

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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MANOR AT ST. LUKE VILLAGE FACILITY )  
OPERATIONS, LLC d/b/a THE MANOR AT )  
ST. LUKE VILLAGE and THE PAVILLION AT )  
ST. LUKE VILLAGE FACILITY OPERATIONS, LLC )  
d/b/a THE PAVILLION AT ST. LUKE VILLAGE )  
 )  
Petitioner/Cross-Respondent ) Nos. 15-3636  
 ) 15-4044  
v. )  
 )  
NATIONAL LABOR RELATIONS BOARD )  
 ) Board Case No.  
Respondent/Cross-Petitioner ) 04-CA-114317  
 )  
and )  
 )  
AMERICAN FEDERATION OF STATE, COUNTY )  
AND MUNICIPAL EMPLOYEES, DISTRICT )  
COUNCIL 87 )  
 )  
Intervenor )  

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**JOINT MOTION TO VOLUNTARILY DISMISS APPEALS**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), the National Labor  
Relations Board (“the Board”), by its Deputy Associate General Counsel, and  
Manor at St. Luke Village Facility Operations, LLC d/b/a The Manor at St. Luke  
Village and The Pavillion at St. Luke Village Facility Operations, LLC d/b/a The

Pavillion at St. Luke Village (collectively, “the Company”), by its counsel, respectfully move that the Court grant the parties leave to voluntarily dismiss their appeals as provided in paragraph 5 below. In support of this motion, the parties show as follows:

1. On July 24, 2015, the Board issued a Decision and Order against the Company. *See* 362 NLRB No. 150. The Order was based on the Board’s finding that the Company unlawfully refused to recognize and bargain with the American Federation of State, County and Municipal Employees, District Council 87 (“the Union”) as the representative of a unit of company nurses.

2. The Company filed a petition for review of the Board’s Order in this Court, and the Board filed a cross-application for enforcement.

3. Before briefing began on these appeals, the Company agreed to voluntarily comply with the Board’s Order. In view of the Company’s commitment, the Board requested that the Court hold further litigation of these appeals in abeyance pending completion of the compliance process. The Court granted this request.

4. The Company has now complied with the Order.

5. The parties respectfully submit that the Company’s voluntary compliance eliminates the need for further litigation of this case. Accordingly, the parties request that the Court dismiss the Company’s petition for review with prejudice,

and dismiss the Board's cross-application for enforcement without prejudice to the Board's right to file a future application for enforcement in the event that the Company fails to meet its prospective obligations under the 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); *NLRB v. Weber*, 382 F.2d 387, 389 (3d Cir. 1967); *NLRB v. Int'l B'hd of Elec. Workers*, 251 F. App'x 101, 103-04 (3d Cir. 2007). The parties agree that (a) the Board's right to renew its application for enforcement of the Order is limited to the Company withdrawing recognition from the Union and/or refusing to bargain with the Union with respect to the certified bargaining unit at the site located at 1000 Stacie Drive and 1711 East Broad Street, Hazelton, Pennsylvania and (b) the Company reserves and does not waive its right to defend against such an application by the Board on any applicable ground.

6. The Union has no objection to this request.

7. Each party is to bear its own costs.

8. Counsel for the Company, Jedd Mendelson, has authorized Board counsel to sign this motion on his behalf.

WHEREFORE, the parties respectfully request that the Court dismiss the Company's petition for review with prejudice, and dismiss the Board's cross-application for enforcement without prejudice consistent with Paragraph 5 above.

<b>For the Company:</b>  /s/ Jedd Mendelson _____ Jedd Mendelson Littler Mendelson 1085 Raymond Blvd. One Newark Ctr., 8 <sup>th</sup> Floor Newark, NJ 07102	<b>For the Board:</b>  /s/ Linda Dreeben _____ Linda Dreeben Deputy Associate General Counsel National Labor Relations Board 1015 Half Street, SE Washington, DC 20570 (202) 273-2960
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Dated at Washington, D.C.  
This 3rd day of June 2016

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2016, I electronically filed the foregoing Joint Motion with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the CM/ECF system, and sent to the Clerk of Court, by first-class mail, the required number of paper copies.

I further certify that the foregoing was served on all 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 addresses listed below.

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/s/ Linda Dreeben

Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570  
(202) 273-2960

Dated at Washington, D.C.  
this 3rd day of June 2016