

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

VERONICA'S AUTO INSURANCE
SERVICES, INC.,

Petitioner,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent.

Case No. 16-1180

(consolidated with Nos. 16-1190,
16-1260)

ADRIANA'S INSURANCE
SERVICES, INC.,

JUST AUTO INSURANCE
SERVICES, INC.,

Petitioners,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent.

Case No. 16-1190

(consolidated with Nos. 16-1180,
16-1260)

NATIONAL LABOR RELATIONS
BOARD,

Cross-Applicant,

v.

VERONICA'S AUTO INSURANCE
SERVICES, INC.,

ADRIANA'S INSURANCE
SERVICES, INC.,

JUST AUTO INSURANCE
SERVICES, INC.,

Cross-Respondents.

Case No. 16-1260

(consolidated with Nos. 16-1180,
16-1190)

**PETITIONERS' JOINT ANSWER TO RESPONDENT/CROSS-
APPLICANT NATIONAL LABOR RELATIONS BOARD'S CROSS-
APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD**

Pursuant to Federal Rule of Appellate Procedure 15(b), Petitioners/Cross-Respondents Veronica's Auto Insurance Services, Inc., Adriana's Insurance Services, Inc., and Just Auto Insurance Services, Inc. (collectively, "Petitioners") submit their Answer to Respondent/Cross-Applicant National Labor Relations Board ("Board")'s Cross-Application for Enforcement of an Order of the National Labor Relations Board dated August 1, 2016 ("Cross-Application") as follows:

1. In answering Paragraph 1 of the Cross-Application, Petitioners admit that on May 31, 2016, the Board issued its Decision and Order against Petitioners in the case captioned *Adriana's Insurance Services, Inc., Just Auto Insurance Services, Inc.; Veronica's Auto Insurance Services, Inc. and Aldo Alpizar and Liset Viamontes*, NLRB Case Nos. 31-CA-113416, 31-CA-113417, 31-CA-113420, 31-CA-113423, 31-CA-113425, and 31-CA-113428, reported at 364 NLRB No. 17.

2. In further answering Paragraph 1 of the Cross-Application, Petitioner/Cross-Respondent Veronica's Auto Insurance Services, Inc. admits that it filed a Petition for Review of the Board's Decision and Order in this Court on June 10, 2016, docketed as D.C. Circuit Case No. 16-1180. Petitioners/Cross-Respondents Adriana's Insurance Services, Inc. and Just Auto Insurance Services, Inc. admit that they separately filed a Petition for Review of the Board's Decision and Order in this Court on June 10, 2016, docketed as D.C. Circuit Case No. 16-1190.

3. In further answering Paragraph 1 of the Cross-Application, Petitioners admit that this Court consolidated Case Nos. 16-1180 and 16-1190 on June 17, 2016.

4. In further answering Paragraph 1 of the Cross-Application, Petitioners deny the Decision and Order should be enforced by this Court and further deny that the Board is entitled to the relief sought in its Cross-Application. By way of further answer, Petitioners submit that the Court should set aside and deny enforcement of the Decision and Order because:

- a. The Acting General Counsel of the Board was not properly “appointed” in accordance with the Federal Vacancies Reform Act of 1998, 5 U.S.C. § 3345 *et seq.*, and therefore could not delegate his authority.
- b. The Board erred in concluding that the National Labor Relations Act bars employers from requiring employees to sign binding arbitration agreements as a condition of employment.
- c. The Board lacked substantial evidence for, and/or erred as a matter of law in, its conclusion that Petitioners’ arbitration agreements with their respective employees prohibited those employees from exercising their rights under the National Labor Relations Act, despite limitations on the type of claims

that may be arbitrated under the agreements.

- d. The Board incorrectly determined that Petitioners' efforts to enforce their arbitration agreements by seeking to compel arbitration constituted a violation of the National Labor Relations Act.
- e. The Board erred in concluding that maintaining a workplace policy of voluntary arbitration was a "continuing violation" for purposes of section 10(b) of the National Labor Relations Act, 29 U.S.C. § 160(b).
- f. The Board erred and exceeded its authority in ordering Petitioners to pay the attorneys' fees and litigation expenses of the charging parties in state court, despite the fact that the underlying litigation is still ongoing, and the charging parties have yet to prevail in those state courts.
- g. The Board's order prohibiting Petitioners from filing a petition to enforce their arbitration agreements is a violation of the Petition Clause of the First Amendment.
- h. The Board's order for Petitioners to express in state courts that "it has rescinded or revised the Arbitration Agreement" and "to inform these courts that it no longer opposes" the state-court

litigation on the basis of the arbitration agreement is unconstitutional compelled commercial speech.

5. In answering Paragraph 2 of the Cross-Application, Petitioners admit that this Court has jurisdiction over the Board's Cross-Application pursuant to 29 U.S.C. § 160(e) and (f).

6. In further answering Paragraph 2 of the Cross-Application, Petitioners admit that they are aggrieved by the Board's Decision and Order.

7. In further answering Paragraph 2 of the Cross-Application, Petitioners admit that venue is proper in this Circuit pursuant to 29 U.S.C. § 160(e) and (f).

Respectfully submitted,

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(Nos. 16-1180 and 16-1260)*

Dated: August 17, 2016

CERTIFICATE OF SERVICE

I hereby certify that, on August 17, 2016, I electronically filed the foregoing document with the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF:

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