

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

THE ARDIT COMPANY)	
)	
v.)	
)	
NATIONAL LABOR RELATIONS BOARD)	No. 16-1381
Respondent)	Board Case Nos.
)	09-CA-089159, et al.
and)	
)	
INTERNATIONAL UNION OF BRICKLAYERS)	
AND ALLIED CRAFTSMEN, OHIO)	
KENTUCKY ADMINISTRATIVE DISTRICT)	
COUNCIL, LOCAL NO.18)	
Intervenor)	

**UNOPPOSED MOTION OF THE NATIONAL LABOR RELATIONS
BOARD TO EXTEND THE STAY OF PROCEEDINGS FOR 60 DAYS**

The National Labor Relations Board (the Board) respectfully moves the Court to extend its stay of proceedings for 60 days to allow for the continuance of ongoing settlement negotiations. This Court, on its own motion, previously stayed proceedings “pending further order of the court,” and “directed parties to submit motions to guide further proceedings within 30 days” of the Supreme Court’s then-pending decision in *NLRB v. SW General, Inc.*, 580 U.S. ____, 2017 WL 1050977 (March 21, 2017) (affirming this Court’s holding in *SW General, Inc. v. NLRB*, 796 F.3d 67 (D.C. Cir. 2015), that then-Acting General Counsel Lafe Solomon lacked authority to issue the complaint underlying that case because he was serving

in violation of the Federal Vacancies Reform Act, 5 U.S.C. §§3345 et seq.). In accord with the Court's order, the Board submits the following motion.

1. On October 27, 2016, the Board issued its Decision and Order against The Ardit Company (the Company), which is reported at 364 NLRB No. 130, finding that the Company committed several unfair labor practices, including unilaterally implementing new terms and conditions of employment, unilaterally laying off employees, and refusing to respond to information requests. On November 3, the Company filed a petition for review of the Board's Order. The International Union of Bricklayers & Allied Craftworkers, Ohio Kentucky Administrative District Council, Local No. 18 (the Union) moved to intervene on December 2, and the Court granted that motion.

2. On December 13, 2016, the Board moved to extend the time to file the certified list until January 23, 2017. The Court granted the Board's motion on January 6.

3. On January 9, 2017, the Court, on its own motion, placed this case in abeyance and instructed the parties to file motions governing further proceedings within 30 days of the Supreme Court's decision in *SW General*, which ultimately issued on March 21, 2017.¹

¹ Acting General Counsel Solomon issued the original complaint in this case. On October 23, 2015, General Counsel Richard F. Griffin, Jr. issued a Notice of Ratification, wherein he ratified the issuance and continued prosecution of that

4. As noted, this case involves, in part, certain unilateral changes that the Company made to its employees' terms and conditions of employment, including cessation of pension-fund contributions. The Company, the Union, and the Trustees of the affected pension funds (the Funds) affiliated with the Union are currently parties to a pending Sixth Circuit case, *Trustees of Ohio Bricklayers, et al v. Norma Martina, et al*, Case No. 16-3312, which involves the similar issue of whether the Company lawfully ceased contributing to the Funds. The Company, the Union, and the Funds' Trustees are engaged in settlement negotiations facilitated by the Sixth Circuit's mediation program, and the Board has joined those mediation proceedings.

5. The parties seek to reach a global settlement that encompasses both the pending appeal in this Court and the related, ongoing dispute in the Sixth Circuit. The parties need additional time to continue settlement negotiations.

6. Ryan Hymore, counsel for the Union, and Aaron Tulencik, counsel for the Company, have informed Board counsel that their respective clients agree with the relief sought in this motion.

complaint, prompting the Company to file an Objection to the Notice of Ratification with the Board.

WHEREFORE, the Board respectfully requests that the Court continue its stay of proceedings in this case for 60 days so that the parties can continue settlement negotiations.

Respectfully submitted,

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, D.C. 20570
(202) 273-2960

Date at Washington, D. C.
this 14th day of April 2017

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Intervenor)	

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d)(2), the Board certifies that this motion contains 620 words of proportionally-spaced, 14-point type, and 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 20570-0001
(202) 273-2960

Dated at Washington, DC
this 14th day of April, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 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, and the document will be served via the CM/ECF system on all counsel, who are registered CM/ECF users.

/s/ Linda Dreeben
Linda Dreeben
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NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, D.C. 20570
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Dated at Washington, D.C.
this 14th day of April 2017