

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

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<b>OMNI COMMERCIAL LIGHTING, INC.</b>	)	
	)	<b>Case Nos.</b>
<b>Petitioner/Cross-Respondent</b>	)	<b>16-3378 &amp; 16-3605</b>
	)	
<b>v.</b>	)	
	)	
<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
	)	
<b>Respondent/Cross-Petitioner</b>	)	
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**UNOPPOSED JOINT MOTION OF THE PARTIES TO DISMISS THE  
PETITION FOR REVIEW WITH PREJUDICE, AND THE CROSS-  
APPLICATION FOR ENFORCEMENT WITHOUT PREJUDICE**

Pursuant to Fed. R. App. P. 42(b), the National Labor Relations Board (“the Board”), and Omni Commercial Lighting, Inc. (“the Company”), by their respective counsel, jointly move this Court to dismiss the petition for review, with prejudice, and the cross-application for enforcement, without prejudice. In support of their motion, the parties show as follows:

1. On July 19, 2016, the Board issued its Decision and Order against the Company, which is reported at 364 NLRB No. 54.
2. On September 8, 2016, the Company filed a petition for review of that decision, which the Court docketed as case number 16-3378. On October 4, the Board filed a cross-application for enforcement of its decision, which the Court

docketed as case number 16-3605. The Court subsequently consolidated the cases for briefing and disposition.

3. On January 11, 2017, the Court suspended briefing pursuant to Circuit Rule 33.

4. During all stages of appellate litigation, the parties diligently sought to resolve the case without further litigation and the costs associated with such litigation. The parties have reached final agreement and the Company has satisfied the required settlement obligations, dispensing with the necessity of further litigation.

5. The Company has therefore agreed to dismiss its petition for review with prejudice. Accordingly, the parties jointly request that the Court dismiss the petition for review in case number 16-3378 with prejudice.

6. The Company has further agreed that the Board's cross-application for enforcement should be dismissed without prejudice to the Board's right to file a future application for enforcement of its Order in the event the Company fails to comply with the Order and with the terms of settlement. *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).

Accordingly, the parties jointly request that the Court dismiss the Board's cross-application for enforcement in case number 16-3605 without prejudice

7. Each party is to bear its own costs.

8. Scott A. Gore, counsel for the Company, has authorized counsel for the Board to file this joint motion on the Company's behalf.

WHEREFORE, the parties respectfully request that the Court enter an order dismissing with prejudice the Company's petition for review, and dismissing without prejudice the Board's cross-application for enforcement of its Order.

Respectfully submitted,

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

/s/ Scott A. Gore  
Scott A. Gore  
Laner Munchin, Ltd.  
515 N. State Street  
Chicago, Illinois 60654  
*Counsel for the Company*

Dated: April 17, 2017

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<b>Respondent/Cross-Petitioner</b>	)	
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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its motion contains 535 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2010.

/s/ Linda Dreeben  
Linda Dreeben  
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National Labor Relations Board  
1015 Half Street, SE  
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(202) 273-2960

Dated at Washington, DC  
this 17th day of April, 2017

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<b>NATIONAL LABOR RELATIONS BOARD</b>	)	<b>Board Case Nos.</b>
	)	<b>13-CA-134425</b>
<b>Respondent/Cross-Petitioner</b>	)	<b>13-CB-135163</b>
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 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 by using the CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ Linda Dreeben  
Linda Dreeben  
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1015 Half Street, SE  
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Dated at Washington, DC  
this 17th day of April, 2017