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July 16, 2020

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

Re: *Sysco Grand Rapids, LLC v. NLRB*
Nos. 19-2371, 19-2421

Dear Ms. Hunt:

On June 16, 2020, the Fifth Circuit Court of Appeals rejected the National Labor Relations Board's imposition of a public notice reading order, using reasoning that applies equally to the above-captioned case. Sysco Grand Rapids, LLC ("Company") thus submits that case, *Denton County Electric Cooperative, Inc. v. NLRB*, No. 18-60474, 2020 U.S. App. LEXIS 18918 (5th Cir. June 16, 2020), as supplemental authority under Federal Rule of Appellate Procedure 28(j).

Here, the Company argued the National Labor Relations Board's imposition of a public notice reading order violated Sysco Grand Rapids, LLC's First Amendment rights as "[t]he ignominy of a forced public reading and a 'confession of sins' by any employer […] makes such a remedy incompatible with the democratic principles of the dignity of man." (Opening Brief of Petitioner Sysco Grand Rapid, LLC (hereinafter "Co. Br.") 31-32 (citing *Int'l Union of Elec., Radio & Mach. Workers v. NLRB*, 383 F.2d 230, 232-234 (D.C. Cir. 1967))).

The Fifth Circuit, relying on the same line of cases cited by the Company, rejected the National Labor Relations Board's imposition of a public notice reading order for precisely the same reason. *Denton Cty. Elec. Coop., Inc.*, 2020 U.S. App. LEXIS 18918 at *26. The court there expressed serious misgivings regarding public

notice reading orders, and viewed such orders as especially inappropriate when the employer is not a repeat offender. *Id.* at *26-27.

The concerns voiced by the Fifth Circuit with regard to a remedy reminiscent of "the system of 'criticism-self-criticism' devised by Stalin and adopted by Mao," *id.* at *26 (quoting *HTH Corp. v. NLRB*, 823 F.3d 668, 677 (D.C. Cir. 2016)), are particularly pertinent here, where the Company has been found not to have engaged in any further unfair labor practices since 2015, (*see* Co. Br. 24). Further, as demonstrated by the Fifth Circuit's rationale, a public notice reading requirement is fundamentally at odds with "the democratic principles of the dignity of man," *Int'l Union*, 383 F.2d at 234, when the National Labor Relations Board itself admitted that all unfair labor practices could be adequately remedied through "traditional means[.]" (Co. Br. 24-25).

Respectfully submitted,

/s/Mark A. Carter

Mark A. Carter

cc: Counsel of Record via CM/ECF