

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

BOOTHWYN FIRE COMPANY NO. 1	)	
	)	
Petitioner/Cross-Respondent	)	
	)	
v.	)	Nos. 16-2607
	)	16-2791
NATIONAL LABOR RELATIONS	)	
BOARD	)	
Respondent/Cross-Petitioner	)	
_____	)	

**JOINT MOTION TO DISMISS THE PETITION FOR REVIEW AND THE  
CROSS-APPLICATION FOR ENFORCEMENT OF THE BOARD’S  
ORDER AGAINST BOOTHWYN FIRE COMPANY NO. 1**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), Boothwyn Fire Company No. 1 (“the Company”), by its counsel, and the National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully move the Court for leave to voluntarily dismiss, with prejudice, the Company’s petition for review and to dismiss, without prejudice, the Board’s cross-application for enforcement in the above-captioned case, and show:

1. On May 25, 2016, the Company filed with the Court a petition to review the Board’s decision and order in *Boothwyn Fire Company No. 1*, 363 NLRB No. 191 (May 16, 2016). The Board cross-applied for enforcement of its order on June 13.

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

3. The Company and the Board, therefore, request that the Court dismiss, with prejudice, the Company's petition for review and dismiss, without prejudice, the Board's cross-application for enforcement.<sup>1</sup>

4. Each side is to bear its own costs.

5. Mark A. Raith, counsel for the Company, has given the Board permission to sign this motion on his behalf.

WHEREFORE, the parties respectfully request that their joint motion be granted, and that the petition for review be dismissed with prejudice and the cross-application for enforcement be dismissed without prejudice.

Respectfully submitted,

For the Board:

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board

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<sup>1</sup> The parties ask that the Court dismiss the Board's cross-application "without prejudice" so that the Board can, if necessary, 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) ("the employer's compliance with an order of the Board does not render the cause moot, depriving the Board of its opportunity to secure enforcement from an appropriate court . . . . A Board order imposes a continuing obligation; and the Board is entitled to have the resumption of the unfair practice barred by an enforcement decree."). *Accord NLRB v. Raytheon Co.*, 398 U.S. 25, 27-28 (1970).

1015 Half Street, SE  
Washington, D.C. 20570  
(202) 273-2960

Dated: March 23, 2017

For Boothwyn Fire Company No. 1: /s/ Mark A. Raith

Mark A. Raith, Esq.  
Holsten & Associates  
One Olive Street  
Media, PA 19063  
(610) 566-8800

Dated: March 23, 2017

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_____	)	

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its motion contains 358 words of proportionally-spaced, 14-point type, the word processing system used was Microsoft Word 2010.

/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, DC  
this 23rd day of March, 2017

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Respondent/Cross-Petitioner	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on March 23, 2017, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the CM/ECF system. I certify that the foregoing document will be served via the CM/ECF system on the following counsel, who is a registered CM/ECF user:

Mark A. Raith, Esq.  
Holsten & Associates  
One Olive Street  
Media, PA 19063

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570

Dated at Washington, D.C.  
this 23rd day of March, 2017