



whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

- b) Two copies of a petition for intervention shall be filed with the ALJ, and one copy shall be served on each party.
- c) An intervenor shall have all the rights of an original party subject to the order of the ALJ, except that the ALJ may, in his or her order allowing intervention, provide that the party shall not raise issues that might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay may require.

On October 25, 2017, the undersigned set November 8, 2017 as the deadline for the timely filing of any Petition(s) to Intervene in this matter. The order was subsequently published on IDOL's website under "Section 9 Hearings". AGCI filed a Petition to Intervene on or about October 30, 2017. It is undisputed that this Petition has been timely filed. The matter was presented/argued on November 30, 2017.

Neither Petitioner or Respondent objected to AGCI's Petition for Intervention.

AGCI/SIBA represents contractors that perform work across Illinois including the counties listed in Complainant's Petition Challenging Prevailing Rates Posted August 15, 2017. See *Notice of Hearing, Exhibit A*. The Southern Illinois Builder's Association ("SIBA") has negotiated collective bargaining agreements covering all laborer classification rates in the counties at issue in this matter. Specifically, AGCI/SIBA argues that the rate currently set by Respondent does not reflect SIBA's negotiated collective bargaining agreement rates. As such, were a ruling issued allowing Respondent's rate to stand, AGCI and SIBA would be placed in a position whereby they would have to pay the higher collectively bargained rate as opposed to the rate set by Respondent. This negatively impacts AGCI and specifically SIBA's ability to become lowest bidder on construction projects in these counties as it is obligated to pay the higher rate. As such, potential Intervenor argues, AGCI and SIBA would suffer adverse impact.

Furthermore, AGCI/SIBA's Section 9 hearing objection under *Southern Illinois Builder's Association et. al v. Beyer and Illinois Department of Labor, 2018-H-AS09-1978*, contains many similar issues of law and fact as contained in this matter. Petitioner and potential intervenor agree that the laborers' total package should amount to \$53.24. If not allowed to intervene, IDOL will undertake two separate administrative hearing proceedings addressing the same counties and the same classifications. Allowing intervention would aid judicial economy. If allowed intervention status, AGCI/SIBA represented it would then withdraw certain objections under 2018-H-AS09-1978.

AGCI/SIBA argues it is a necessary party with necessary information to enable the undersigned the ability to properly hold a full and fair hearing and to further consider the matter bringing with it the the employer's perspective, not merely Department and employee perspectives.

It is found that AGCI/SIBA has successfully demonstrated with specificity that it may be adversely impacted by the establishment of different rates in the classifications at issue in this hearing as named by Petitioner in its Petition Challenging Prevailing Rates Posted August 15, 2017, and any change in the rates and or descriptions provided therefor may adversely affect the Intervenor. Furthermore, it is found the AGCI/SIBA is a necessary party in resolving this matter in possession of information which will impact the fact finding in this hearing.

#### Status

The parties advised that this matter is unable to be settled. The parties and intervenor believe a decision regarding this matter will be necessary and the best course to proceed forward is either on a Motion to Dismiss and/or a Motion for or Cross-Motions for Summary Judgment.

**IT IS HEREBY ORDERED:**

1. The issue of **prospective application of the prevailing wage rate**, providing an effective date of September 1, 2017 is an issue properly before various Circuit Courts in the State of Illinois, in the matter(s) of: **Oller v. IDOL, Chaviano, 17MR 134**, and, **Parilli et. al v. Illinois Department of Labor and the Director of Labor, 16 CH 12963, 16 CH 12966 16 CH 13033 and 16 L 50642**. The undersigned will **not make a determination** regarding the **prospective effective date of September 1, 2017**, as that issue is properly before the Circuit Court(s).
2. **AGCI/SIBA's Petition for Intervention is granted**. The caption of this matter is amended as reflected above.
3. **Claimant's Verbal Motion to Voluntarily Withdraw its Objections in Exhibit B is granted**, *Exhibit B is attached hereto and made a part hereof*. The objections as outlined in Exhibit A of Petitioner's Petition Challenging Prevailing Rates Posted August 15, 2017 remains the subject of this case.
4. **Any and all dispositive motions are to be filed on or before January 5, 2018.**
5. **Any and all answers to the Motions shall be filed on or before February 2, 2018.**
6. **Any and all replies shall be filed on or before February 16, 2018.**
7. All **Motions, Answers and Replies** shall **comply** with the Hearing Rules, 56 Ill. Adm. code 120.301 (a) – (j). **Non-compliance may result** in the pleading being **stricken**.
8. This matter is scheduled for **telephonic oral argument** on the Motions then pending on **February 28, 2018 at 11:00 a.m.**

DATE: 12/05/17

/s/ Claudia D. Manley

Claudia D. Manley  
Chief Administrative Law Judge

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CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Ann Harrison, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order in Case No. 2018-H-AS09-1976 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail requested at 100 W. Randolph Street, Chicago, Illinois on the 7 day of December, 2017 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at [www.state.il.us/agency/idol/](http://www.state.il.us/agency/idol/)

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*Ann Harrison*