



United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, DC 20570-0001

VIA CM/ECF

January 18, 2017

Molly Dwyer, Clerk of the Court
Office of the Clerk
United States Court of Appeals
For the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *Nijjar Realty, Inc., a California corporation, dba PAMA
Management v. NLRB*, 9th Cir. Nos. 15-73921 & 16-70336
Board Case No. 21-CA-092054

Dear Ms. Dwyer:

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. §§ 151, 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), a Seventh Circuit decision invalidating an arbitration agreement based on the rationale of *Murphy Oil*. Subsequent to the filing of the Board's brief, this Court issued *Morris v. Ernst & Young, LLP*, 834 F.3d 975 (9th Cir. 2016), which also adopted the Board's *Murphy Oil* rule.

Last Friday, January 13, 2017, 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

Deputy Associate General Counsel

NATIONAL LABOR RELATIONS BOARD

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cc: all counsel (via CM/ECF)