

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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EMPLOYERS RESOURCE,	)	
	)	
Petitioner/Cross Respondent	)	
	)	No. 16-60034
v.	)	
	)	
NATIONAL LABOR RELATIONS BOARD,	)	
	)	
Respondent/Cross Petitioner	)	

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**UNOPPOSED MOTION  
OF THE NATIONAL LABOR RELATIONS BOARD  
FOR EXTENSION OF TIME TO FILE ITS RESPONSE BRIEF**

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

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully submits this unopposed motion for a 40-day extension to file its response brief, through and including July 11, 2016. In support thereof, the Board shows as follows:

1. On December 17, 2015, the Board issued a Decision and Order (“the Order”) against Employers Resource in Board Case No. 31-CA-097189. *See Employers Resource*, 363 NLRB No. 59 (Dec. 17, 2015). On January 14, 2016, Employers Resource filed a petition to review the Board’s Order. The Board filed a cross-application for enforcement on April 1, 2016.

2. On April 25, 2016, Employers Resource filed its opening brief.

3. The Board's response brief is currently due May 31, 2016. The Board respectfully requests a 40-day extension of time to submit its response brief. This extension is necessary because Barbara Sheehy, who has primary responsibility for drafting the Board's brief in this case, is substantially involved in post-decisional work related to a recent D.C. Circuit decision. *See Barstow Hosp. v. NLRB*, 2016 WL 1720366, Nos. 14-1167, 14-1195 (Apr. 29, 2016). The D.C. Circuit decision in *Barstow* has immediate implications for the Agency. Ms. Sheehy is also responsible for drafting *The Rose Group d/b/a Applebee's Restaurant v. NLRB*, 3d Cir. Nos. 15-4092, 16-1212 (currently due May 19, 2016). Elizabeth Heaney, who will be primarily responsible for supervising the Board's brief in this case, works a part-time schedule of 32 hours per week and is responsible for also supervising the briefs in *The Rose Group* and *JAG Healthcare, Inc. v. NLRB*, 6th Cir. Nos. 15-1607, 15-1563 (due May 27, 2016).

4. Due to the responsibilities and commitments described above, it will not be possible for Board counsel, with due diligence and giving priority to the preparation of the brief in this case, to meet the May 31, 2016 deadline.

5. The Board contacted Christopher Murray, counsel for Employers Resource, who indicated that he does not oppose the relief sought in this motion.

WHEREFORE, the Board respectfully requests that the Court grant this unopposed motion for a 40-day extension to file the Board's response brief, through and including July 11, 2016.

Respectfully submitted,

s/ Linda Dreeben  
Linda Dreeben  
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(202) 273-1714

Dated at Washington, DC  
this 11th day of May 2016

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2016, I electronically filed the foregoing with the Clerk for the Court of the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I further certify that this document was served on all parties or their counsel of record through the appellate CM/ECF system.

s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half Street S.E.  
Washington, DC 20570-0001  
(202) 273-1714

Dated at Washington, DC  
this 11th day of May 2016