

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

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	
)	
TIDEWATER BARGE LINES, INC.)	
)	
Intervenor)	No. 15-71822
)	
v.)	
)	
INTERNATIONAL LONGSHOREMAN’S, AND WAREHOUSEMAN’S UNION, et al.)	
)	
Respondents)	

**UNOPPOSED MOTION TO VOLUNTARILY DISMISS,
WITHOUT PREJUDICE, THE BOARD’S
CROSS-APPLICATION FOR ENFORCEMENT**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), the National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves the Court for leave to voluntarily dismiss, without prejudice, the Board’s cross-application for enforcement in the above-captioned case, and shows:

1. On May 2, 2015, International Longshore and Warehouseman’s Union (“the Union”) filed with the Court a petition to review the Board’s decision

and order in *International Longshore and Warehouseman's Union, et al.* (*Tidewater Barge Lines, Inc.*), 362 NLRB No. 40 (2015) (9th Cir. Case No. 15-71392.) The Board cross-applied for enforcement of its order on June 15 (Case No. 15-71822.) Tidewater Barge Lines, Inc. ("Tidewater") was granted leave to intervene on behalf of the Board.

2. Since then, the Union, Tidewater, and the Board have resolved these cases without the need for further litigation or the costs associated with such litigation. Accordingly, on March 15, 2016, the Court granted the Union's motion to dismiss its petition for review in Case No. 15-71392.

3. By this motion, the Board requests that the Court dismiss its cross-application in Case No. 15-71822 without prejudice to the Board's right to file a future application for enforcement, if necessary, to enforce the "continuing obligation" imposed on the Union 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.). *Accord NLRB v. Raytheon Co.*, 398 U.S. 25, 27-28 (1970).

4. Each side is to bear its own costs.

5. Counsel for the Union and Tidewater have informed Board counsel that they do not oppose this motion.

WHEREFORE, the Board respectfully requests that its motion be granted, and that the cross-application for enforcement be dismissed without prejudice.

Respectfully submitted,

/s/ Linda Dreeben
Linda Dreeben
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Washington, D.C. 20570
(202) 273-2960

Dated at Washington, D.C.
this 1st day of September, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2016, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. I certify that the foregoing document will be served via the CM/ECF system on all counsel, who are registered CM/ECF users.

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570

Dated at Washington, D.C.
this 1st day of September, 2016