

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

CATHOLIC HEALTH INITIATIVES  
COLORADO d/b/a CENTURA  
HEALTH ST. MARY-CORWIN  
MEDICAL CENTER

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

Nos. 14-9547, 14-9553

**JOINT MOTION TO DISMISS THE PETITION FOR REVIEW AND  
THE CROSS-APPLICATION FOR ENFORCEMENT OF  
THE BOARD’S ORDER**

To the Honorable Judges of the United States  
Court of Appeals for the Tenth Circuit:

Pursuant to Federal Rule of Appellate Procedure 42(b), the National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, and Catholic Health Initiatives Colorado d/b/a Centura Health St. Mary-Corwin Medical Center (“the Hospital”), by its counsel, respectfully move the Court for leave to dismiss the Hospital’s petition for review of the Board’s Order, with prejudice. The parties also jointly move the Court for leave to dismiss the Board’s cross-application for enforcement of that Order without prejudice. In support of their joint motion, the parties show:

1. On June 17, 2013, an Administrative Law Judge of the Board issued a decision finding that the Hospital violated Section 8(a)(5) and (1) of the National Labor Relations Act (“the Act) (29 U.S.C. § 158(a)(1)). On April 24, 2014, the Board issued a Decision and Order, affirming the judge’s decision.

2. The Hospital filed a petition for review of the Order against it on May 23, 2014, and the Board cross-applied for enforcement of its Order on June 18, 2014.

3. The parties entered into negotiations with the aid of a court-appointed mediator, and have reached a resolution of their dispute.

4. The Hospital agreed to dismiss its petition for review, and to waive any right to challenge the Board’s Order further. Accordingly, the Hospital and the Board jointly request that the Court dismiss the Hospital’s petition with prejudice.

5. The Hospital and the Board also jointly request that the Court dismiss the Board’s cross-application without prejudice to the Board’s right to file a future application for enforcement of its Order, in the event the Hospital fails to continue its compliance with the prospective relief in the Board’s Order. *See NLRB v. Mexia Textile Mills*, 339 U.S. 563, 567 (1950) (Because “[a] Board order imposes a continuing obligation” and because “the Board is entitled to have [any] presumption of the unfair practice barred by an enforcement decree,” an employer’s compliance does not deprive the Board of the right to secure

enforcement of the order from an appropriate court.); *accord NLRB v. Raytheon Co.*, 398 U.S. 25, 27-28 (1970).

6. The Hospital, by its counsel, has authorized the Board to execute this motion on its behalf.

WHEREFORE, the parties respectfully request that their joint motion be granted, that the Hospital's petition for review be dismissed with prejudice, and that the Board's cross-application for enforcement against the Hospital be dismissed without prejudice.

s/ Melvin B. Sabey  
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s/ Linda Dreeben  
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Dated at Washington, DC  
This 2nd day of March 2015

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 2, 2015, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I certify that the foregoing document will be served via the CM/ECF system on the following:

Melvin B. Sabey  
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Denver, CO 80202

s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1099 14th Street, NW  
Washington, DC 20570

Dated at Washington, D.C.  
This 2nd day of March 2015