

# UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

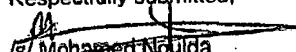
Mohamed Nguida,  
) Petitioner,  
)  
v.) Case No. \_\_\_\_\_  
)  
National Labor Relations Board, et al.,  
) Respondent.

## LIST OF APPENDICES

Pursuant to Federal Rule of Appellate Procedure 30(a) and Eleventh Circuit Rule 30-1, Petitioner submits the following list of appendices contained in the accompanying volume:

- APPENDIX A: The National Labor Relations Board's Final Decision and Order in Case Number [Insert NLRB Case Number]
- APPENDIX B: The Administrative Law Judge's Decision in Case Number [Insert NLRB Case Number]
- APPENDIX C: The Unfair Labor Practice Charge filed by Mohamed Nguida (Case Number [Insert NLRB Case Number])
- APPENDIX D: NLRB Memorandum GC 25-10 (Guidance for Deferring Unfair Labor Practice Cases), dated August 7, 2025, with Summary.
- APPENDIX E: Fifth Circuit Court of Appeals Decision in Space Exploration Tech. Corp. v. NLRB, No. 24-50627 (5th Cir. Aug. 19, 2025), with Summary.
- APPENDIX F: Reuters Article: "US Department of Justice to stop defending independence of FTC, NLRB, letter says" (Dated February 12, 2025), with Summary.

Respectfully submitted,

  
/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se

## **LIST OF APPENDICES**

**APPENDIX A: Eleventh Circuit Docket (pp. 1-7)**

**APPENDIX B: District Court Stay Order (pp. 8-13)**

**APPENDIX C: Mandamus Petition (pp. 14-33)**

**APPENDIX D: NLRB Policy Memo (pp. 34-37)**

**APPENDIX E: Fifth Circuit Decision (p. 38)**

**APPENDIX F: DOJ Policy Shift (pp. 39-42)**

**APPENDIX J: Exhaustion of Remedies Evidence (pp. 43-49)**

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re Mohamed Nguida,  
Petitioner,

v.

National Labor Relations Board, et al.,  
Respondents.

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APPENDIX A

DOCKET SHEET  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

Case No. 25-11741-B

(In Re: Mohamed Nguida)

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## STATEMENT OF CONTENTS

### APPENDIX A

Appendix A comprises the true and complete docket sheet for Case No. 25-11741-B, In Re: Mohamed Nguida, from the United States Court of Appeals for the Eleventh Circuit. The docket sheet is reproduced sequentially from page A-3 through page A-7. This appendix provides the Court with the official procedural history of the matter, which includes the following sequence of events: • The Initiation of the original proceeding upon the filing of a Petition for a Writ of Mandamus and a Motion to Proceed In Forma Pauperis by Petitioner Mohamed Nguida, proceeding pro se, on May 27, 2025. • The appearances of counsel for the government respondents and the filing of related Certificates of Interested Persons and Corporate Disclosure Statements. • The subsequent filings by the Petitioner, including supplemental and amended petitions, and an Emergency Motion for Writ of Mandamus, to Vacate Void District Court Order, for Sanctions, and Immediate Injunctive Relief filed on September 8, 2025. This docket is provided to show the status of the proceedings and the chronology of filings as of September 19, 2025.

TO: MOHAMED NGUIDA

Petitioner

**Mohamed Nguida**  
Direct: 727-307-1308  
[NTC Pro Se]  
433 DONNELLY ST  
EUSTIS, FL 32726

NATIONAL LABOR RELATIONS BOARD

Manhattan Respondent

**Dalford Dean Owens, Jr.**  
Direct: 202-273-2934  
[COR LD NTC U.S.  
Government]  
National Labor Relations  
Board  
Division of Legal Counsel  
Firm: 202-273-2960  
1015 HALF ST SE FL 4  
WASHINGTON, DC 20003

INSPECTOR GENERAL OFFICE

Manhattan Respondent

**Arish Sadakat Ali**  
Direct: 571-216-3174  
[COR NTC U.S. Government]  
National Labor Relations  
Board  
Contempt, Compliance, and  
Special Litigation Branch  
1015 HALF ST SE RM 4022  
WASHINGTON, DC 20570

**Dalford Dean Owens, Jr.**  
Direct: 202-273-2934  
[COR LD NTC U.S.  
Government]  
(see above)

**Arish Sadakat Ali**  
Direct: 571-216-3174

07/14/2025 12:18 AM]

07/21/2025 19  
10:15 AM (EST)  
[25-11741]

**Amended Motion [18], Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 07/21/2025 01:18 AM]**

07/22/2025 20  
10:15 AM (EST)  
[25-11741]

**Response to Supplemental Authority (28J) filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 07/22/2025 02:45 AM]**

08/04/2025 21  
10:55 AM (EST)  
[25-11741]

**Amended Motion [19] filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 08/04/2025 08:52 AM]**

08/21/2025 22  
10:40 AM (EST)  
[25-11741]

**Amended Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 08/21/2025 01:52 AM]**

09/08/2025 23  
10:42 AM (EST)  
[25-11741]

**EMERGENCY MOTION Emergency Motion for Writ of Mandamus, to Vacate Void District Court Order, for Sanctions, and Immediate Injunctive Relief filed by Mohamed Nguida. Motion Is Opposed. [23] [25-11741] (ECF: Mohamed Nguida) [Entered: 09/08/2025 04:57 AM]**

Select All  Clear All

**Documents and Docket Summary**  
 **Documents Only**

**Include Page Numbers**

Selected Docket: 0

Selected Size: 0 KB

Totals reflect acceptable documents only and do not include unauthorized restricted documents.

<b>PACER Service Center</b>	
Transaction Receipt	
09/09/2025 10:39:00	
PACER Login:	Mnguida1007
Client Code:	

4

[Entered: 05/27/2025 09:59 AM]

05/27/2025  25-11741 **MOTION to proceed IFP filed by Petitioner Mohamed Nguida. Opposition to Motion is Unknown [2]** [Entered: 05/27/2025 10:05 AM]

05/27/2025  25-11741 Notice that no action will be taken on Motion to proceed in forma pauperis [2] filed by Petitioner Mohamed Nguida.  
Reason(s) no action being taken on filing(s): The filing is deficient for failure to comply with this Court's rules on Certificates of Interested Persons and Corporate Disclosure Statements. See 11th Cir. R. 26.1-1.. [Entered: 05/27/2025 10:14 AM]

06/05/2025  4 25-11741 Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Petitioner Mohamed Nguida. [Entered: 06/10/2025 04:54 PM]

06/05/2025  5 25-11741 **MOTION to proceed IFP filed by Petitioner Mohamed Nguida. Opposition to Motion is Unknown [5]** [Entered: 06/10/2025 04:58 PM]

06/05/2025  6 25-11741 Supplemental Petition filed by Petitioner Mohamed Nguida. [Entered: 06/12/2025 03:26 PM]

06/18/2025  7 25-11741 APPEARANCE of Counsel Form filed by Dalford Dean Owens, Jr. for Inspector General Office and National Labor Relations Board.  
Related cases? Yes. [25-11741] (ECF: Dalford Owens) [Entered: 06/18/2025 09:59 AM]

06/20/2025  14 25-11741 **MOTION to expedite, vacate lower court order filed by Petitioner Mohamed Nguida. The motion to expedite, to vacate the lower court order, will be supplementary to the petition. Opposition to Motion is Unknown [14]**

based stock ticker symbol certificate at the link here <http://www.ca11.uscourts.gov/web-based-cip> or on the court's website. See 11th Cir. R. 26.1-1(b). [25-11741] (ECF: Arish Ali) [Entered: 06/23/2025 05:45 PM]

06/23/2025  10  
[REDACTED]

AMENDED Certificate of Interested Persons and Corporate Disclosure Statement filed by Attorney Arish Sadakat Ali for Mandamus Respondents Inspector General Office and National Labor Relations Board. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here <http://www.ca11.uscourts.gov/web-based-cip> or on the court's website. See 11th Cir. R. 26.1-1(b). [25-11741] (ECF: Arish Ali) [Entered: 06/23/2025 06:12 PM]

06/23/2025  15  
[REDACTED]

Supplemental Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [Entered: 06/30/2025 11:56 AM]

06/25/2025  11

Notice that no action will be taken on Certificate of Interested Persons & Amended Certificate of Interested Persons filed by Attorney Arish Sadakat Ali for Mandamus Respondents National Labor Relations Board and Inspector General Office. Reason no action being taken on filings: the document does not contain a signature, see FRAP 25(a)(2)(B)(iii). [Entered: 06/25/2025 11:04 AM]

06/25/2025  12

NOTICE OF CERTIFICATE OF INTERESTED PERSONS (CIP) DEFICIENCY Issued to Arish Sadakat Ali and Dalford Dean Owens, Jr. for National Labor Relations Board and Inspector

[Entered: 06/25/2025 11:12 AM]

06/25/2025  13 12 2025 11:12 AM **AMENDED Certificate of Interested Persons and Corporate Disclosure Statement filed by Attorney Arish Sadakat Ali for Mandamus Respondents Inspector General Office and National Labor Relations Board. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here <http://www.ca11.uscourts.gov/web-based-cip> or on the court's website. See 11th Cir. R. 26.1-1(b). [25-11741] (ECF: Arish Ali)** [Entered: 06/25/2025 11:40 AM]

06/26/2025  14 16 2025 11:57 AM **Supplemental Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [Entered: 06/30/2025 11:57 AM]**

07/07/2025  15 17 2025 11:52 AM **Supplemental Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [Entered: 07/11/2025 11:52 AM]**

07/14/2025  16 18 2025 12:18 AM **Amended Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 07/14/2025 12:18 AM]**

07/21/2025  17 19 2025 01:18 AM **Amended Motion [18], Motion for writ of mandamus [1] filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 07/21/2025 01:18 AM]**

07/22/2025  18 20 2025 02:45 AM **Response to Supplemental Authority (28J) filed by Petitioner Mohamed Nguida. [25-11741] (ECF: Mohamed Nguida) [Entered: 07/22/2025 02:45 AM]**

08/04/2025  19 21 2025 08:45 AM **Amended Motion [19] filed by Petitioner Mohamed Nguida. [25-11741] (ECF:**

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re Mohamed Nguida,

Petitioner,

v.

National Labor Relations Board, et al.,

Respondents.

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APPENDIX B

STAY ORDER

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA

Case No. 8:24-cv-02135-MSS

(Nguida, et al. v. National Labor Relations Board, et al.)

3 8  
B-1

(MGB) (Attachment 2 replaced on 4/11/2025) (MGB). Modified to correct PDF orientation on 4/11/2025 (MGB). (Entered: 04/11/2025)

04/28/2025 <sup>83</sup> PROOF of service by Mohamed Nguida (Attachments: # 1 Exhibit)(MGB) Modified text on 4/30/2025 (MGB). (Entered: 04/30/2025)

05/01/2025 <sup>84</sup> Amended PROOF of service by Mohan Nguida. (MGB) (Entered: 05/02/2025)

05/01/2025 <sup>85</sup> PROOF of service by Mohamed Nguida (MGB) (Entered: 05/02/2025)

05/14/2025 <sup>86</sup> NOTICE titled Emergency Notice of Judicial Delay, Violations of Due Process and Request for Chief Judge Intervention by Mohamed Nguida (Attachments: # 1 Exhibit)(MGB) (Main Document 86 replaced on 5/14/2025) (MGB). Modified to correct PDF orientation on 5/14/2025 (MGB). (Entered: 05/14/2025)

05/14/2025 <sup>87</sup> NOTICE to the Clerk Requesting Immediate Transmittal of judicial Notice to the Chief Judge under Federal and

DETERMINED PENDING 100 DAYS, EXCEPT  
number TPA71032 filed by Mohamed  
Nguida, Martha Adrien.(LD) (Entered:  
09/10/2024)

09/10/2024 <sup>2</sup> MOTION for Miscellaneous Relief,  
specifically for Expedited Review by  
Martha Adrien, Mohamed Nguida. (LI  
(Entered: 09/10/2024)

09/10/2024 <sup>3</sup> SUPPLEMENT re 1 Complaint by Mart  
Adrien, Mohamed Nguida. (LD) (Enter  
09/10/2024)

09/10/2024 <sup>4</sup> SUMMONS issued as to All Defendants:  
(LD) (Entered: 09/10/2024)

09/11/2024 <sup>5</sup> **NOTICE of Order Referring Case to  
U.S. Magistrate Judge for IDEAL  
Program.** See attached Order for  
important deadlines and information  
about the IDEAL Program. (LV) (Enter  
09/11/2024)

10/01/2024 <sup>6</sup> PROOF of service by Martha Adrien as  
Marco Rubio (LSS) (Entered: 10/02/2024)

10/01/2024 <sup>7</sup> PROOF of service by Martha Adrien as  
National Labor Board (LSS) (Entered:

**Plaintiffs' 61 Motion to Expedite Ruling is DENIED AS MOOT. The Court will resolve cases in the normal course, and Plaintiffs have provided no appropriate reasons to expedite resolution at this point. Moreover, the Order addresses the Motion for Sanctions Plaintiffs were requesting be expedited, rendering the motion moot. Plaintiffs' [Third] Motion for Sanctions, 72, is DENIED AS MOOT for the reasons stated above. Lastly, the Clerk is DIRECTED to STAY the Case. No further filings will be permitted until the Court has entered an order on Defendants' Motion to Dismiss, (Dkt. 54). If the Case remains at issue, the Court will direct the Stay be lifted. See Order for details. Signed by Judge Mary S. Scriven on 5/20/2025. (KMA) (Entered: 05/20/2025)**

05/20/2025

Case Stayed. (JKB) (Entered: 05/21/2025)

05/29/2025

25 Copy of Petition for Writ of Mandamus filed at the TCCA on 5/27/2025 TCCA

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re Mohamed Nguida,  
Petitioner,

v.

National Labor Relations Board, et al.,  
Respondents.

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APPENDIX C

SUMMARY OF MANDAMUS PETITION  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

Appeal No. 25-11741-B

(Nguida v. NLRB, Case No. 8:24-cv-02135-MSS-AEP, M.D. Fla.)

14

**To: United States Court of Appeals for the Eleventh Circuit**  
**From: Mohamed Nguida, Pro Se**  
**Re: Emergency Petition for Writ of Mandamus**  
**Appeal Number: 25-11741-B**  
**Underlying Case: Nguida v. NLRB, Case No. 8:24-cv-02135-MSS-AEP (M.D. Fla.)**

**I. Nature of the Petition**

Petitioner Mohamed Nguida files this emergency petition for a writ of mandamus to compel the United States District Court for the Middle District of Florida (Hon. Mary S. Scriven) to remedy judicial abuse, constitutional violations, and fraud upon the court.

**II. Allegations of Judicial Misconduct & Due Process Violations**

The petition alleges the District Court engaged in severe misconduct, primarily through a retaliatory order issued on May 19, 2025, which:

- Imposed a blanket stay on all proceedings immediately after the Petitioner filed judicial misconduct notices and served Rule 11 sanctions notices on opposing counsel.
- Denied all of Petitioner's pending motions without a hearing, including an unopposed motion for sanctions (Dkt. 72) and a motion for substitution of parties (Dkt. 79).
- Allowed motions from the Defendants (the National Labor Relations Board and others) to proceed, demonstrating selective and biased adjudication.
- This stay effectively halted judicial review of alleged fraudulent filings by the NLRB, which were later contradicted by an internal NLRB email dated May 21, 2025.

**III. Underlying Constitutional Harms**

The petition asserts that the District Court's failure to act has perpetuated ongoing, irreparable harm from an active blacklist at the Orlando International Airport (GOAA), causing:

- Significant economic harm through lost employment opportunities.
- Severe reputational damage.
- A fundamental violation of due process, as the blacklist has been in effect for over eight months without a hearing or any form of review.

**IV. Legal Basis for Mandamus Relief**

The Petitioner argues that mandamus is appropriate because:

- Clear Right to Relief: Petitioner has a clear right to timely rulings under local court rules, automatic substitution of parties under Fed. R. Civ. P. 25(d), and an impartial tribunal under 28 U.S.C. § 455(a).
- Clear Duty Violated: The District Court has a non-discretionary duty to rule on motions, avoid retaliatory actions, and address allegations of fraud on the court.

- No Adequate Alternative Remedy: The blanket stay forecloses all other appellate remedies, making mandamus the only available mechanism to lift the stay and restore access to justice.

**V. Requested Relief**

Petitioner respectfully requests that this Court:

1. Immediately vacate the District Court's stay order of May 19, 2025.
2. Compel the District Court to rule on Petitioner's pending motions (Dkts. 72 & 79) within 7 days.
3. Reassign the case to a new district judge pursuant to 28 U.S.C. § 455(a).
4. Issue a declaration that the representation of Marco Rubio and Michael Waltz by a U.S. Attorney is unauthorized under 28 U.S.C. § 517.
5. Expedite review of this petition due to the ongoing and irreparable harms.

Respectfully submitted,



/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se

UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

May 27, 2025

Mohamed Nguida  
433 DONNELLY ST  
EUSTIS, FL 32726

Appeal Number: 25-11741-B  
Case Style: In re: Mohamed Nguida  
District Court Docket No: 8:24-cv-02135-MSS-AEP

**PETITION FOR WRIT DOCKETING NOTICE**

Your petition for a writ of mandamus, a writ of prohibition, or an extraordinary writ, but will not be considered or acted upon by the Court pending correction of the deficiency or deficiencies listed below.

Please use the appeal number for all filings in this Court.

**Docketing Fee**

The docketing fee has not yet been paid to the clerk of this court. Pursuant to 11th Cir. R. 42-1(b), this petition will be dismissed without further notice unless, within 14 days after the date of this letter, you (i) pay the docketing fee to the clerk of this court or (ii) file in this court a Motion for Permission to Appeal In Forma Pauperis with Affidavit, which is available on the Court's website.

**Certificate of Interested Persons and Corporate Disclosure Statement ("CIP")**

Every motion, petition, brief, answer, response, and reply must contain a CIP. See FRAP 26.1; 11th Cir. R. 26.1-1. In addition:

- Appellants/Petitioners must file a CIP within 14 days after this letter's date.
- Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after this letter's date, regardless of whether Appellants/Petitioners have filed a CIP.
- Only parties represented by counsel must complete the web-based CIP. Counsel must complete the web-based CIP, through the Web-Based CIP link on the Court's website, on the same day the CIP is first filed.

The failure to comply with 11th Cir. Rules 26.1-1 through 26.1-4 may result in dismissal of the case or appeal under 11th Cir. R. 42-1(b), no action taken on deficient documents, or other sanctions on counsel, the party, or both. See 11th Cir. R. 26.1-5(c).

Obligation to Notify Court of Change of Addresses

Each pro se party and attorney has a continuing obligation to notify this Court of any changes to the party's or attorney's addresses during the pendency of the case. See 11th Cir. R. 25-7.

Clerk's Office Phone Numbers

General Information: 404-335-6100	Attorney Admissions: 404-335-6122
Case Administration: 404-335-6135	Capital Cases: 404-335-6200
CM/ECF Help Desk: 404-335-6125	Cases Set for Oral Argument: 404-335-6141

PRO-2B Mandamus deficiency letter

**UNITED STATES DISTRICT COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**MOHAMED NGUIDA,**

**Petitioner, Pro Se, ,**

**Vs**

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA,**

**Respondent,**

**and**

**HON. MARY S. SCRIVEN, U.S. District Judge,  
Respondent Judge,**

**NATIONAL LABOR RELATIONS BOARD (NLRB),**

**case number:**

**OFFICE OF INSPECTOR GENERAL (NLRB),**

**SECRETARY OF STATE MARCO RUBIO,**

**MICHAEL WALTZ, U.S. Ambassador to the**

**to the United Nations**

**NATIONAL LABOR RELATIONS BOARD**

**(NLRB REGION 12)**

**Real Parties in interest.**

**EMERGENCY. PETITION FOR WRIT OF MANDAMUS**

**(28 U.S.C. § 1651(a) | Fed. R. App. P. 21 | Fifth & Fourteenth Amendments)**

**TO THE HONORABLE COURT:**

Petitioner Mohamed Nguida, *pro se*, urgently petitions this Court for a writ of mandamus to remedy judicial abuse, constitutional violations, and fraud on the court in the underlying action (*Nguida v. NLRB*, Case No. 8:24-cv-02135-MSS-AEP).

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## **I. JUDICIAL MISCONDUCT DEMANDING MANDAMUS RELIEF**

### **A. Retaliatory Stay & Due Process Violations (May 19, 2025 Order)**

1. The District Court imposed a blanket stay and denied all pending motions within 24 hours of Petitioner filing judicial misconduct notices with the Chief Judge, serving Rule 11(c)(2) Safe Harbor Notices on opposing counsel, and preparing mandamus papers.
2. This action halted all proceedings while allowing Defendants' motions to proceed, denied unopposed motions (Dkts. 72, 79) without hearings, and blocked review of the NLRB's fraudulent filings, which were exposed by NLRB HQ's May 21, 2025 email.

### **B. Ongoing Constitutional Harms**

The active blacklist at GOAA (Orlando International Airport) has caused:

- Economic harm through lost employment opportunities;
- Reputational damage;
- Due process violations from lack of any hearing or review in over eight months.

### **C. Fraud on the Court**

1. NLRB's filings contradict the internal admissions revealed in the NLRB HQ's May 21, 2025 email.
2. Assistant U.S. Attorney Harwell continues to represent Rubio and Waltz without DOJ authorization under 28 U.S.C. § 517.
3. The Court has ignored Federal Rule of Civil Procedure 25(d), which requires automatic substitution of federal officers assuming new positions.

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## **II. UNDISPUTED RECORD OF JUDICIAL BIAS**

The District Court denied Petitioner's motions after long delays while ruling on Defendants' motions within an average of 14 days. For example, Petitioner's Rule 11 sanctions motion (Dkt. 72) and Rule 25(d) substitution motion (Dkt. 79) were either denied or ignored after over 50 days, while Defendants' motions were handled promptly.

This selective adjudication violates:

- Local Rule 3.01(j), which requires prompt rulings;
- Rule 25(d), requiring substitution of public officials;



**Littler** | ASAP

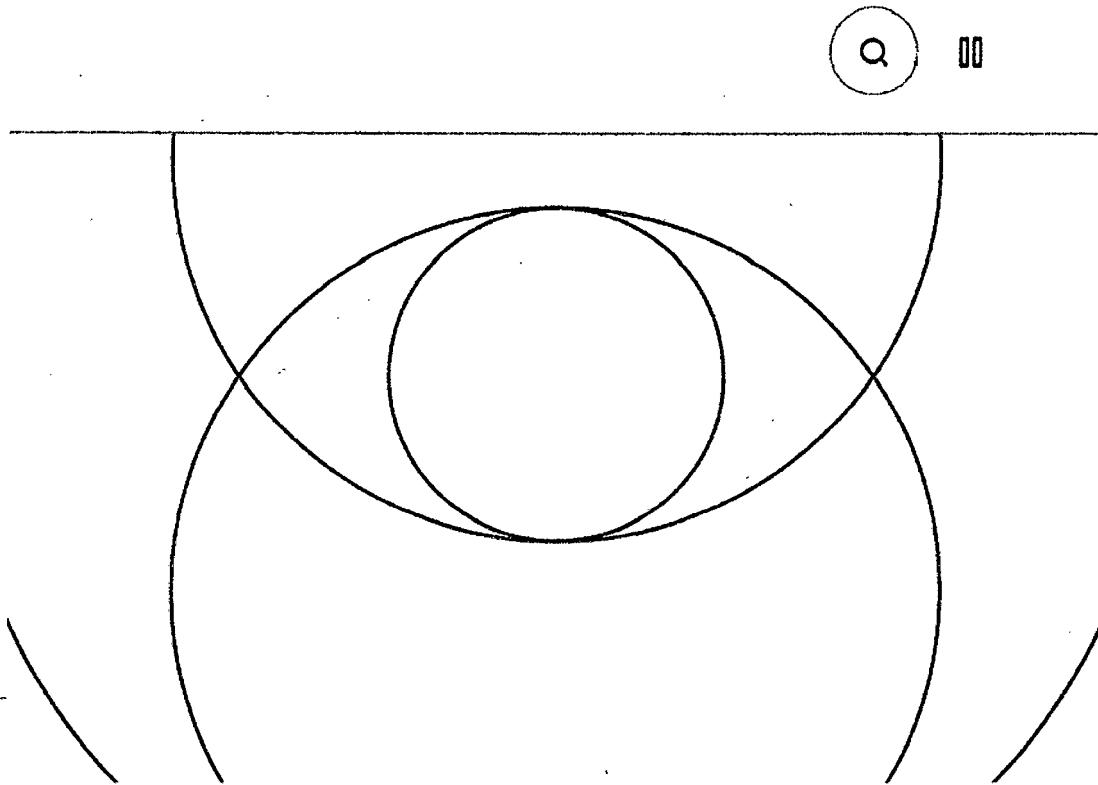
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↳ ASAP

## Fifth Circuit Upholds Injunction Because NLRB Structure Is Likely Unconstitutional

By Jeffrey Hiller

August 25, 2025 5 minute read



On August 19, 2025, in *Space Exploration Tech. Corp. v. National Labor Relations Board, et al.*, a panel of the U.S. Court of Appeals for the Fifth Circuit upheld preliminary injunctions that had halted NLRB complaint proceedings. The court held that the employers that obtained the injunctions will likely prevail on their arguments that multiple protections that stand in the way of the president's removing NLRB administrative law judges (ALJs) and Board members violate the Constitution. This decision opens the door for other employers to seek similar injunctions to stop ongoing NLRB proceedings.

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obtained preliminary injunctions in three different federal district courts in Texas by challenging the constitutionality of the statutory removal protections for Board members and ALJs. The NLRB appealed, and the appeals were consolidated at the Fifth Circuit.

### **Limitations on the President's Power to Remove Inferior Officers and Agency Heads**

The Fifth Circuit based its decision on Article II of the Constitution, which vests “[t]he executive Power” solely in the president. Subordinates who exercise that power on the president's behalf, the court said, must remain subject to his oversight.

NLRB ALJs are inferior officers who preside over ULP complaint proceedings and issue initial decisions. ALJs may be removed only “for good cause,” as determined by the Merit Systems Protection Board (MSPB), an independent, quasi-judicial agency that adjudicates federal employee personnel action appeals. MSPB members themselves can be removed only for good cause.

The NLRB is a five-member Board of presidential appointees that, among other things, administratively adjudicates claims of NLRA violations. Section 3(a) of the National Labor Relations Act provides that Board members may be removed by the president only “for neglect of duty or malfeasance in office[.]”



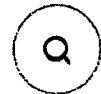
II

ments of their constitutional challenges to removal protections for both ALJs and Board members.

Regarding NLRB ALJs, the court likened them to the Securities and Exchange Commission ALJs at issue in *Jarkesy v. SEC*, 34 F.4th 446 (5th Cir. 2022). The court held that both are “inferior officers” with substantial authority, but their two layers of for-cause protection unconstitutionally impede the president from removing them.

Regarding Board members, the court said the general rule is that a president can remove subordinate agency heads at will. In *Humphrey’s Executor v. U.S.*, 295 U.S. 602 (1935), the Supreme Court created an exception from this general rule for certain multi-member agencies. But the Fifth Circuit found that decision inapplicable because, unlike the agency commissioners at issue in *Humphrey’s Executor*, Board members wield substantial executive power through administrative, policymaking, and prosecutorial authority. The court cited *Trump v. Wilcox*, 145 S. Ct. 1415 (2025), in which the Supreme Court stayed an order reinstating a Board member removed by President Trump and held that Board members “exercise considerable executive power.” Further, the Fifth Circuit differentiated the NLRB from agencies whose heads are required by statute to be balanced along party lines or whose members lack prosecutorial power.

### **Irreparable Harm from Being Forced to Proceed Before an Unlawful Tribunal**



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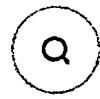
appearing before an unlawful tribunal, the court held, is inflicted the instant the proceeding begins—and the Constitution does not force litigants to endure that injury just to keep alive the right to contest the tribunal's legitimacy after the damage is done.

### **Balance of Equities and Public Interest Favor Preliminary Relief**

Finally, the Fifth Circuit held the employers established that the balance of the equities and public interest justified granting them preliminary injunctive relief. Neither the government nor the public is injured, it said, when a court stops unlawful agency action. Instead, the public interest is served when the law is followed. Accordingly, the court held, “[t]he [e]mployers have made their case and should not have to choose between compliance and constitutionality.”

### **NLRB Arguments Failed, But May Pose Potential Issue Later**

Before reaching the merits of the case, the Fifth Circuit rejected a Board jurisdictional challenge by holding that an anti-injunction law was inapplicable. The court held that the Norris-LaGuardia Act does not strip courts of subject matter jurisdiction to enter injunctions against the NLRB where the case does not arise from an employer's "labor dispute" with its employees but rather from a dispute about the agency's structure. Recent Supreme Court decisions have reiterated that federal courts have jurisdiction to hear challenges to the constitutionality of an agency's structure.



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the preliminary injunction stage, it need not decide whether any final remedy should involve severance instead of a permanent injunction. This severability issue could come into play later in the litigation as part of a final remedy if the employers are otherwise successful.

### **Implications and Potential Circuit Split**

Employers that can establish venue and jurisdiction in the Fifth Circuit now have a clear path to seek preliminary injunctions to stop ongoing NLRB proceedings. But the decision sets up a potential split with other circuit courts. Several federal district courts outside the Fifth Circuit have ruled that the *Humphrey's Executor* exception applies to Board members. Further, as the dissenting opinion noted in the Fifth Circuit panel decision, other federal appeals courts have held that at the preliminary injunction stage, an employer must make a concrete showing that the *removal restrictions* will cause it actual irreparable harm in the proceedings against it—not just that the NLRB proceeding itself will cause harm. For example, the dissent states, such a showing of harm could be based on evidence that the president wanted to remove an agency official at issue but held off doing so in consideration of removal protections. Ultimately, the Supreme Court may need to resolve these issues.

- Constitutional due process rights, as the stay and GOAA ban continue to cause irreparable harm.

---

### **III. LEGAL BASIS FOR MANDAMUS**

#### **A. Clear Right to Relief**

Petitioner has a clear right to:

- Timely rulings under Local Rule 3.01(j);
- Automatic substitution of parties under Rule 25(d);
- An impartial tribunal under 28 U.S.C. § 455(a).

#### **B. Clear Duty Violated**

The District Court has a non-discretionary duty to:

- Rule on pending motions;
- Refrain from retaliatory actions;
- Address allegations of fraud on the court.

#### **C. No Adequate Alternative**

The May 19, 2025 stay forecloses appellate remedies and prevents judicial oversight. Only mandamus can lift the stay and restore access to justice.

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### **IV. REQUESTED RELIEF**

Petitioner respectfully requests that this Court:

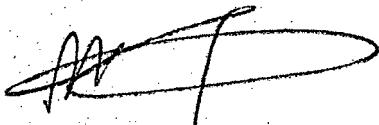
1. Vacate the May 19, 2025 stay immediately;
2. Compel rulings on Dkts. 72 and 79 within 7 days;
3. Reassign the case to a new judge under 28 U.S.C. § 455(e);
4. Declare that DOJ representation of Rubio and Waltz is unauthorized under 28 U.S.C. § 517;
5. Expedite review of this petition due to the ongoing harm caused by the GOAA blacklist.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of May, 2025, I served a true and correct copy of the Emergency Amended Petition for Writ of Mandamus upon the following parties via U.S. Mail and/or CM/ECF where applicable:

- **Clerk of Court**  
United States Court of Appeals for the Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, GA 30303
- **Hon. Mary S. Scriven**  
U.S. District Judge, Middle District of Florida  
Sam Gibbons U.S. Courthouse  
801 North Florida Avenue  
Tampa, FL 33602
- **Chief Judge Timothy J. Corrigan**  
U.S. District Court, Middle District of Florida  
401 W. Central Blvd., Suite 1200  
Orlando, FL 32801
- **U.S. Attorney's Office - Middle District of Florida**  
400 N. Tampa Street, Suite 3200  
Tampa, FL 33602
- **Office of Inspector General (OIG)**  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, D.C. 20210
- **National Labor Relations Board (Washington D.C.)**  
1015 Half Street SE  
Washington, D.C. 20570
- **NLRB Region 12 - Tampa Office**  
201 E. Kennedy Blvd., Suite 530  
Tampa, FL 33602
- **U.S. SECRETARY OF STATE Marco Rubio**  
201 South Orange Avenue, Suite 350  
Orlando, FL 32801
- **Michael Waltz, U.S. Ambassador to the United Nations**  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

**Respectfully submitted,**



**/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se**

**433 Donnelly Street**

**Eustis, FL 32726**

**Mo-nguida@hotmail.com**

**Date: May 21, 2025**

**UNITED STATES DISTRICT COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**MOHAMED NGUIDA,**

*Petitioner, Pro Se,*

**Vs**

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA,**

*Respondent,*

**and**

**HON. MARY S. SCRIVEN, U.S. District Judge,  
Respondent Judge,**

**NATIONAL LABOR RELATIONS BOARD (NLRB),**

**case number :**

**OFFICE OF INSPECTOR GENERAL (NLRB),**

**SECRETARY OF STATE MARCO RUBIO,**

**MICHAEL WALTZ, U.S. Ambassador to the**

**to the United Nations**

**NATIONAL LABOR RELATIONS BOARD**

**(NLRB REGION 12)**

**Real Parties in Interest.**

**Re: Submission of Emergency Petition for Writ of Mandamus to the Eleventh Circuit  
Nguida v. U.S. District Court for the Middle District of Florida, et al.**

**Dear Clerk of Court:**

**I respectfully submit the enclosed documents for filing and transmission to the U.S.  
Court of Appeals for the Eleventh Circuit pursuant to Fed. R. App. P. 21:**

1. Emergency Petition for Writ of Mandamus
2. Motion to Proceed in Forma Pauperis (IFP)
3. Form 4 - Affidavit of Financial Status
4. Certificate of Service

This Mandamus Petition arises out of case number 8:24-cv-02135-MSS-AEP, originally filed in the Middle District of Florida. As I am proceeding *pro se* and without CM/ECF access, I kindly ask that this packet be docketed and transmitted to the Eleventh Circuit Court of Appeals in Atlanta, Georgia for review.

Please let me know if any additional copies or actions are required. I appreciate your assistance.

Respectfully,

Date: May 21, 2025



/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se

**MOHAMED NGUIDA,**

*Petitioner, Pro Se,*

**vs**

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA,**

*Respondent,*

**and**

**HON. MARY S. SCRIVEN, U.S. District Judge,  
Respondent Judge,**

**NATIONAL LABOR RELATIONS BOARD (NLRB),** | **case number :**

**OFFICE OF INSPECTOR GENERAL (NLRB),**

**SECRETARY OF STATE MARCO RUBIO,**

**MICHAEL WALTZ, U.S. Ambassador to the**

**to the United Nations**

**NATIONAL LABOR RELATIONS BOARD**

**(NLRB REGION 12)**

**Real Parties in Interest.**

**MOTION TO PROCEED IN FORMA PAUPERIS**

**Pursuant to Federal Rule of Appellate Procedure 24(a),**  
**Petitioner Mohamed Nguida respectfully moves this Honorable Court for**  
**leave to proceed in forma pauperis in connection with his Petition for Writ**  
**of Mandamus.**

**Petitioner is currently unemployed, has limited financial resources, and is**  
**unable to pay the \$605 filing fee or any associated court costs without serious**

hardship. He has no income, minimal cash on hand, and significant outstanding debts. He supports a dependent family and is under active economic distress following termination and blacklisting.

A completed and signed Form 4: Affidavit Accompanying Motion to Proceed In Forma Pauperis is attached in support of this request.

Petitioner respectfully asks the Court to grant this motion and permit him to proceed without prepayment of fees and costs.

---

Respectfully submitted,

Date: May 21, 2025

  
/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se

433 Donnelly Street

Eustis, FL 33726

**APPENDIX D**  
**SUMMARY OF NLRB MEMORANDUM GC 25-10**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE ELEVENTH CIRCUIT**

**Re: NLRB Memorandum GC 25-10 (Guidance for Deferring Unfair Labor Practice Cases)**

**Date of Memorandum: August 7, 2025**

**To: United States Court of Appeals for the Eleventh Circuit**

**From: Mohamed Nguida, Pro Se**

**Re: NLRB Memorandum GC 25-10 (Guidance for Deferring Unfair Labor Practice Cases)**

**Date of Memorandum: August 7, 2025**

**I. Nature of the Document**

This document is an official policy memorandum (GC 25-10) from William B. Cowen, Acting General Counsel of the NLRB. It provides revised, mandatory guidance to all NLRB Regional Offices on procedures for deferring unfair labor practice charges to arbitration.

**II. Key Policy Changes and Directives**

**A. Mandatory Deferral Hierarchy**

- Regions are now instructed to first consider deferral under the broad standard of Dubo Manufacturing Corp. (142 NLRB 431 (1963)) for all cases.
- The Dubo standard requires only that: (1) the charge is facially proper and timely, and (2) initial evidence shows a reasonable chance the dispute can be resolved through the contractual grievance procedure.
- A decision to defer under Dubo is final and cannot be appealed by the charging party.
- Only if a case is inappropriate for Dubo deferral should Regions consider the stricter, appealable standards of Collyer Insulated Wire (192 NLRB 837 (1971)).

**B. Shift of Administrative Burden to Charging Party**

- NLRB Regions will no longer conduct quarterly status checks on deferred cases, eliminating this proactive oversight.
- Charging parties are now obligated to e-file a status report with the Region on a biannual basis (March 15 and September 15).
- Failure to file these reports may result in dismissal of the charge "for lack of cooperation."
- The first mandatory report is due by September 15, 2025.

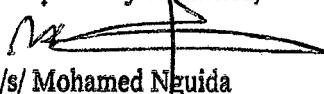
### III. Stated Rationale for Changes

The memorandum cites "decreasing staffing levels and a steady case intake" as the reason for these changes, stating the new procedures are necessary to "maximize and streamline our deferral program" and allow for the "judicious use of Agency resources."

### IV. Relevance to Instant Proceeding

This memorandum is submitted as evidence of official NLRB policies that govern cases like the Petitioner's. It demonstrates a systematic shift by the Agency towards limiting its investigative role, reducing oversight, and placing new burdens on charging parties, which is relevant to the Court's assessment of the Petitioner's allegations.

Respectfully submitted,



/s/ Mohamed Nguida

Mohamed Nguida, Pro Se

that can be deferred, as it only requires that: 1) the charge allegations be facially proper and timely; and 2) the initial evidence demonstrate that there is a reasonable chance that the parties can either resolve the dispute or, at the very least, set it to rest, using their contractual grievance-arbitration procedure. If the charge meets these criteria, the Region will promptly *Dubo* defer, and its decision cannot be appealed. If *Dubo* deferral is inappropriate, the Region will determine whether deferral is appropriate under *Collyer Insulated Wire*, 192 NLRB 837 (1971), and follow existing practices. The Region's decision to *Collyer* defer can be appealed.

#### **Charging Party's Post-Deferral Status Reports**

Deferral contemplates that parties will process the related grievance pursuant to the timeline set forth in their grievance-arbitration procedure. Historically, Regions have conducted quarterly status checks inquiring about the status of the grievance. With limited staffing and resources, quarterly status checks are an administrative burden that Regions can no longer bear.

Effective immediately, Regions will no longer conduct quarterly status checks.<sup>5</sup> Instead, Charging Parties must e-file deferral status reports twice a year – March 15 and September 15 – updating the Region on the status of the related grievance; failure to do so may result in their charge being dismissed for lack of cooperation. In all pending deferred cases, Regions will issue a letter to Charging Parties notifying them of this new requirement. All Charging Parties must submit their first biannual report to the Region by September 15, 2025. The deferral status report can be found on [www.nlrb.gov](http://www.nlrb.gov) under fillable forms or by clicking [here](#).

W.B.C.

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<sup>5</sup> Section 10118.2 of the ULP Case Handling Manual will be revised to reflect this new procedure.

**OFFICE OF THE GENERAL COUNSEL**  
**Division of Operations-Management**

**MEMORANDUM GC 25-10**

**August 7, 2025**

**TO:** All Regional Directors, Officers-in-Charge  
and Resident Officers

**FROM:** William B. Cowen, Acting General Counsel

**SUBJECT:** Guidance for Deferring Unfair Labor Practice Cases

This memorandum provides revised guidance for deferring unfair labor practice cases.<sup>1</sup> As discussed below, Regions are instructed to defer appropriate unfair labor practice cases pursuant to *Dubo Manufacturing Corporation*, 142 NLRB 431 (1963). If the *Dubo* criteria are not met, Regions should alternatively consider whether the case is appropriate for deferral pursuant to *Collyer Insulated Wire*, 192 NLRB 837 (1971). Further, Regions will no longer contact parties on a quarterly basis to inquire about the status of the related grievance in deferred cases; instead, Charging Parties are obligated to provide a deferral status report to the Region on a biannual basis – March 15 and September 15.

**Dubo and Collyer Deferral**

As acknowledged by the Supreme Court in the *Steelworkers Trilogy*, the Act's statutory scheme is supported when parties to a collective-bargaining relationship avail themselves of their negotiated dispute resolution machinery to resolve their differences.<sup>2</sup> Deferring unfair labor practice charges to the parties' grievance procedure gives credence to their contract and fosters stability in labor relations.<sup>3</sup> Deferral not only upholds the Act's statutory scheme, but it also allows for the judicious use of Agency resources. At a time when we face decreasing staffing levels and a steady case intake, it is imperative that we maximize and streamline our deferral program to avoid protracted investigation and litigation of disputes that can be (and often are) resolved through the negotiated contractual grievance machinery.

Accordingly, in all investigations, Regions are instructed to first consider whether the charge allegations are appropriate for deferral pursuant to the criteria set forth in *Dubo Manufacturing Corporation*.<sup>4</sup> *Dubo* deferral allows for a broad reach in the types of cases

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<sup>1</sup> This memorandum supersedes the guidance found in OM 12-43 (Additional Guidance Concerning *Collyer* Deferral in Cases Involving 8(a)(3) or 8(a)(1) Discriminatees) and OM 13-35 (Collyer and *Dubo* Deferral Review) which are both rescinded.

<sup>2</sup> See *Steelworkers v. American Mfg. Co.*, 363 U.S. 564, 566 (1960); *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 581 (1960); and *Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 596 (1960).

<sup>3</sup> *Id.*

<sup>4</sup> Section 10118.1 of the ULP Case Handling manual will be revised to reflect this change.

## APPENDIX E

### SUMMARY OF FIFTH CIRCUIT DECISION

Space Exploration Tech. Corp. v. National Labor Relations Board  
No. 24-50627 (5th Cir. Aug. 19, 2025)

#### I. Nature of the Case:

Consolidated appeal of three district court orders granting preliminary injunctions to halt NLRB unfair labor practice proceedings based on constitutional challenges to the Agency's structure.

#### II. Core Holdings:

- A. ALJ Removal Protections Likely Unconstitutional: NLRB Administrative Law Judges are inferior officers whose two-layer, for-cause removal protection (requiring action by the Merit Systems Protection Board) unconstitutionally impedes the President's removal power under Article II.
- B. Board Member Removal Protections Likely Unconstitutional: The for-cause removal protection for NLRB Board members is likely unconstitutional. The court distinguished Humphrey's Executor, finding modern Board members wield "substantial executive power" through prosecutorial and policymaking authority, citing Trump v. Wilcox, 145 S. Ct. 1415 (2025).
- C. Irreparable Harm Standard Met: Being forced to litigate before a potentially unconstitutional tribunal constitutes immediate, irreparable harm, establishing a "here-and-now" standard that creates a split with the Second, Sixth, and Tenth Circuits.
- D. Jurisdiction Exists: District courts have jurisdiction to enjoin NLRB proceedings based on structural constitutional challenges, notwithstanding the Norris-LaGuardia Act.

#### III. Legal Significance:

The decision creates a clear circuit split on a fundamental question of Article II power and the viability of Humphrey's Executor for the modern NLRB, making it a prime candidate for Supreme Court review.

#### IV. Relevance to Instant Proceeding:

This ruling directly supports Petitioner's constitutional challenge to the NLRB's structure and the need for injunctive relief to prevent irreparable harm from proceedings conducted under an unconstitutional agency framework.

## APPENDIX F

### SUMMARY OF U.S. DEPARTMENT OF JUSTICE POLICY SHIFT

To: Supreme Court of the United States  
From: Mohamed Ngulda, Pro Se  
Re: Summary of Reuters Article: "US Department of Justice to Stop Defending Independence of FTC, NLRB"  
Date: 09/21/2025

#### I. Nature of the Document

This Appendix consists of a Reuters article (February 12, 2025) reporting a formal shift in the legal position of the U.S. Department of Justice (DOJ) regarding the constitutionality of removal protections for key independent agencies, including the National Labor Relations Board (NLRB).

#### II. Key Policy Change

- The DOJ, via Acting Solicitor General Sarah Harris, announced it will no longer defend the constitutionality of statutory "for-cause" removal protections for members of the NLRB, Federal Trade Commission (FTC), and Consumer Product Safety Commission (CPSC).
- The DOJ will argue that these protections violate Article II of the Constitution for officials exercising "substantial executive power."
- The DOJ explicitly intends to ask the Supreme Court to overturn or limit *Humphrey's Executor v. U.S.* (1935), the precedent historically used to justify such protections.

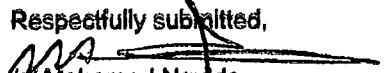
#### III. Stated Rationale

The DOJ's position is that modern agency members wield significant executive authority (e.g., prosecutorial and policymaking powers), which must remain subject to presidential oversight under the separation of powers doctrine.

#### IV. Relevance to This Case

This policy shift directly supports Petitioner's constitutional challenge to the NLRB's structure. The Solicitor General's alignment with Petitioner's arguments underscores the national importance of this issue and reinforces the likelihood of success on the merits. It demonstrates that the executive branch itself now views the NLRB's insulation from presidential removal as unconstitutional.

Respectfully submitted,

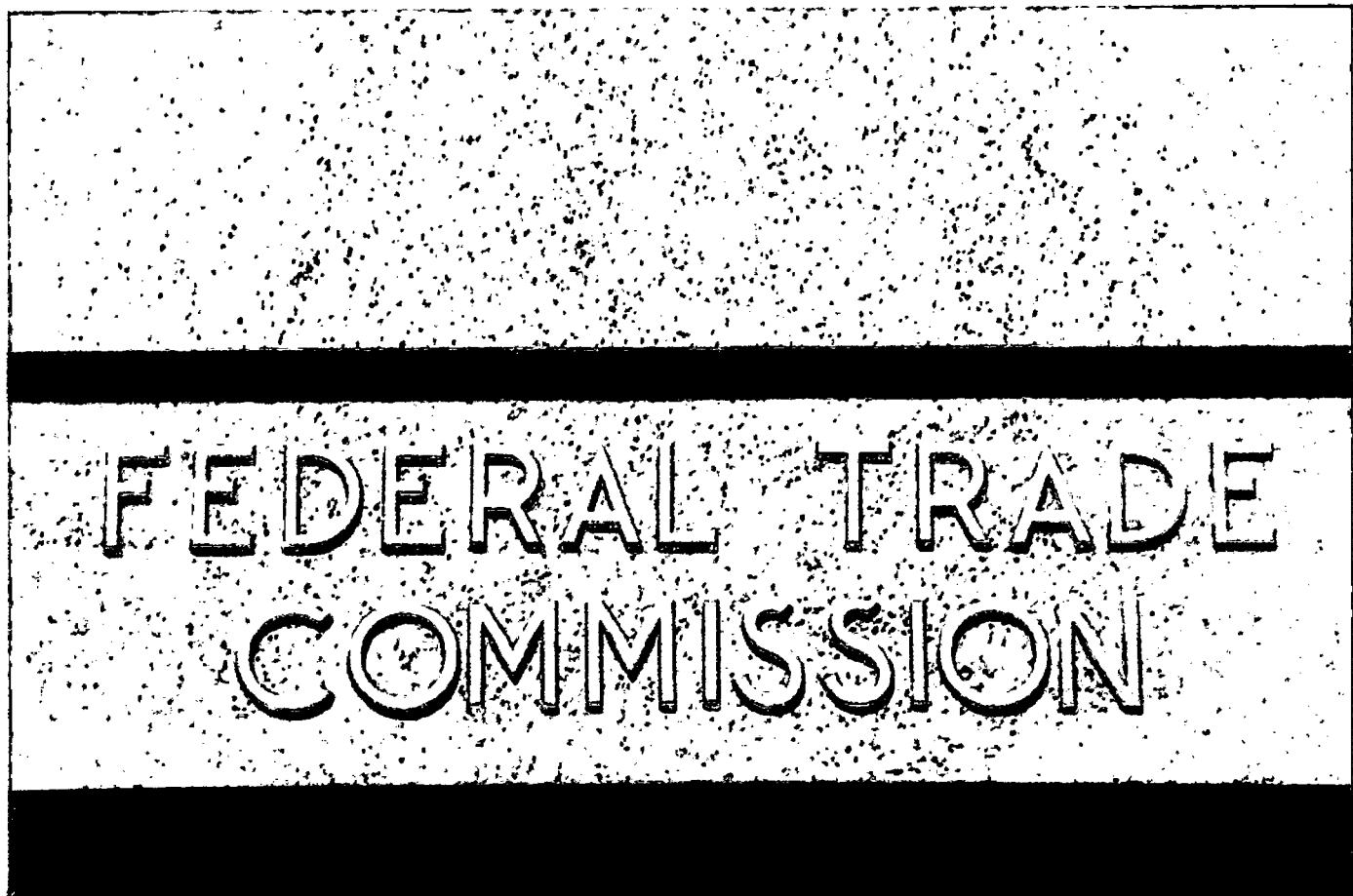
  
/s/ Mohamed Ngulda  
Mohamed Ngulda, Pro Se  
[Your Address]

Learn more about [\[SEG\]](#)

## US Department of Justice to stop defending independence of FTC, NLRB, letter says

By Jody Godoy

February 12, 2025 6:31 PM EST · Updated February 13, 2025



A view of signage at the Federal Trade Commission (FTC) headquarters in Washington, D.C., U.S., November 24, 2024.  
REUTERS/Benoit Tessier/File Photo [Purchase Licensing Rights](#)

## **Summary - Companies**

**DOJ calls protections for agency members unconstitutional**

**Acting Solicitor General will ask SCOTUS to limit 90-year old precedent**

**Trump faces lawsuits for firing members of independent agencies**

**Feb 12 (Reuters) - The U.S. Department of Justice will cease defending the independent status of three consumer and worker protection agencies, according to a letter posted by a Democratic member of Congress on Wednesday.**

**The determination applies to the National Labor Relations Board, U.S. Federal Trade Commission and Consumer Product Safety Commission, according to the letter from Acting Solicitor General Sarah Harris to Senator Richard Durbin, a Democrat from Illinois and the ranking member of the Senate Judiciary Committee.**

**Read about innovative ideas and the people working on solutions to global crises with the Reuters Beacon newsletter. Sign up [here](#).**

0:00

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Under a 90-year-old Supreme Court precedent, FTC commissioners and members of many other bipartisan independent agencies can only be fired for cause, unlike executive branch agencies whose heads the president can fire at will.

The DOJ will ask the Supreme Court to overturn that ruling to the extent that it protects regulators who wield "substantial executive power" from being fired by the president, Harris wrote, according to the letter.

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"I am writing to advise you that the Department of Justice has determined that certain for-cause removal provisions that apply to members of multi-member regulatory commissions are unconstitutional and the Department will no longer defend their constitutionality," Harris said.

The Justice Department did not immediately respond to a request for comment.

Once NLRB board members are confirmed, federal law allows them to be removed only for "neglect of duty or malfeasance in office." CPSC and FTC commissioners have similar protections.

[Advertisement · Scroll to continue](#)

## APPENDIX J

# SUMMARY OF NLRB POLICY SHIFTS AND SYSTEMIC REMEDIAL VOID

To: Supreme Court of the United States  
From: Mohamed Nguida, Pro Se  
Re: Evidence of NLRB Policies Exacerbating Remedial Obstruction  
Date: September 22, 2025

### I. Nature of the Documents

This appendix compiles evidence demonstrating how the National Labor Relations Board (NLRB), under Acting General Counsel William B. Cowen, implemented policies that prioritize administrative efficiency over statutory protections, thereby exacerbating the remedial void faced by petitioners. Key documents include:

- GC Memorandum 25-10 (August 7, 2025): Mandates immediate deferral of Unfair Labor Practice (ULP) charges to arbitration, reducing NLRB oversight.
- GC Memorandum 25-05 (February 14, 2025): Rescinds 29 pro-worker guidance memos, weakening remedies for ULP violations.
- FOIA Obstruction Records: Documents reflecting NLRB's refusal to disclose records critical to Petitioner's case under 5 U.S.C. § 552.

### II. Key Policy Changes and Their Impact

#### 1. Deferral Policies Restricting Access to NLRB Remedies

- GC Memo 25-10 establishes a hierarchical deferral framework:
- Dubo Manufacturing Corp. deferral (non-appealable) is required if a grievance is filed and the ULP is facially timely.
- Collyer Insulated Wire deferral (appealable) applies only if Dubo criteria are unmet.
- Burden Shift on Charging Parties: Regions no longer conduct quarterly status checks. Charging parties must submit biannual reports (March 15 and September 15), with failure risking dismissal for "lack of cooperation."

#### 2. Rescission of Pro-Worker Remedies and Protections

- GC Memo 25-05 rescinded critical policies, including:
- GC 23-08 and GC 25-01: Non-compete and "stay-or-pay" agreement protections.
- GC 22-06 and GC 24-04: Expanded remedies for ULP victims.
- GC 22-04: Restrictions on captive audience meetings.
- Rationale: Acting GC Cowen cited "unsustainable backlog" and "judicious use of resources" as justifications, effectively prioritizing administrative convenience over statutory enforcement.

#### 3. FOIA Obstruction

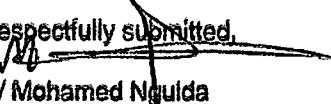
- The NLRB and other agencies repeatedly denied Petitioner's requests for records under 5 U.S.C. § 552, preventing access to evidence needed to substantiate claims.

### **III. Relevance to Instant Proceeding**

These policies collectively demonstrate:

- **Systemic Remedial Void:** The NLRB's deferral rules and rescission of remedies force disputes into private arbitration, deny meaningful review, and obstruct access to justice.
- **Constitutional Violations:** By abdicating its statutory role, the NLRB violates due process rights and fails to provide a forum for redress, necessitating this Court's intervention.
- **Alignment with Executive Branch Shift:** These changes align with the DOJ's recent refusal to defend the NLRB's constitutionality (Appendix F), underscoring the urgency of this Court's review.

Respectfully submitted,

  
/s/ Mohamed Nguida  
Mohamed Nguida, Pro Se

**OFFICE OF THE GENERAL COUNSEL**  
**Division of Operations-Management**

**MEMORANDUM GC 26-10**

**August 7, 2026**

**TO:** All Regional Directors, Officers-in-Charge and Resident Officers

**FROM:** William B. Cowen, Acting General Counsel

**SUBJECT:** Guidance for Deferring Unfair Labor Practice Cases

This memorandum provides revised guidance for deferring unfair labor practice cases.<sup>1</sup> As discussed below, Regions are instructed to defer appropriate unfair labor practice cases pursuant to *Dubo Manufacturing Corporation*, 142 NLRB 431 (1963). If the *Dubo* criteria are not met, Regions should alternatively consider whether the case is appropriate for deferral pursuant to *Collyer Insulated Wire*, 192 NLRB 837 (1971). Further, Regions will no longer contact parties on a quarterly basis to inquire about the status of the related grievance in deferred cases; instead, Charging Parties are obligated to provide a deferral status report to the Region on a biannual basis – March 15 and September 15.

**Dubo and Collyer Deferral**

As acknowledged by the Supreme Court in the *Steelworkers Trilogy*, the Act's statutory scheme is supported when parties to a collective-bargaining relationship avail themselves of their negotiated dispute resolution machinery to resolve their differences.<sup>2</sup> Deferring unfair labor practice charges to the parties' grievance procedure gives credence to their contract and fosters stability in labor relations.<sup>3</sup> Deferral not only upholds the Act's statutory scheme, but it also allows for the judicious use of Agency resources. At a time when we face decreasing staffing levels and a steady case intake, it is imperative that we maximize and streamline our deferral program to avoid protracted investigation and litigation of disputes that can be (and often are) resolved through the negotiated contractual grievance machinery.

Accordingly, in all investigations, Regions are instructed to first consider whether the charge allegations are appropriate for deferral pursuant to the criteria set forth in *Dubo Manufacturing Corporation*.<sup>4</sup> *Dubo* deferral allows for a broad reach in the types of cases

---

<sup>1</sup> This memorandum supersedes the guidance found in OM 12-43 (Additional Guidance Concerning Collyer Deferral in Cases Involving 8(a)(3) or 8(a)(1) Discriminators) and OM 13-35 (Collyer and Dubo Deferral Review) which are both rescinded.

<sup>2</sup> See *Steelworkers v. American Mfg. Co.*, 363 U.S. 564, 588 (1960); *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 581 (1960); and *Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 596 (1960).

<sup>3</sup> *Id.*

<sup>4</sup> Section 10118.1 of the ULP Case Handling manual will be revised to reflect this change.

that can be deferred, as it only requires that: 1) the charge allegations be facially proper and timely; and 2) the initial evidence demonstrate that there is a reasonable chance that the parties can either resolve the dispute or, at the very least, set it to rest, using their contractual grievance-arbitration procedure. If the charge meets these criteria, the Region will promptly *Dubo* defer, and its decision cannot be appealed. If *Dubo* deferral is inappropriate, the Region will determine whether deferral is appropriate under *Collyer Insulated Wire*, 192 NLRB 837 (1971), and follow existing practices. The Region's decision to *Collyer* defer can be appealed.

#### **Charging Party's Post-Deferral Status Reports**

Deferral contemplates that parties will process the related grievance pursuant to the timeline set forth in their grievance-arbitration procedure. Historically, Regions have conducted quarterly status checks inquiring about the status of the grievance. With limited staffing and resources, quarterly status checks are an administrative burden that Regions can no longer bear.

Effective immediately, Regions will no longer conduct quarterly status checks.<sup>6</sup> Instead, Charging Parties must e-file deferral status reports twice a year – March 15 and September 15 – updating the Region on the status of the related grievance; failure to do so may result in their charge being dismissed for lack of cooperation. In all pending deferred cases, Regions will issue a letter to Charging Parties notifying them of this new requirement. All Charging Parties must submit their first biannual report to the Region by September 15, 2025. The deferral status report can be found on [www.nlrb.gov](http://www.nlrb.gov) under fillable forms or by clicking [here](#).

W.B.C.

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<sup>6</sup> Section 10118.2 of the ULP Case Handling Manual will be revised to reflect this new procedure.

**Exhibit NJ-2: NJ DRB 07/22/2025 Non-Investigation Letter**

Dear Mr. Nguida,

**The Disciplinary Review Board has reviewed your appeal of the OAE's decision not to docket your grievance against David Cohen. Under Rule 1:20-7(j)(1), the DRB has no jurisdiction to compel the docketing of a grievance under Rule 1:20-3(f).**

Accordingly, your appeal is respectfully denied.

Sincerely,

**Timothy M. Ellis, Chief Counsel**

**Disciplinary Review Board, New Jersey**

**Date: July 22, 2025**

Re: Allegations of Improper Processing by Mohamed Nguida adv. Jason D. Saunders, First Assistant Ethics Counsel, Office of Attorney Ethics, et. al.

July 22, 2025  
Page 2 of 2

grievances against Disciplinary Agency Members (DAMs) arising out of their processing of an ethics grievance are filed with this office. Upon its review of the entirety of your submissions, the Board shall make an appropriate direction regarding your improper processing grievance. Please be aware that that the Board will make its determination regarding the processing of your grievance but in no way will the Board make a determination regarding the underlying ethics grievance in connection with the R. 1:20-7(j)(1) matter.

You will be notified of the Board's determination in due course.

Very truly yours,

*/s/ Barry R. Petersen, Jr.*

Barry R. Petersen, Jr.  
Deputy Counsel

BRP/tj

c: Johanna Barba Jones, Director  
Office of Attorney Ethics (via e-mail)  
Jason D. Saunders, First Assistant Ethics Counsel  
Office of Attorney Ethics (via e-mail)

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July 22, 2025

Mohamed Nguida  
433 Donnelly Street  
Eustis, FL 32726

**RE: Allegations of Improper Processing by Mohamed Nguida adv.  
Jason D. Saunders, First Assistant Ethics Counsel, Office of  
Attorney Ethics, et. al.**

Dear Mr. Nguida:

The Office of Board Counsel (the OBC) is in receipt of your "Petition for Supervisory Relief," dated July 10, 2025, which was forwarded to this office by the Clerk of the Supreme Court, in connection with the above matter.

You will recall that the OBC received your submission dated June 10, 2025, also forwarded to this office by the Clerk of the Supreme Court and previously acknowledged under separate cover dated July 17, 2025.

Additionally, we are in receipt of correspondence from the Office of Attorney Ethics dated July 17, 2025, enclosing your July 17, 2025, e-mail to Johanna Barba Jones, Director, in which you "lodge a complaint" against Jason D. Saunders, et. al., which was sent to us for consideration as a potential improper processing grievance under R. 1:20-7(j)(1).

Accordingly, please be advised that, although the Disciplinary Review Board (the Board) is not an investigative body, pursuant to R. 1:20-7(j)(1),