

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

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	No. 15-3432
)	
v.)	
)	Board Case No.
)	04-CA-116883
MAZZARA TRUCKING & EXCAVATING CORPORATION)	
)	
Respondent)	
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**MOTION OF THE NATIONAL LABOR RELATIONS BOARD
TO HOLD IN ABEYANCE THE FILING OF THE CERTIFIED LIST**

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

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves this Court to hold the filing of the certified list in abeyance until the Court rules on the Board’s pending motion for default judgment, and shows as follows:

1. The Board issued its Decision and Order in this case against Mazzara Trucking & Excavating Corporation (“the Company”) on April 30, 2015, and filed an application to enforce its Order on October 9, 2015. By order dated October 13, 2015, this Court ordered that the record, or certified list in lieu of the record, be filed on or before November 27, 2015.

2. On November 24, simultaneous with the filing of this motion, the Board filed with this Court a motion for entry of a default judgment. The Board asserted two bases for a default judgment: the Company did not timely file an answer to the Board's application for enforcement and the Company, a corporation, failed to retain counsel in the instant matter.

3. If the Board succeeds in its motion for a default judgment, further proceedings on the merits will not be necessary, thereby obviating the need for filing the record.

4. Furthermore, Rule 17(a) of the Federal Rules of Appellate Procedure ("FRAP") provides that a respondent's filing of an answer to an application for enforcement is a prerequisite to the Board's filing of the record. Because the Company did not file an answer to the Board's application for enforcement, as required by FRAP Rule 15(b)(2), the Board is not yet required to file the record.

5. Therefore, the Board requests that the time for filing the certified list be extended until the Court decides whether to issue a default judgment.

WHEREFORE, the Board respectfully requests that its motion be granted and that the time for filing the certified list be held in abeyance until the Court has ruled on the Board's motion for default judgment.

Respectfully submitted,

/s/ Linda Dreeben

Linda Dreeben

Deputy Associate General Counsel

National Labor Relations Board

1015 Half Street, SE

Washington, D.C. 20570

(202) 273-2960

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

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CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the appellate CM/ECF system.

I certify the foregoing document was served on all those parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not by serving a true and correct copy at the address listed below:

Isadoro Mazzara
Mazzara Trucking & Excavating Corporation
276 Jacobstown – New Egypt Road
Wrightstown, NJ 08562

/s/Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board

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