

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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FAST FOOD WORKERS COMMITTEE )

and )

SERVICE EMPLOYEES INTERNATIONAL )  
UNION, )

Case No. 20-1516

*Petitioners,* )

v. )

**NOT YET SCHEDULED  
FOR ORAL ARGUMENT**

NATIONAL LABOR RELATIONS BOARD, )

*Respondent.* )

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**FRANCHISEES RMC LOOP ENTERPRISES, LLC AND RMC  
ENTERPRISES, LLC’S MOTION TO INTERVENE**

Pursuant to Rule of Appellate Procedure 15(d) and D.C. Circuit Rule 15(b), RMC Loop Enterprises, LLC and RMC Enterprises, LLC (“RMC Loop Franchisees”) move to intervene in the action seeking review of the Decision and Order of the National Labor Relations Board (“NLRB”) in Case Nos. 02-CA-093893, et al., entered December 12, 2019 and published at 368 NLRB No. 134. RMC Loop Franchisees move to intervene in order to join with other franchisees that have moved to intervene in this proceeding (*see* Franchisees’ Motion to Intervene, Doc. No. 1881163 (Jan. 21, 2021)) to, among other things, (1) explain how the settlement agreements were necessary to save their small businesses from the costly and time-consuming burdens of litigation involving Petitioners, the

NLRB's General Counsel, and McDonald's USA despite relatively minor violations alleged to have been committed by the RMC Loop Franchisees; (2) clarify that, contrary to the administrative law judge's belief, the litigation was not near completion for the RMC Loop Franchisees at the time of settlement; and (3) detail the extensive relief the settlement agreements afforded as well as the steps the RMC Loop Franchisees have taken to implement that relief.

RMC Loop Franchisees intend to coordinate with other franchisees in this proceeding and do not intend to file a separate brief.

In support of their motion to intervene, RMC Loop Franchisees state the following:

1. Over six years ago, the NLRB Regional Director for Region 13 issued a consolidated complaint against McDonald's USA, LLC ("McDonalds USA") and the RMC Loop Franchisees (among others) alleging violations of the National Labor Relations Act ("the Act"). The consolidated complaint alleged, *inter alia*, that the RMC Loop Franchisees violated Section 8(a)(1) of the Act. The consolidated complaint also alleged that McDonald's USA could be held jointly and severally liable as a "joint employer" for the alleged violations by the RMC Loop Franchisees.

2. Although the consolidated complaint naming the RMC Loop Franchisees (and others) was initially consolidated for hearing before an administrative law judge in New York City, the judge severed the consolidated

complaint naming the RMC Loop Franchisees from related proceedings in 2016 and thereafter held it in abeyance. 368 NLRB No. 134 at \*2. The purpose of severance was to “expedite the litigation.” *Id.* But as of 2018—over three years after the consolidated complaint was issued—the record in the New York proceedings still had not closed. At that point, McDonald’s USA and the General Counsel of the NLRB presented a series of settlement agreements for the judge’s approval, including settlement agreements between the NLRB General Counsel, McDonald’s USA, and the RMC Loop Franchisees. The settlement agreements did not impose joint and several liability on McDonald’s USA as a joint employer, but they did require the RMC Loop Franchisees to take specified actions to implement the settlement.

3. The administrative law judge issued an order denying the motions of McDonald’s USA and the General Counsel to approve the settlement agreements. The General Counsel and McDonald’s USA filed a request for special permission to appeal and an appeal of the order denying approval.

4. On December 12, 2019, the NLRB issued its order vacating the administrative law judge’s denial and remanding with directions to approve the settlement agreements.

5. On remand, the administrative law judge approved the settlement agreements, triggering their implementation. Pursuant to those agreements, legal

notices were posted in the RMC Loop Franchisees' restaurants and mailed to certain former employees, and the RMC Loop Franchisees promised to refrain from taking specified actions in violation of the Act. By November 2020, the RMC Loop Franchisees had fully implemented the settlement agreements.

6. On December 23, 2020, the Fast Food Workers Committee and Service Employees International Union ("Union") filed a Petition for Review of the NLRB's December 2019 order directing approval of the settlement agreements.

7. As successful charged parties in the underlying NLRB proceedings, the RMC Loop Franchisees are entitled to intervene in the Petition for Review filed in this Court by the Union. *See Auto Workers v. Scofield*, 382 U.S. 205, 208 (1965) ("Congress intended to confer intervention rights upon the successful party to the Labor Board proceedings in the court in which the unsuccessful party challenges the Board's decision.").

8. This motion to intervene is timely filed within 30 days of the Union filing its Petition for Review. *See Fed. R. App. P. 15(d)*.

For the foregoing reasons, the RMC Loop Franchisees respectfully request that this Court grant their Motion to Intervene.

Dated: January 22, 2021

Respectfully Submitted,

/s/ Louis P. DiLorenzo

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## CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, the RMC Loop Franchisees make the following disclosures:

1. **RMC Loop Enterprises, LLC:** RMC Loop Enterprises, LLC has no parent company and no publicly-held company has a 10% or greater ownership interest in RMC Loop Enterprises, LLC.

2. **RMC Enterprises, LLC:** RMC Enterprises, LLC has no parent company and no publicly-held company has a 10% or greater ownership interest in RMC Enterprises, LLC.

3. The RMC Loop Franchisees have been independent owners-operators of McDonald's-brand restaurants, were charged parties in the underlying action before the National Labor Relations Board, and were signatories to settlements that are the subject of the Order of the National Labor Relations Board at issue on appeal.

Dated: January 22, 2021

Respectfully Submitted,

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## CERTIFICATE OF PARTIES AND AMICI CURIAE

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1)(A)-(B), the Franchisees submit this certificate.

**Parties, Intervenors, and Amici:** The following provides the current parties, proposed intervenors, and amici in this action:

*Petitioners:* Fast Food Workers Committee and Service Employees International Union

*Respondents:* National Labor Relations Board

*Movant-Intervenors:* RMC Loop Enterprises, LLC and RMC Enterprises, LLC.

**Action Under Review:** *McDonald's USA, LLC, a joint employer, et al. and Fast Food Workers Committee and Service Employees International Union, CTW, CLC, et al.*, 368 NLRB No. 134 (Dec. 12, 2019).

Dated: January 22, 2021

Respectfully Submitted,

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## CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g)(1), the undersigned hereby certifies:

1. The foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 744 words, excluding the exempted portions, as provided in Fed. R. App. P. 32(f). As permitted by Fed. R. App. P. 32(g)(1), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

2. This foregoing motion complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5)-(6) because it was prepared in proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

Dated: January 22, 2021

Respectfully Submitted,

/s/ Louis P. DiLorenzo

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**CERTIFICATE OF SERVICE**

I certify that on January 22, 2021, I caused the foregoing Motion of Franchisees To Intervene to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

Dated: January 22, 2021

Respectfully Submitted,

/s/ Louis P. DiLorenzo

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