

NxGen Case Closing Document

The Court entered an order enforcing the Board's Order in this matter. Opposing party was provided 14 days to object to the form of the judgment. The 14 day period set by the Order has expired with no response provided. Consequently, the Court's order has become the Court's judgment per the terms of its order.

The Court's Order with Board's submitted proposed judgment are attached below along with a PACER case docket printout showing that no objection was lodged within the Order's 14 day response period.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 5 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NATIONAL LABOR RELATIONS
BOARD,

Petitioner,

v.

JOSEPPI'S LLC D/B/A ARCATA
THEATRE LOUNGE,

Respondent.

No. 23-755

20-CA-292430

National Labor Relations Board

ORDER

Before: SILVERMAN, R. NELSON, and BUMATAY, Circuit Judges.

The application (Docket Entry No. 1) of the National Labor Relations Board for enforcement of its April 10, 2023 order is granted. Unless objections as to form are received within fourteen days of the date of this order, the form of judgment submitted at Docket Entry No. 2 will be the judgment of the court.

The Clerk will serve the proposed judgment submitted at Docket Entry No. 2 on respondent.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	
JOSEPPI'S LLC d/b/a	:	Board Case No.:
ARCATA THEATRE LOUNGE	:	20-CA-292430
	:	
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Joseppi's LLC d/b/a Arcata Theatre Lounge, its officers, agents, successors, and assigns, enforcing its order dated April 10, 2023, in Case No. 20-CA-292430, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Joseppi's LLC d/b/a Arcata Theatre Lounge, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Endorsed, Judgment Filed and Entered

/s/ Molly Dwyer
Molly Dwyer
Clerk

NATIONAL LABOR RELATIONS BOARD

v.

JOSEPPI'S LLC D/B/A ARCATA THEATRE LOUNGE

ORDER

Joseppi's, LLC, d/b/a Arcata Theatre Lounge, its officers, agents, successors and assigns, shall

1. Cease and desist from
 - a) Discharging or otherwise disciplining employees for engaging in protected concerted activity under Section 7 of the Act.
 - b) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
 - a) Within 14 days from the date of this order, offer Rebecca Maynard reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights and privileges previously enjoyed.
 - b) Make Rebecca Maynard whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms, suffered as a result of the discrimination against her, in the manner set forth in the remedy section of this decision.
 - c) Compensate Rebecca Maynard for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 20, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years. Also file with the Regional Director for Region 20 a copy of Maynard's W-2 forms reflecting the backpay award.
 - d) Within 14 days from the date of this order, remove from its files any reference to the unlawful discharge of Rebecca Maynard, and, within 3 days thereafter, notify her in writing that it has been done and that the unlawful action will not be used against her in any way.

- e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of back pay due under the terms of this Order
- f) Within 14 days after appropriate notification by the Region, post, at its Arcata, California facility, copies of the attached notice marked “Appendix.” Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 16, 2022.
- g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.
- h) Within 21 days after service by the Region, file, with the Regional Director for Region 20, a copy of Maynard’s W-2 form reflecting the backpay award.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union.

Choose representatives to bargain with us on your behalf.

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce employees in the exercise of the rights listed above.

YOU HAVE THE RIGHT to discuss wages, hours and working conditions with other employees and **WE WILL NOT** do anything to interfere with your exercise of that right.

YOU HAVE THE RIGHT to freely bring matters and complaints about wages, hours and working conditions to our attention and **WE WILL NOT** do anything to interfere with your exercise of that right.

WE WILL NOT discharge or otherwise discipline employees for the exercise of the above rights or because of their other protected concerted activities under Section 7 of the Act.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce employees in the exercise of the rights under Section 7 of the Act.

WE WILL offer Rebecca Maynard immediate and full reinstatement to her former job, or if that job no longer exists, to a substantially equivalent position,

without prejudice to her seniority or any other rights and privileges previously enjoyed.

WE WILL make Rebecca Maynard whole, with interest, for any loss of earnings and other benefits suffered as a result of our discrimination against her.

WE WILL also make Rebecca Maynard whole, with interest, for any direct or foreseeable pecuniary harm suffered as a result of the unlawful discharge, including reasonable search-for-work and interim employment expenses, plus interest.

WE WILL remove from our files any references to the unlawful action taken against Rebecca Maynard, and **WE WILL** notify her that this has been done, and that that unlawful action will not be used against her in any way; that we recognize her rights under Section 7 of the Act; that she has the right to communicate with coworkers about working conditions; and that we welcome her back.

WE WILL compensate Rebecca Maynard for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and **WE WILL** file with the Regional Director for Region 20, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years for her.

**JOSEPPI'S LLC D/B/A ARCATA
THEATRE LOUNGE**

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov

450 Golden Gate Avenue, 3rd Floor, Suite 3112, San Francisco, CA 94102-1735
(415) 356-5130, Hours: 8:30 a.m. to 5 p.m. Pacific Time

The Administrative Law Judge's decision can be found at www.nlr.gov/case/20-CA-292430 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary,

National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (628) 221-8875.

ACMS Case Summary
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 23-755 National Labor Relations Board v. Joseppi's LLC d/b/a Arcata Theatre Lounge Appeal From: National Labor Relations Board Fee Status: Not Applicable	Docketed: 04/24/2023																														
Case Type Information: 1) Agency 2) Application for Enforcement 3)																															
Originating Court Information: District: 16 : Date Rec'd COA: 04/24/2023																															
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; padding: 2px;">04/24/2023</td> <td style="width: 5%; padding: 2px; text-align: center;">2</td> <td style="padding: 2px;">Proposed Judgment filed. [Entered: 04/24/2023 03:47 PM]</td> </tr> <tr> <td style="padding: 2px;">04/24/2023</td> <td style="padding: 2px; text-align: center;">3</td> <td style="padding: 2px;">AGENCY DECISION on review dated 4/10/2023. [Entered: 04/24/2023 03:47 PM]</td> </tr> <tr> <td style="padding: 2px;">04/24/2023</td> <td style="padding: 2px; text-align: center;">4</td> <td style="padding: 2px;">APPLICATION FOR ENFORCEMENT filed by Petitioner(s). [Entered: 04/24/2023 03:47 PM]</td> </tr> <tr> <td style="padding: 2px;">04/24/2023</td> <td style="padding: 2px; text-align: center;">5</td> <td style="padding: 2px;"> CASE OPENED. Application for Enforcement has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit on 4/24/2023. The U.S. Court of Appeals docket number 23-755 has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes. Resources Available For more information about case processing and to assist you in preparing your brief, please review the Case Opening Information (for attorneys and pro se litigants) and review the Appellate Practice Guide. Counsel should consider contacting the court's Appellate Mentoring Program for help with the brief and argument. [Entered: 04/24/2023 03:49 PM] </td> </tr> <tr> <td style="padding: 2px;">04/24/2023</td> <td style="padding: 2px; text-align: center;">6</td> <td style="padding: 2px;">STIPULATED OR SUMMARY ENFORCEMENT APPLICATION FOR ENFORCEMENT BRIEFING SCHEDULE NOTICE. No briefing schedule is set for this type of application for enforcement. [Entered: 04/24/2023 03:51 PM]</td> </tr> <tr> <td style="padding: 2px;">05/01/2023</td> <td style="padding: 2px; text-align: center;">7</td> <td style="padding: 2px;"> MEDIATION QUESTIONNAIRE filed by Petitioner National Labor Relations Board. To submit pertinent confidential information directly to the Circuit Mediators, please email ca09_mediation@ca9.uscourts.gov and include the case name and number in the subject line. Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [Entered: 05/01/2023 12:14 PM] </td> </tr> <tr> <td style="padding: 2px;">05/11/2023</td> <td style="padding: 2px; text-align: center;">8</td> <td style="padding: 2px;">MAIL RETURNED. DE 6 addressed to Timothy Overturf for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Timothy Overturf at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. Also serving DE 6 on LegalCorp Solutions, Inc., 8939 S. Sepulveda Blvd., Ste 102, Los Angeles, CA 90045 per DE 4. [Entered: 05/11/2023 03:25 PM]</td> </tr> <tr> <td style="padding: 2px;">05/11/2023</td> <td style="padding: 2px; text-align: center;">9</td> <td style="padding: 2px;">MAIL RETURNED. DE 6 addressed to Monica Munoz for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Monica Munoz at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. [Entered: 05/11/2023 04:55 PM]</td> </tr> <tr> <td style="padding: 2px;">05/12/2023</td> <td style="padding: 2px; text-align: center;">10</td> <td style="padding: 2px;">ADDED Counsel for Respondent Registered Agent for Joseppi's LLC d/b/a Arcata Theatre Lounge for Respondent Joseppi's LLC d/b/a Arcata Theatre Lounge. [Entered: 05/12/2023 12:54 PM]</td> </tr> <tr> <td style="padding: 2px;">07/05/2023</td> <td style="padding: 2px; text-align: center;">11</td> <td style="padding: 2px;"> ORDER FILED. Barry G. SILVERMAN, Ryan D. NELSON, Patrick J. BUMATAY The application (Docket Entry No. 1) of the National Labor Relations Board for enforcement of its April 10, 2023 order is granted. Unless objections as to form are received within fourteen days of the date of this order, the form of judgment submitted at Docket Entry No. 2 will be the judgment of the court. The Clerk will serve the proposed judgment submitted at Docket Entry No. 2 on respondent. [Entered: 07/05/2023 08:52 AM] </td> </tr> </table>		04/24/2023	2	Proposed Judgment filed. [Entered: 04/24/2023 03:47 PM]	04/24/2023	3	AGENCY DECISION on review dated 4/10/2023. [Entered: 04/24/2023 03:47 PM]	04/24/2023	4	APPLICATION FOR ENFORCEMENT filed by Petitioner(s). [Entered: 04/24/2023 03:47 PM]	04/24/2023	5	CASE OPENED. Application for Enforcement has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit on 4/24/2023 . The U.S. Court of Appeals docket number 23-755 has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes. Resources Available For more information about case processing and to assist you in preparing your brief, please review the Case Opening Information (for attorneys and pro se litigants) and review the Appellate Practice Guide . Counsel should consider contacting the court's Appellate Mentoring Program for help with the brief and argument. [Entered: 04/24/2023 03:49 PM]	04/24/2023	6	STIPULATED OR SUMMARY ENFORCEMENT APPLICATION FOR ENFORCEMENT BRIEFING SCHEDULE NOTICE. No briefing schedule is set for this type of application for enforcement. [Entered: 04/24/2023 03:51 PM]	05/01/2023	7	MEDIATION QUESTIONNAIRE filed by Petitioner National Labor Relations Board. To submit pertinent confidential information directly to the Circuit Mediators, please email ca09_mediation@ca9.uscourts.gov and include the case name and number in the subject line. Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [Entered: 05/01/2023 12:14 PM]	05/11/2023	8	MAIL RETURNED. DE 6 addressed to Timothy Overturf for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Timothy Overturf at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. Also serving DE 6 on LegalCorp Solutions, Inc., 8939 S. Sepulveda Blvd., Ste 102, Los Angeles, CA 90045 per DE 4. [Entered: 05/11/2023 03:25 PM]	05/11/2023	9	MAIL RETURNED. DE 6 addressed to Monica Munoz for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Monica Munoz at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. [Entered: 05/11/2023 04:55 PM]	05/12/2023	10	ADDED Counsel for Respondent Registered Agent for Joseppi's LLC d/b/a Arcata Theatre Lounge for Respondent Joseppi's LLC d/b/a Arcata Theatre Lounge. [Entered: 05/12/2023 12:54 PM]	07/05/2023	11	ORDER FILED. Barry G. SILVERMAN, Ryan D. NELSON, Patrick J. BUMATAY The application (Docket Entry No. 1) of the National Labor Relations Board for enforcement of its April 10, 2023 order is granted. Unless objections as to form are received within fourteen days of the date of this order, the form of judgment submitted at Docket Entry No. 2 will be the judgment of the court. The Clerk will serve the proposed judgment submitted at Docket Entry No. 2 on respondent. [Entered: 07/05/2023 08:52 AM]
04/24/2023	2	Proposed Judgment filed. [Entered: 04/24/2023 03:47 PM]																													
04/24/2023	3	AGENCY DECISION on review dated 4/10/2023. [Entered: 04/24/2023 03:47 PM]																													
04/24/2023	4	APPLICATION FOR ENFORCEMENT filed by Petitioner(s). [Entered: 04/24/2023 03:47 PM]																													
04/24/2023	5	CASE OPENED. Application for Enforcement has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit on 4/24/2023 . The U.S. Court of Appeals docket number 23-755 has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes. Resources Available For more information about case processing and to assist you in preparing your brief, please review the Case Opening Information (for attorneys and pro se litigants) and review the Appellate Practice Guide . Counsel should consider contacting the court's Appellate Mentoring Program for help with the brief and argument. [Entered: 04/24/2023 03:49 PM]																													
04/24/2023	6	STIPULATED OR SUMMARY ENFORCEMENT APPLICATION FOR ENFORCEMENT BRIEFING SCHEDULE NOTICE. No briefing schedule is set for this type of application for enforcement. [Entered: 04/24/2023 03:51 PM]																													
05/01/2023	7	MEDIATION QUESTIONNAIRE filed by Petitioner National Labor Relations Board. To submit pertinent confidential information directly to the Circuit Mediators, please email ca09_mediation@ca9.uscourts.gov and include the case name and number in the subject line. Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [Entered: 05/01/2023 12:14 PM]																													
05/11/2023	8	MAIL RETURNED. DE 6 addressed to Timothy Overturf for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Timothy Overturf at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. Also serving DE 6 on LegalCorp Solutions, Inc., 8939 S. Sepulveda Blvd., Ste 102, Los Angeles, CA 90045 per DE 4. [Entered: 05/11/2023 03:25 PM]																													
05/11/2023	9	MAIL RETURNED. DE 6 addressed to Monica Munoz for Joseppi's LLC d/b/a Arcata Theatre Lounge. Action taken: resending to Monica Munoz at Arcata Theatre Lounge, 1036 G Street, Arcata, CA 95521. [Entered: 05/11/2023 04:55 PM]																													
05/12/2023	10	ADDED Counsel for Respondent Registered Agent for Joseppi's LLC d/b/a Arcata Theatre Lounge for Respondent Joseppi's LLC d/b/a Arcata Theatre Lounge. [Entered: 05/12/2023 12:54 PM]																													
07/05/2023	11	ORDER FILED. Barry G. SILVERMAN, Ryan D. NELSON, Patrick J. BUMATAY The application (Docket Entry No. 1) of the National Labor Relations Board for enforcement of its April 10, 2023 order is granted. Unless objections as to form are received within fourteen days of the date of this order, the form of judgment submitted at Docket Entry No. 2 will be the judgment of the court. The Clerk will serve the proposed judgment submitted at Docket Entry No. 2 on respondent. [Entered: 07/05/2023 08:52 AM]																													