<td>1.7</td>
</tr>
<tr>
<td>Jun 03</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>Jun 04</td>
<td>2</td>
<td>1.7</td>
</tr>
<tr>
<td>Jun 05</td>
<td>.</td>
<td>1.4</td>
</tr>
<tr>
<td>Jun 06</td>
<td>.</td>
<td>1.3</td>
</tr>
<tr>
<td>Jun 07</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Jun 08</td>
<td>.</td>
<td>1.7</td>
</tr>
<tr>
<td>Jun 09</td>
<td>.</td>
<td>1.7</td>
</tr>
</tbody>
</table>
Table 5: 7-Day Average of Daily New Cases per 100K, by Age Group (Years)

<table>
<thead>
<tr>
<th>Date</th>
<th>0-4</th>
<th>5-17</th>
<th>18-24</th>
<th>25-49</th>
<th>50-64</th>
<th>65+</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 27</td>
<td>10.9</td>
<td>15.6</td>
<td>30.3</td>
<td>36.5</td>
<td>36.6</td>
<td>35.8</td>
</tr>
<tr>
<td>May 28</td>
<td>11.6</td>
<td>15.2</td>
<td>30.8</td>
<td>36.4</td>
<td>37.2</td>
<td>36.7</td>
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<tr>
<td>May 29</td>
<td>11.6</td>
<td>14.5</td>
<td>29.7</td>
<td>36.0</td>
<td>36.5</td>
<td>36.1</td>
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<tr>
<td>May 30</td>
<td>11.4</td>
<td>12.9</td>
<td>27.9</td>
<td>31.9</td>
<td>32.0</td>
<td>35.1</td>
</tr>
<tr>
<td>May 31</td>
<td>12.3</td>
<td>12.8</td>
<td>29.7</td>
<td>33.0</td>
<td>33.6</td>
<td>36.6</td>
</tr>
<tr>
<td>Jun 01</td>
<td>12.2</td>
<td>12.5</td>
<td>30.6</td>
<td>34.7</td>
<td>35.4</td>
<td>38.4</td>
</tr>
<tr>
<td>Jun 02</td>
<td>12.0</td>
<td>11.7</td>
<td>29.5</td>
<td>36.2</td>
<td>36.2</td>
<td>36.6</td>
</tr>
<tr>
<td>Jun 03</td>
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<td>11.0</td>
<td>28.3</td>
<td>36.8</td>
<td>36.9</td>
<td>36.9</td>
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<tr>
<td>Jun 04</td>
<td>11.0</td>
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<td>28.5</td>
<td>36.9</td>
<td>37.6</td>
<td>36.4</td>
</tr>
<tr>
<td>Jun 05</td>
<td>11.3</td>
<td>11.2</td>
<td>29.7</td>
<td>37.1</td>
<td>38.5</td>
<td>37.7</td>
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<tr>
<td>Jun 06</td>
<td>12.5</td>
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<td>32.0</td>
<td>42.0</td>
<td>43.1</td>
<td>39.3</td>
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<tr>
<td>Jun 07</td>
<td>12.6</td>
<td>11.9</td>
<td>29.9</td>
<td>40.8</td>
<td>41.9</td>
<td>39.1</td>
</tr>
<tr>
<td>Jun 08</td>
<td>12.5</td>
<td>11.3</td>
<td>27.0</td>
<td>38.4</td>
<td>41.8</td>
<td>36.9</td>
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<tr>
<td>Jun 09</td>
<td>12.0</td>
<td>10.8</td>
<td>26.2</td>
<td>35.9</td>
<td>39.5</td>
<td>35.5</td>
</tr>
</tbody>
</table>
Percent of People Receiving COVID-19 PCR Tests Who Have Positive Results
Clark County, NV

Collection Date

Percent (%) of People Tested

7-Day Moving Average
Report prepared by: Ying Zhang, PhD, MPH (Office of Epidemiology) and Lei Zhang, MS (Office of Informatics)