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December 27, 2004

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PRIORITY MAIL

Lester A. Heltzer, Executive Secretary
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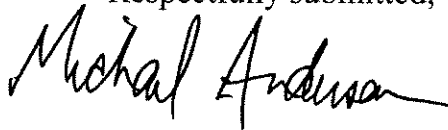
Re: *New York New York Hotel & Casino*
Case Nos. 28-CA-14519 et al.
(Position Statements on Remand filed May 16, 2003)

Dear Mr. Heltzer:

I write to call the Board's attention in this case to *Ark Las Vegas Restaurant Corp.*, 343 NLRB No. 126 (Dec. 16, 2004). This case involves the same facts presented here. The Board's decision in *Ark Las Vegas Restaurant Corp.* effectively determines the outcome in *New York New York Hotel & Casino*.

In *Ark Las Vegas Restaurant Corp.*, the Board held that off-duty employees of the restaurant contractor Ark have a statutory right to Section 7 exercise in the exterior areas of the New York New York property, including the hotel, casino and parking lot. The Board agreed with the D.C. Circuit in *Ark Las Vegas Restaurant Corp v. NLRB*, 334 F.3d 99, 109 (2003) that there is insufficient justification to prohibit such exercise in the areas outside Ark's leasehold. 343 NLRB No. 126 p. 4 n.12.

Respectfully submitted,



Michael T. Anderson

MTA:rr

cc: Counsel of Record

50/C:\My Documents\MTA\hqo12-27 Supp letter re ark.wpd

12/27/2004/13:17:02 HQO 5441; 5443

CERTIFICATE OF SERVICE

I, Reiko Ross caused to be served by mailing the attached Supplemental Citation addressed to Thomas K. Kahn, Clerk, dated December 27, 2004 from Michael T. Anderson re: *New York New York Hotel & Casino*, Case Nos. 28-CA-14519 et al., addressed to the following:

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(BY MAIL) I am "readily familiar" with the firm's practice for collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY FAX) At _____, __.m., I transmitted, along with an unsigned copy of this declaration, the above-described document by facsimile machine, to the above-listed fax number(s). The transmission (originating from (415) 597-7201) was reported as complete and without error. The facsimile machine properly issued a transmission report, a copy of which is attached hereto.

(BY OVERNIGHT DELIVERY) I caused said envelope(s) to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and was executed on this 27th day of December, 2004.


Reiko Ross