UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

S.R. KEY PLUMBING AND MECHANICAL, LLC

and 10-CA-291436

GEORGIA CAROLINA PIPE TRADES
ASSOCIATION a/w UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE PLUMBING
AND PIPEFITTING INDUSTRY OF THE
UNITED STATES AND CANADA, AFL-CIO

ORDER DENYING MOTION FOR RECONSIDERATION

The Respondent's motion for reconsideration of the Board's Decision and Order reported at 375 NLRB No. 57 (2026) is denied. The Respondent has not identified any material error or demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(c)(1) of the Board's Rules and Regulations.[1]

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[1] We reject the Respondent's argument, raised for the first time in its motion, that the Board's adjudication of private rights outside of an Article III court violates the separation of powers required under the U.S. Constitution. Because the Respondent did not raise this argument in any form before the judge or the Board, the Respondent waived this argument, and it cannot serve as a basis for granting reconsideration under Sec. 102.48(c)(1) of the Board's Rules and Regulations. See Sec. 102.46(a)(1)(ii) and (f); see also *Snowflake, Inc.*, 375 NLRB No. 39, slip op. at 1 fn. 2 (2026) (deeming issues not previously urged to have been waived); *H&M Int'l Transportation*, 363 NLRB 1861, 1861 (2016) (same), enfd. mem. 719 Fed. Appx. 3 (D.C. Cir. 2018). In any event, it is well-settled that the Board only adjudicates public rights. See *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 194 (1941); *NLRB v. Jones & Laughlin Steel Co.*, 301 U.S. 1, 25 (1937).

The Respondent's other arguments in its motion challenge the Board's ordering of remedies consistent with *Thryv, Inc.*, 372 NLRB No. 22 (2022), vacated in part on other grounds 102 F.4th 727 (5th Cir. 2024). In the underlying decision in this case, Chairman Murphy and Member Mayer found no need at that time to express an opinion on whether the novel remedies announced by the Board majority in *Thryv* are permissible under the Act. They stated that they would be open to reconsideration of that precedent in a future proceeding but agreed to apply *Thryv* in this case for institutional reasons, for the reasons fully explained in *Leo Marine Services*, *Inc.*, 375 NLRB No. 35, slip op. at 5 fn. 17 (2026). Accordingly, the Respondent's arguments in its motion regarding the Board's application of *Thryv* in this case fail to demonstrate extraordinary circumstances warranting reconsideration. Member Prouty rejects the Respondent's arguments regarding *Thryv* because he continues to believe that *Thryv* was correctly decided, is well within the Board's remedial authority, and is necessary to satisfy the Board's statutory obligation to provide meaningful make-whole relief. See id.

Dated, Washington, D.C., November 24, 2026.

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James R. Murphy, Chairman

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David M. Prouty, Member

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Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD