

MOTION INFORMATION STATEMENT

Docket Number(s): 17-1482 Caption [use short title] \_\_\_\_\_

Motion for: Enforcement of an order of the NLRB NLRB v. Stein Industries, Inc.  
upon stipulation of the parties for consent  
judgement

Set forth below precise, complete statement of relief sought:

The parties have agreed to a stipulation and  
unopposed motion requesting that the Court  
enter a consent judgment enforcing the Board's  
order in full. A copy of the proposed consent  
judgment is attached to the motion.

MOVING PARTY: NLRB  
 Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

OPPOSING PARTY: Stein Industries, Inc.

MOVING ATTORNEY: Linda Dreeben  
[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Alan B. Pearl

National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570

Silverman Acampora LLP  
100 Jericho Quadrangle, Suite 300  
Jericho, NY 11753

Court-Judge/Agency appealed from: NLRB

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):  
 Yes  No (explain): \_\_\_\_\_

Opposing counsel's position on motion:  
 Unopposed  Opposed  Don't Know

Does opposing counsel intend to file a response:  
 Yes  No  Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?  Yes  No  
Has this relief been previously sought in this Court?  Yes  No  
Requested return date and explanation of emergency: \_\_\_\_\_

Is oral argument on motion requested?  Yes  No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?  Yes  No If yes, enter date: \_\_\_\_\_

Signature of Moving Attorney: /s/Linda Dreeben Date: 07/18/2017

Service by:  CM/ECF  Other [Attach proof of service]

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

<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
<b>Petitioner</b>	)	
<b>and</b>	)	<b>No. 17-1482</b>
	)	
<b>NEW YORK CITY &amp; VICINITY DISTRICT</b>	)	
<b>COUNCIL OF CARPENTERS</b>	)	
<b>Intervenor</b>	)	
	)	<b>Board Case No.</b>
<b>v.</b>	)	<b>29-CA-134711</b>
	)	
<b>STEIN INDUSTRIES, INC.</b>	)	
<b>Respondent</b>	)	

**UNOPPOSED MOTION FOR ENFORCEMENT OF AN ORDER OF  
THE NATIONAL LABOR RELATIONS BOARD  
UPON STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT**

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

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves the Court for entry of consent judgment in the above-captioned case. The Board and Stein Industries, Inc. (“the Company”) have stipulated to the entry of a consent judgment, which intervenor New York City & Vicinity District Council of Carpenters (“the Union”) does not oppose. In support of its motion, the Board shows as follows:

1. On February 10, 2017, the Board issued its Decision and Order against the Company, which is reported at 365 NLRB No. 31.

2. On May 5, 2017, the Board filed with this Court its application for enforcement of that Order, which the Court docketed as case number 17-1482.

3. As part of the resolution of the case, the parties have agreed to entry of a consent judgment in the above-captioned case, which will obviate the need for any further proceedings in this matter.

4. Each party is to bear its own costs.

WHEREFORE, the Board again respectfully requests that its motion be granted, and that the Court enter a consent judgment enforcing the Board's Order in full. A copy of the proposed consent judgment is attached.

Respectfully submitted,

/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 18th day of July, 2017

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

<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
<b>Petitioner</b>	)	
<b>and</b>	)	<b>No. 17-1482</b>
	)	
<b>NEW YORK CITY &amp; VICINITY DISTRICT</b>	)	
<b>COUNCIL OF CARPENTERS</b>	)	
<b>Intervenor</b>	)	
	)	<b>Board Case No.</b>
<b>v.</b>	)	<b>29-CA-134711</b>
	)	
<b>STEIN INDUSTRIES, INC.</b>	)	
<b>Respondent</b>	)	

**STIPULATION FOR ENTRY OF CONSENT JUDGMENT**

Subject to the approval of the Court, the National Labor Relations Board (“the Board”) and Stein Industries, Inc. (“the Company”), hereby stipulate and agree that:

1. On February 10, 2017, the Board issued its Decision and Order against the Company, which is reported at 365 NLRB No. 31. On May 5, 2017, the Board filed an application for enforcement of that Order, which the Court docketed as case number 17-1482.

2. As part of a resolution of the case, the parties have agreed to the entry of a consent judgment in the above-captioned case, which will obviate the need for any further proceedings in this matter. (See attached consent judgment and Appendix.)

3. Counsel for the Company, Alan B. Pearl, and counsel for intervenor New York City & Vicinity District Council of Carpenters, Lydia Sigelakis, have consented to the Board providing their signatures below.

Dated at Washington, DC  
this 18th day of July, 2017

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

Dated at Jericho, NY  
this 18th day of July, 2017

/s/ Alan B. Pearl  
Alan B. Pearl  
Silverman Acampora LLP  
100 Jericho Quadrangle, Suite 300  
Jericho, NY 11753  
*Counsel for the Company*

Dated at New York, NY  
this 18th day of July, 2017

/s/ Lydia Sigelakis  
Lydia Sigelakis  
Spivak Lipton LLP  
1700 Broadway, 21st Floor  
New York, NY 10019  
*Counsel for the Intervenor*

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	
	:	Nos. 17-1482
NEW YORK CITY AND VICINITY DISTRICT	:	
COUNCIL OF CARPENTERS,	:	
	:	Board Case No.:
Intervenor	:	29-CA-134711
v.	:	
	:	
STEIN INDUSTRIES, INC.	:	
	:	
Respondent	:	

CONSENT JUDGMENT

THIS CAUSE came to be heard upon an application by the National Labor Relations Board for enforcement of its Order issued on February 10, 2017, against Stein Industries, Inc., in Board Case No. 29-CA-134711, reported at 365 NLRB No. 31, and the parties having advised this Court of their desire to dispose of this matter by entry of a consent judgment enforcing the Board's Order;

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the said Order of the National Labor Relations Board be, and the same is hereby, enforced; and that the Respondent, Stein Industries, Inc., its officers, agents, successors, and assigns, abide by and perform the directions of the Board as set forth in its Order. (See attached Order and Appendix).

Mandate shall issue forthwith

FOR THE COURT:

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NATIONAL LABOR RELATIONS BOARD

v.

STEIN INDUSTRIES, INC.

**ORDER**

Stein Industries, Inc., Amityville, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Failing and refusing to bargain in good faith over the terms and conditions of a successor collective-bargaining agreement with New York City and Vicinity District Council of Carpenters (the Union) as the exclusive collective-bargaining representative of the employees in the following unit:

All foremen, journeymen mechanics, carpenters, bench hands, machine men, cabinet makers, model makers, sprayers, varnishers, wood finishers, wood carvers, and turners, kalamein men, apprentices, helpers, unskilled and semi-skilled production workers, metal workers and all other employees doing production and maintenance work, except a caretaker of a building.

- (b) Making unilateral changes in its unit employees' terms and conditions of employment without first bargaining with the Union to impasse.
- (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All foremen, journeymen mechanics, carpenters, bench hands, machine men, cabinet makers, model makers, sprayers, varnishers, wood finishers, wood carvers, and turners, kalamein men, apprentices, helpers,

unskilled and semi-skilled production workers, metal workers and all other employees doing production and maintenance work, except a caretaker of a building.

- (b) On request, cancel and rescind all terms and conditions of employment which it unlawfully implemented or unlawfully eliminated on and after July 8, 2014, but nothing in this Order is to be construed as requiring the Respondent to cancel any unilateral changes that benefited the unit employees without a request from the Union.
- (c) At the Union's request, restore to unit employees the terms and conditions of employment that were applicable prior to July 8, 2014, and continue them in effect until the parties either reach an agreement or a good-faith impasse in bargaining.
- (d) Make whole the unit employees for any losses suffered by reason of the unlawful unilateral changes in terms and conditions of employment, on and after July 8, 2014, with interest, in the manner set forth in the remedy section of the decision.
- (e) Compensate affected employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years for each affected employee.
- (f) Make all contractually-required contributions to fringe benefit funds that it has failed to make since about July 8, 2014, if any, and reimburse affected employees for any expenses ensuing from its failure to make the required payments, with interest, as set forth in the remedy section of the decision.
- (g) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (h) Within 14 days after service by the Region, post at its Amityville, New York facility copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 29,

after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 8, 2014.

- (i) Within 21 days after service by the Region, file with the Regional Director for Region 29 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

## APPENDIX

### NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES  
COURT OF APPEALS ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities

WE WILL NOT fail and refuse to bargain in good faith over the terms and conditions of a successor collective-bargaining agreement with New York City and Vicinity District Council of Carpenters (the Union) as the exclusive collective-bargaining representative of the employees in the following unit:

All foremen, journeymen mechanics, carpenters, bench hands, machine men, cabinet makers, model makers, sprayers, varnishers, wood finishers, wood carvers, and turners, kalamein men, apprentices, helpers, unskilled and semi-skilled production workers, metal workers and all other employees doing production and maintenance work, except a caretaker of a building.

WE WILL NOT make unilateral changes in your terms and conditions of employment without first bargaining with the Union to impasse.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights described above.

WE WILL, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All foremen, journeymen mechanics, carpenters, bench hands, machine men, cabinet makers, model makers, sprayers, varnishers, wood finishers, wood carvers, and turners, kalamein men, apprentices, helpers, unskilled and semi-skilled production workers, metal workers and all other employees doing production and maintenance work, except a caretaker of a building.

WE WILL, on request, cancel and rescind all terms and conditions of employment which we unlawfully implemented or unlawfully eliminated on and after July 8, 2014, but nothing in this Order is to be construed as requiring us to cancel any unilateral changes that benefited you without a request from the Union.

WE WILL, at the Union's request, restore to unit employees the terms and conditions of employment that were applicable prior to July 8, 2014, and continue them in effect until the parties either reach an agreement or a good-faith impasse in bargaining.

WE WILL make you whole for any losses suffered by reason of the unlawful unilateral changes in terms and conditions of employment, on and after July 8, 2014, with interest.

WE WILL compensate you for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years for each affected employee.

WE WILL make all contractually-required contributions to fringe benefit funds that we have failed to make since about July 8, 2014, if any, and reimburse you, with interest, for any expenses ensuing from our failure to make the required payments.

STEIN INDUSTRIES, INC.

The Administrative Law Judge's decision can be found at [www.nlr.gov/case/29-CA-134711](http://www.nlr.gov/case/29-CA-134711) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



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

<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
<b>Petitioner</b>	)	
<b>and</b>	)	<b>No. 17-1482</b>
	)	
<b>NEW YORK CITY &amp; VICINITY DISTRICT</b>	)	
<b>COUNCIL OF CARPENTERS</b>	)	
<b>Intervenor</b>	)	
	)	<b>Board Case No.</b>
<b>v.</b>	)	<b>29-CA-134711</b>
	)	
<b>STEIN INDUSTRIES, INC.</b>	)	
<b>Respondent</b>	)	

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Procedure 32(g)(1), the Board certifies that its motion contains 195 words of proportionally-spaced, 14-point type, and that 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 18th day of July, 2017

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

<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
<b>Petitioner</b>	)	
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	)	
<b>STEIN INDUSTRIES, INC.</b>	)	
<b>Respondent</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2017, I electronically filed the foregoing document with the Clerk of the Court of the United States Court of Appeals for the Second 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.

Dated at Washington, DC  
this 18th day of July, 2017

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