

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

WELLINGTON INDUSTRIES, INC.,)	
)	
Petitioner/Cross-Respondent)	
v.)	
)	
NATIONAL LABOR RELATIONS BOARD,)	Nos. 14-1174, 14-1205
)	
Respondent/Cross-Petitioner)	
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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. Earlier, in an related case, *Wellington Industries, Inc. v. NLRB*, D.C. Circuit Nos. 12-1018 and 12-1120, the Company filed a petition for review of a Board’s Decision and Order, and the Board filed a cross-application for

enforcement of that same Order (357 NLRB No. 135). That consolidated case contained issues substantially similar to issues raised in the above-captioned case.

2. Consequently, after the Company filed a petition for review, and the Board filed a cross-application for enforcement of the Board's Decision and Order (360 NLRB No. 14) in the instant consolidated case, the Court issued an Order holding the case "in abeyance pending further order of the [C]ourt," and "directed [the parties] to file motions to govern future proceedings in this case within 30 days of this [C]ourt's disposition of Nos. 12-1018, et al., *Wellington Indus., Inc. v. NLRB.*" Order, Dkt. No. 1520891 (Nov. 5, 2014).

3. After the parties reached a settlement resolving both consolidated cases, they filed a Rule 42(b) joint stipulation to dismiss in Nos. 12-1018 and 12-1120. On May 5, 2015, the Court dismissed that case. Order, Dkt. No. 1550759.

4. Accordingly, the parties now seek dismissal in the instant case. Specifically, the parties 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.).

5. All parties to bear their own costs.

6. Mark Christopher Knoth, counsel for the Company, has given the Board permission to sign this joint motion 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: May 14, 2015

For the Company:

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

Dated: May 14, 2015

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NATIONAL LABOR RELATIONS BOARD,)	Board Case No.
)	07-CA-091271
Respondent/Cross-Petitioner)	
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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 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 is a registered CM/ECF user:

Mark Christopher Knoth
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/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1099 14th Street, N.W.
Washington, D.C. 20570
(202) 273-2960

Dated at Washington, D.C.
this 14th day of May 2015