

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Service Employees International Union,

Petitioner,

No. 23-1309

v.

National Labor Relations Board,

Respondent.

PETITIONER’S STATEMENT OF ISSUES TO BE RAISED

Pursuant to the Court’s Procedural Order dated November 7, 2023, Petitioner Service Employees International Union (“SEIU”) submits this preliminary statement of issues to be raised on appeal.

1. Did the National Labor Relations Board violate the National Labor Relations Act, 29 U.S.C. §§ 151-159, by promulgating a Standard for Determining Joint Employer Status that defines “essential terms and conditions of employment” to include only “(1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and (7) working conditions related to the safety and health of employees,” *see* 88 Fed. Reg. 73946,

73982 (Oct. 27, 2023), instead of all mandatory subjects of collective bargaining?

2. Did the National Labor Relations Board act arbitrarily and capriciously by promulgating a Standard for Determining Joint Employer Status that defines “essential terms and conditions of employment” to include only “(1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and (7) working conditions related to the safety and health of employees,” *see* 88 Fed. Reg. at 73982, instead of all mandatory subjects of collective bargaining?

Respectfully submitted,

/s/ Adam Bellotti

Leon Dayan (ldayan@bredhoff.com)
Adam Bellotti (abellotti@bredhoff.com)
BREDHOFF & KAISER, P.L.L.C.
805 Fifteenth Street N.W., Suite 1000
Washington, D.C. 20005
(202) 842-2600

Counsel for Petitioner SEIU

Dated: December 7, 2023

CERTIFICATE OF SERVICE

I certify that on December 7, 2023, I caused the foregoing Petitioner's Statement of Issues to be Raised to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

s/ Adam Bellotti _____

Adam Bellotti