

**ORAL ARGUMENT HELD ON FRIDAY, MARCH 6, 2015**

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

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<b>WELLINGTON INDUSTRIES, INC.</b>	)	
	)	
<b>Petitioner/Cross-Respondent</b>	)	
<b>v.</b>	)	
	)	
<b>NATIONAL LABOR RELATIONS BOARD</b>	)	<b>Nos. 12-1018</b>
	)	<b>and 12-1120</b>
<b>Respondent/Cross-Petitioner</b>	)	
	)	
<b>and</b>	)	
	)	
<b>INDEPENDENT UNION LOCAL ONE, AN</b>	)	
<b>AFFILIATE OF LOCAL 174, INTERNATIONAL</b>	)	
<b>UNION, UNITED AUTOMOBILE, AEROSPACE</b>	)	
<b>AND AGRICULTURAL IMPLEMENT WORKERS</b>	)	
<b>OF AMERICA, AFL-CIO</b>	)	
	)	
<b>Intervenor for Respondent</b>	)	

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**JOINT MOTION TO VOLUNTARILY DISMISS,  
WITH PREJUDICE, THE PETITION FOR REVIEW  
AND TO DISMISS, WITHOUT PREJUDICE,  
THE CROSS-APPLICATION FOR ENFORCEMENT**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), Wellington  
Industries, Inc. (“the Company”), by its counsel, and the National Labor Relations  
Board (“the Board”), by its Deputy Associate General Counsel, respectfully move

the Court for leave to voluntarily dismiss, with prejudice, the Company's petition for review and to dismiss, without prejudice, the Board's cross-application for enforcement in the above-captioned case, and show:

1. On January 9, 2012, the Company filed with the Court a petition to review the Board's Decision and Order in *Wellington Industries, Inc.*, 357 NLRB No. 135 (2011). The Board filed a cross-application for enforcement of that same Order on February 27, 2012, and the Court consolidated the cases. Subsequently, Independent Union Local One, an Affiliate of Local 174, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO ("the Union") was granted leave to intervene on the side of the Board.

2. After full briefing was accomplished, and oral argument was held on March 6, 2015, the parties reached an agreement that resolves these consolidated cases without the need for further litigation.

3. The parties therefore request that the Court dismiss, with prejudice, the Company's petition for review. The parties also ask that the Court dismiss the Board's cross-application for enforcement without prejudice to the Board's right to file a future application for enforcement, if necessary, to enforce the "continuing obligation" imposed on the Company by 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]

resumption 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).

4. All parties to bear their own costs.

5. Mark Christopher Knoth, counsel for the Company, has given the Board permission to sign this joint motion on his behalf. Robert D. Fetter, counsel for the Union, consents to the granting of this joint motion and has given the Board permission to sign it on his behalf.

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

Respectfully submitted,

For the Board:

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, NW  
Washington, D.C. 20570  
(202) 273-2960

Dated: April 24, 2015

For the Company:

/s/ Mark Christopher Knoth  
Kerr, Russell and Weber, PLC  
500 Woodward Ave., Suite 2500  
Detroit, MI 48226  
(313) 961-0200

Dated: April 24, 2015

For the Union:

/s/ Robert D. Fetter  
Miller Cohen, PLC  
Fourth Floor  
600 West Lafayette Boulevard  
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(313) 964-4454

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<b>UNION, UNITED AUTOMOBILE, AEROSPACE</b>	)	
<b>AND AGRICULTURAL IMPLEMENT WORKERS</b>	)	
<b>OF AMERICA, AFL-CIO</b>	)	
	)	
<b>Intervenor for Respondent</b>	)	

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2015, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. I certify that the foregoing document will be served via the CM/ECF system on the following counsel, who are registered CM/ECF users:

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/s/ Linda Dreeben  
Linda Dreeben  
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1099 14th Street, N.W.  
Washington, D.C. 20570  
(202) 273-2960

Dated at Washington, D.C.  
this 24th day of April 2015