

No. A-_____

IN THE
SUPREME COURT OF THE UNITED STATES

RED ROCK RESORTS, INC., ET AL.,

Applicants,

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.,

Respondents,

and

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS,

Intervenor-Respondent.

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

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RULE 29.6 DISCLOSURE STATEMENT

Applicants are Red Rock Resorts, Inc.; Station Holdco, LLC; Station Casinos, LLC; NP Boulder, LLC d/b/a Boulder Station Hotel & Casino; NP Fiesta, LLC d/b/a Fiesta Rancho Hotel & Casino; FP Holdings, LP d/b/a Palms Casino Resort and Palms Place; Fiesta ParentCo, LLC; NP Lake Mead, LLC d/b/a Fiesta Henderson Casino Hotel; NP Palace, LLC d/b/a Palace Station Hotel & Casino; NP Red Rock, LLC d/b/a Red Rock Casino, Resort & Spa; NP Santa Fe, LLC d/b/a Santa Fe Station Hotel & Casino; NP Sunset, LLC d/b/a Sunset Station Hotel & Casino; NP Texas, LLC d/b/a Texas Station Gambling Hall & Hotel; and Station GVR Acquisition d/b/a Green Valley Ranch Resort Spa & Casino (hereafter, collectively, “Red Rock” or “Applicants”). Applicants were plaintiffs in the district court and appellants in the court of appeals.

NP Boulder LLC, NP Lake Mead LLC, NP Palace LLC, NP Red Rock LLC, NP Santa Fe LLC, NP Sunset LLC, NP Texas LLC, NP Fiesta, LLC, and Station GVR Acquisition, LLC are wholly owned directly or indirectly by Station Casinos LLC, which is a subsidiary of, and is managed and controlled by Red Rocks Resorts, Inc., a publicly traded corporation (NASDAQ: “RRR”). Fiesta ParentCo, LLC is the general partner of FP Holdings, LP. Station Holdco LLC is managed by Red Rock Resorts, Inc. and wholly owned and controlled by Frank J. Fertitta III and Lorenzo J. Fertitta.

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Pursuant to Rule 13.5 of this Court, Applicants respectfully apply for a 60-day extension of time, to and including September 20, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case. The court of appeals issued its final order on April 23, 2026. App., *infra*, 026a. Unless extended, the time for filing a petition for a writ of certiorari will expire on July 22, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

Factual and Procedural History

1. This case presents important, recurring constitutional and statutory questions involving the structure, procedures, and authority of the National Labor Relations Board (NLRB or the Board) under the National Labor Relations Act (NLRA), 29 U.S.C. § 151, *et seq.*, and also whether the Norris-LaGuardia Act (the NLGA or the Act), 29 U.S.C. § 101, *et seq.*, bars district courts from enjoining proceedings before the Board as unconstitutional. The NLGA provides that “[n]o court of the United States . . . shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a *case involving or growing out of a labor dispute*.” 29 U.S.C. § 101 (emphasis added). In this case, consistent with its holding in *Amazon.com Services, LLC v. NLRB*, 163 F.4th 624 (9th Cir. 2025), the Ninth Circuit affirmed the district court’s decision that the NLGA deprived it of jurisdiction to enjoin the here-and-now injury of being subjected to the Board’s unconstitutionally structured

decision-making process and procedures. App., *infra*, 026a (April 23, 2026 Order); see also 001a – 022a (district court Order on Motion for Preliminary Injunction and Associated Motions). That Ninth Circuit holding contributes to the circuit split among the courts of appeals, as noted further below.

2. Red Rock initiated this litigation after the NLRB began a series of administrative enforcement actions and proceedings. The NLRB Complaint alleged that Red Rock engaged in unfair labor practices in relation to operations at ten different hotel casino properties, consolidating more than 100 alleged unfair labor practice charges that relate principally to events that transpired during the 2018 to 2021 timeframe. The NLRB seeks a vast scope of equitable, legal, and punitive relief, including novel consequential damages not countenanced by the applicable statute. *See* 29 U.S.C. § 160(c); *see* Compl., *Red Rock Resorts, Inc. v. NLRB*, Case No. 2:24-cv-01966-ART-BNW (D. Nev. Oct. 22, 2024), ECF No. 1 (hereafter “Compl., *Red Rock Resorts*, ECF No. 1.”). The hearing began in 2021 and concluded on April 14, 2026, after more than 100 days of testimony; post-hearing briefs currently are due in October 2026. Red Rock continues to contest the merits of these allegations in ongoing agency proceedings and continues to submit that it is being subjected to ongoing here-and-now injury.

3. On October 22, 2024, Red Rock sued the Board in the U.S. District Court for the District of Nevada. Compl., *Red Rock Resorts*, , ECF No. 1.

4. Red Rock challenged the constitutionality of the statutory removal protections applicable to the Board’s members and administrative law judges

(“ALJs”) that unconstitutionally insulate them from removal by the President, in contravention of Article II of the U.S. Constitution. *Id.* at 8-9; *see Trump v. Slaughter*, 609 U.S. ____ (2026) (slip op. at 2, 21) (holding for-cause restrictions on the President’s removal authority of officers of executive branch agencies violates the separation of powers, overruling *Humphrey’s Executor v. United States*, 295 U. S. 602 (1935)). Red Rock also challenged other unconstitutional processes and procedures (*e.g.*, the Board’s pursuit of legal and punitive damages in the agency proceedings). Red Rock moved to preliminarily enjoin the Board’s proceedings, and the union intervened to oppose the injunction along with the Board. Prelim. Inj. Motion & Opposition Briefs, *Red Rock Resorts*, ECF Nos. 13, 20, and 21; *see App., infra*, 005a.

5. Specifically, Red Rock sought to enjoin the administrative enforcement proceedings because, *inter alia*, the NLRB Board Members and ALJs are subject to statutory for-cause removal protections that unconstitutionally insulate them from removal by the President, which renders the agency unconstitutionally structured in contravention of Article II of the U.S. Constitution. *See Collins v. Yellen*, 594 U.S., 220, 225 (2021) (Article II prohibits even “modest restrictions”). Red Rock also brought additional claims, including but not limited to claims under the Seventh Amendment of the U.S. Constitution because the NLRB was seeking legal and/or punitive relief, including novel, so-called *Thryv* remedies, consequential damages not countenanced by the applicable statute, 29 U.S.C. §160, civil penalties, and other “make whole” legal and punitive relief against Red Rock without providing for a constitutionally-required jury trial. *See SEC v. Jarkesy*, 603 U.S. 109 (2024) (Seventh

Amendment bars federal agencies from obtaining this relief through administrative judicial proceedings).

6. The NLRB defendants initially responded, in part, by relying on *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), but ultimately conceded that the challenged removal restrictions may not be permissible under Article II and this Court's precedents. The NLRB defendants, however, continued to argue, *inter alia*, that Red Rock's request for injunctive relief was and is barred by the NLGA.

7. As noted above, the NLGA in relevant part provides that "[n]o court of the United States . . . shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a *case involving or growing out of a labor dispute*." 29 U.S.C. § 101 (emphasis added). Cases "involving or growing out of labor dispute" typically involve disputes between an employer and a union where the controversy involves "terms or conditions" of employment or "the association or representation of persons," *see* 29 U.S.C. § 133(b). That is not the case here. This case involves a dispute between Red Rock and the government, *i.e.*, the NLRB defendants, regarding the constitutionality of the NLRA's removal protections for officials, the agency's structure, the unconstitutional proceedings, and the right to a jury trial as to certain claimed damages.

8. Nonetheless, the district court erroneously held that this case involves a "labor dispute" and that "the NLGA applies and broadly strips this Court of jurisdiction to grant injunctive relief here." App., *infra*, 017a.

9. As interpreted by the district court, the NLGA precludes district courts

from ever having jurisdiction to enjoin the “here-and-now” injury of being subjected to the NLRB’s unconstitutionally structured proceedings. *But see Axon Enter., Inc. v. FTC*, 598 U.S. 175, 195-96 (2023) (jurisdiction exists to consider structural constitutional challenges notwithstanding an agency’s statutory-review scheme). This result simply is wrong.

10. Additionally, the district court dismissed Red Rock’s Seventh Amendment claim, holding that it lacked subject-matter jurisdiction over that claim because the claim fell within the NLRA’s statutory agency-review scheme, despite the Board seeking legal, punitive, and other relief entitling Applicants to a jury trial. App., *infra*, 011a (reasoning that “the *Thunder Basin* factors all weigh against this Court exercising jurisdiction over Plaintiffs’ Seventh Amendment claim”).

11. Applicants appealed to the Ninth Circuit. App., *infra*, 026a.

12. While Red Rock’s appeal was pending, the Ninth Circuit issued its decision in a separate case involving issues that somewhat overlapped with this case. *See Amazon.com Servs., LLC v. Teamsters Amazon Nat’l Negotiating Comm.*, 163 F.4th 624 (9th Cir. 2025) (hereafter “*Amazon*”). Realizing that the *Amazon* case may foreclose its appeal, and without waiver of any positions and/or appeal rights, in a joint motion, Red Rock, the NLRB defendants, and the Union consented to the Ninth Circuit issuing summary disposition if the court agreed that *Amazon* was controlling and would result in a ruling against appellants. App., *infra*, 023a – 025a (Joint Motion for Summary Disposition).

13. The Ninth Circuit granted the joint motion for summary disposition and

affirmed the district court’s decision. *See App., infra*, 026a (Order dated April 23, 2026).

14. In affirming the district court’s holdings that the NLGA barred injunctive relief over Applicants’ Article II claims and that district courts lack subject-matter jurisdiction over the types of Seventh Amendment claims at issue, the Ninth Circuit deepened a split among the courts of appeals that requires timely resolution by this Court.

Review by this Court is warranted to clarify precedent and resolve a circuit split.

15. The Ninth Circuit’s summary affirmance order, and, in turn, the district court’s underlying order warrant this Court’s review.

16. This case presents a perfect vehicle for this Court to clarify the application of its recent precedents and to resolve a circuit split on important, recurring questions, both statutory and constitutional, with nationwide implications.

17. Specifically, the Ninth Circuit and the Fifth Circuit—two of the largest circuits by population in the country—are in direct conflict on the injunction issue under the NLGA, which the Ninth Circuit Court of Appeals has acknowledged. In *Space Exploration Techs. Corp. v. NLRB (SpaceX)*, 151 F.4th 761 (5th Cir. 2025), the Fifth Circuit affirmed an injunction halting NLRB proceedings after the employer-plaintiff brought the same constitutional claims as Red Rock pled here. The *SpaceX* court held that “[t]he text of the [NLGA]” does not deprive courts of “jurisdiction to enjoin the NLRB” because suits challenging the constitutionality of the Board’s

structure are not between employers and employees, and “do not concern ‘terms or conditions of employment, or [] the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange’ such terms.” 151 F.4th at 770. The Fifth Circuit thus affirmed an injunction halting unlawful Board proceedings against the alleged employer. *Id.* at 781. The Ninth Circuit’s ruling in the present case is in direct contradiction to the Fifth Circuit’s ruling in *SpaceX*, presenting an ideal vehicle for resolution of this troubling circuit split.

18. Other circuits have also weighed in on this issue, which continues to regularly arise in challenges to the NLRB. In *Spring Creek Rehab. & Nursing Ctr. LLC v. NLRB*, 160 F.4th 380 (3d Cir. 2025), the Third Circuit expressly disagreed with the Fifth Circuit and held that district courts lack jurisdiction to enjoin NLRB proceedings due to the NLGA. In *Care One, LLC v. NLRB*, 166 F.4th 335 (2d Cir. 2026), on the other hand, the Second Circuit exercised jurisdiction over an appeal from the denial of a preliminary injunction against pending NLRB proceedings, but ultimately denied the requested injunctive relief on the merits despite the NLGA, even though the Third and Ninth Circuits had concluded that courts lack jurisdiction to issue injunctions at all in those exact circumstances.

19. The Ninth Circuit’s ruling here is based on an incorrect interpretation of the relevant statutory language, which limits the application of the NLGA to cases “involving or growing out of a labor dispute.” 29 U.S.C. § 101. The district court and the Ninth Circuit, however, incorrectly characterized the dispute here as between Red Rock and the Union, rather than between Red Rock and the Board. The

foundation of the challenges Red Rock asserts in this case is to the constitutionality of the structure and proceedings of the *Board*, not any dispute that may or may not exist between Red Rock and the Union. In these circumstances, the NLGA “has no bearing” when the “employer-employee relationship” is not the “matrix of the controversy.” *Columbia River Packers Ass’n v. Hinton*, 315 U.S. 143, 147 (1942); *see also* 29 U.S.C. § 113(a)(1)-(3).

Good cause exists to grant an extension of time, which would not prejudice the Parties.

20. Good cause exists to grant the extension. Counsel of record continues to have significant responsibilities in other time-sensitive cases and matters in the period before and after the current July 22, 2026 deadline, including but not limited to a significant briefing deadline in the Tenth Circuit Court of Appeals on August 6, 2026, dispositive motion briefing deadlines in the Western District of Oklahoma on August 3 and September 3, 2026, and important motion briefing, substantial written discovery, and multiple depositions to be completed during the months of July through September 2026, in various actions, including in a large mass action in state court in Nevada, as well as obligations as a mediator in a number of mediations including at least four relatively complex mediations.

21. Additionally, in light of the decision in *Trump v. Slaughter*, 609 U.S. ____ (2026) (Case No. 25-365), issued only slightly more than a week ago, counsel for Applicants need additional time to evaluate the effect of that case on various issues in regard to this matter, the decisions below, and Applicants’ position before this

Court. As a result, this additional time will allow Applicant to prepare and to file a more fulsome petition that would be helpful to the Court on these important questions of federal law, including matters of constitutional significance.

22. This extension is not being sought for purposes of delay or to prejudice any party. Red Rock is not aware of any party that would be prejudiced by a 60-day extension.

Accordingly, Applicants respectfully request that the time for filing the petition for writ of certiorari be extended by 60 days, until and through September 20, 2026 (a Sunday, which would result in the deadline falling on **September 21, 2026** by operation of Sup. Ct. R. 30).

July 8, 2026

Respectfully submitted,

/s/J. Randall Coffey

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