

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BREAD OF LIFE, LLC, d/b/a PANERA BREAD)	
)	
Petitioner/Cross-Respondent)	
)	
v.)	
)	
NATIONAL LABOR RELATIONS BOARD)	Nos. 15-1179
)	15-1220
)	
Respondent/Cross-Petitioner)	
)	
and)	
)	
BAKERY, CONFECTIONARY, TOBACCO)	
WORKERS AND GRAIN MILLERS)	
INTERNATIONAL UNION,)	
LOCAL 70, AFL-CIO, CLC)	
)	
Intervenor)	

**JOINT MOTION TO VOLUNTARILY DISMISS
THE PETITION FOR REVIEW
AND CROSS-APPLICATION FOR ENFORCEMENT**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), The National Labor
Relations Board (“the Board”), by its Deputy Associate General Counsel, and
Bread of Life, LLC, d/b/a Panera Bread (“the Company”), by its counsel, jointly

move the Court for leave to voluntarily dismiss the petition for review with prejudice, and the cross-application for enforcement without prejudice, in the above-captioned cases, and show:

1. On June 5, 2015, the Board issued its Decision and Order in *Bread of Life, LLC d/b/a Panera Bread*, 362 NLRB No. 106, in which it found that the Company had committed unfair labor practices in violation of Section 8(a)(5) and (1) of the National Labor Relations Act (“the Act”), 29 U.S.C. § 8(a)(5) and (1).

2. On June 22, 2015, the Company filed in this Court a petition for review of the Board’s Order. (D.C. Cir. Case No. 15-1179). The Board cross applied for enforcement (D.C. Cir. Case No. 15-1220), and the Court consolidated the cases.

3. Since then, the Company and the Board have reached an agreement to resolve these consolidated cases without further litigation or the costs associated with such litigation.

4. Therefore, the Board and the Company respectfully request that this Court dismiss, with prejudice, the Company’s petition for review. The parties also ask that the Court dismiss the Board’s cross-application for enforcement without prejudice to the Board’s right to file a future application for enforcement, if necessary, to enforce the “continuing obligation” imposed on the Company 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).

5. Each side will bear its own costs.

6. The Company, by its counsel, has authorized the Board to execute this motion on its behalf.

WHEREFORE, the Board and the Company respectfully pray that the Company’s petition for review and the Board’s cross-application for enforcement be dismissed, pursuant to Federal Rule of Appellate Procedure 42(b).

Respectfully submitted,

s/Linda Dreeben
Linda Dreeben
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s/Timothy J. Ryan
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Dated at Washington, DC
this 10th day of February 2017

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Intervenor)

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2017, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the CM/ECF system. I certify that counsel in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street S.E.
Washington, DC 20570
(202) 273-2960

Dated at Washington, D.C.
this the 10th day of February 2017