



UNITED STATES GOVERNMENT

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, D.C. 20570

July 27, 2017

Gino J. Agnello, Esquire  
Clerk, United States Court of  
Appeals for the Seventh Circuit  
Everett McKinley Dirksen Courthouse  
219 South Dearborn Street, Rm. 2722  
Chicago, IL 60604

Re: *NLRB v. Perkins Management Services  
Company*, Board Case No. 13-CA-173696

Dear Mr. Agnello:

I am enclosing the Board's application for summary entry of a judgment enforcing the Board's order in this case, and copies of a proposed judgment.

Please serve a copy of the application on Respondent, whose address appears on the service list. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/Linda Dreeben

Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1015 Half St., S.E.  
Washington, D.C. 20570  
(202) 273-2960

## SERVICE SHEET

### RESPONDENT:

Tonya Ford  
Perkins Management Services  
7730 England St., Ste A  
Charlotte, NC 28273-5919

Phone: (704) 372-3439  
Email: [tonya@perkinsusa.com](mailto:tonya@perkinsusa.com)

### CHARGING PARTY:

Courtney Smith  
UNITE HERE Local 1  
218 South Wabash St., Ste 700  
Chicago, IL 60604-2449

Phone: (773) 610-2423  
Email: [csmith@unitehere1.org](mailto:csmith@unitehere1.org)

### REGIONAL DIRECTOR:

Peter Sung Ohr, Regional Director  
National Labor Relations Board  
The Rookery Building  
209 South LaSalle Street, Suite 900  
Chicago, IL 60604-52008

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	)	
	)	
Petitioner	)	No.
v.	)	
	)	Board Case No.:
PERKINS MANAGEMENT SERVICES COMPANY	)	13-CA-173696
	)	
Respondent	)	

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APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT  
ENFORCING AN ORDER OF  
THE NATIONAL LABOR RELATIONS BOARD

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

The National Labor Relations Board, pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against Perkins Management Services Company (“Respondent”). The Board is entitled to summary enforcement of its order because Respondent failed to respond to the Board’s Notice to Show Cause and the Board entered an order by default. In support, the Board shows:

**A. Jurisdiction of this Court**

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the unfair labor

practices occurred in Illinois. The Board's final order issued on June 5, 2017, and is reported at 365 NLRB No. 90.

## **B. Proceedings Before the Board**

1. A charge and an amended charge were filed by Unite Here Local 1 (the Union) on April 8 and July 27, 2016, respectively, alleging that Respondent violated Sections 8(a)(5) and (1) of the Act. Subsequently the parties entered into an informal settlement agreement which was approved by the Regional Director for Region 13 on August 2, 2016. Pursuant to the terms of the settlement agreement, the Respondent agreed, among other things, to bargain with the Union, provide monthly summaries regarding the parties' bargaining progress, provide the information the union requested and post appropriate notices in English and Spanish.

2. By letter dated August 5, 2016, the Region's compliance officer sent the Respondent a copy of the conformed settlement agreement, with a cover letter advising the Respondent to take the steps necessary to comply with it.

3. The settlement agreement contained the following provision:

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a Complaint that includes the allegations covered by the Notice to Employees, as

identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the General Counsel would ordinarily plead to establish the unfair labor practices. Thereafter, the General Counsel may file a Motion for Default Judgment with the Board on the allegations of the Complaint. The Charged Party understands and agrees that all of the allegations of the Complaint will be deemed admitted and that it will have waived its right to file an Answer to such Complaint. The only issue that the Charged Party may raise before the Board will be whether it defaulted on the terms of this Settlement Agreement. The General Counsel may seek, and the Board may impose, a full remedy for each unfair labor practice identified in the Notice to Employees. The Board may then, without necessity of trial or any other proceeding, find all allegations of the Complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an Order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board Order ex parte, after service or attempted service upon Charged Party at the last address provided to the General Counsel.

4. By email dated November 4, 2016, the compliance officer notified the Respondent of deficiencies in its performance of the agreement and stated that, unless it fully complied with the terms of the settlement agreement within 14 days, the Region would issue a complaint and file a motion for default judgment with the Board. Respondent's email response of November 17, 2016, assured the Region that it intended to provide the requested information. By emails of November 28, 2016 and February 21, 2017 the compliance officer continued to notify Respondent of deficiencies in its performance and requested that Respondent comply with the

settlement agreement.

5. By email dated February 28, 2017, the compliance officer informed the Respondent that if it has not fully complied with the settlement agreement by March 14, 2017, he would recommend that the Regional Director issue a complaint and file a motion for default judgment with the Board.

6. The Respondent failed to comply.

7. Pursuant to the noncompliance provisions of the settlement agreement, on March 28, 2017, the Acting Regional Director issued a Complaint Based on Breach of Affirmative Provisions of Settlement Agreement (the complaint). On March 29, 2017, the General Counsel filed a Motion for Default Judgment with the Board.

8. By order dated March 30, 2017, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until April 13, 2017, to file with the Board in Washington, D.C., a response to the Motion for Default Judgment

9. Respondent did not respond. Accordingly, the allegations in the motion were undisputed.

10. In the absence of a response and pursuant to the noncompliance provisions of the settlement agreement, on June 5, 2017, the Board issued its

Decision and Order granting the Motion for Default Judgment and entering an appropriate order against Respondent.

### **C. The Board Is Entitled to Summary Enforcement of Its Order**

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Respondent did not dispute before the Board that it breached its settlement agreement. Therefore Respondent cannot dispute before this Court the Board's finding that it breached the settlement agreement. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court of appeals "unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances." Interpreting that requirement, courts have consistently held that a respondent's failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary enforcement of its order. *See, e.g., NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 830 (9th Cir. 1991); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973). No such circumstances have been alleged or shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondent, enter judgment summarily enforcing the Board's order in full. A proposed judgment is attached.

/s/Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half St., S.E.  
Washington, D.C. 20570

Dated in Washington, D.C.  
this 27th day of July, 2017

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	)	
	)	
Petitioner	)	No.
v.	)	
	)	Board Case No.:
PERKINS MANAGEMENT SERVICES COMPANY	)	13-CA-173696
	)	
Respondent	)	

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JUDGMENT ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Perkins Management Services Company, its officers, agents, successors, and assigns, enforcing its order dated June 5, 2017, in Case No. 13-CA-173696, reported at 365 NLRB No. 90, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Perkins Management Services Company, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order).

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Judge, United States Court of  
Appeals for the Seventh Circuit

# NATIONAL LABOR RELATIONS BOARD

v.

## PERKINS MANAGEMENT SERVICES COMPANY

### **ORDER**

Perkins Management Services Company, Chicago, Illinois, its officers, agents, successors, and assigns, shall take the following affirmative action necessary to effectuate the policies of the Act.

1. Provide monthly summaries regarding the progress of bargaining to the Compliance Officer of Region 13.
2. Furnish to the Union in a timely manner the information requested by the Union on July 7 and September 29, 2015 that it has not already provided, specifically the information set forth above in paragraph 3 (ii)–(v), (vii)–(xii), and (xxi)–(xxvi) of this Decision.
3. Within 21 days after service by the Region, file with the Regional Director for Region 13 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.

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	)	
	)	
Petitioner	)	No.
v.	)	
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PERKINS MANAGEMENT SERVICES COMPANY	)	13-CA-173696
	)	
Respondent	)	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment and proposed judgment, in the above-captioned case, has this day been served by first class mail upon the following party at the address listed below.

Tonya Ford  
Perkins Management Services  
7730 England St., Ste A  
Charlotte, NC 28273-5919

/s/Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half St., S.E.  
Washington, D.C. 20570

Dated at Washington, D.C.  
this 27th day of July, 2017