



United States Government

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, DC 20570

January 17, 2017

Deborah S. Hunt  
Clerk of the Court  
U.S. Court of Appeals for the Sixth Circuit  
540 Potter Stewart U.S. Courthouse  
100 E. Fifth Street  
Cincinnati, OH 45202-3988

Re: *NLRB v. Alternative Entertainment, Inc.*,  
No. 16-1385

The National Labor Relations Board submits this letter pursuant to Federal Rule of Appellate Procedure 28(j) to advise the Court of developments in three cases addressing the precise issue before the Court in this case.

Throughout its brief, the Board relies on *Murphy Oil USA, Inc.*, 361 NLRB No. 72, 2014 WL 5465454 (Oct. 28, 2014), *enforcement denied in relevant part*, 808 F.3d 1013 (5th Cir. 2015), in which the Board reaffirmed that an employer violates Section 8(a)(1) of the National Labor Relations Act, 29 U.S.C. §158(a)(1), by maintaining an agreement requiring employees to individually arbitrate work-related disputes. The Board also cites *Lewis v. Epic Sys. Corp.*, 823 F.3d 1147 (7th Cir. 2016), and *Morris v. Ernst & Young, LLP*, 834 F.3d 975 (9th Cir. 2016), which invalidated arbitration agreements based on the rationale of *Murphy Oil*.

On January 13, the Supreme Court granted petitions seeking writs of certiorari in all three cases. See *Epic Sys. Corp. v. Lewis*, No. 16-285; *Ernst & Young v. Morris*, No. 16-300; *NLRB v. Murphy Oil USA, Inc.*, No. 16-307.

Very truly yours,

/s/Linda Dreeben

Linda Dreeben

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cc: all counsel (via CM/ECF)