

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

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	No. 17-71472
)	
v.)	Board Case No.
)	19-CB-009660
UNITED FOOD AND COMMERCIAL)	
WORKERS UNION LOCAL 4 AFFILIATED)	
WITH UNITED FOOD AND COMMERCIAL)	
WORKERS UNION)	
)	
Respondent)	

**JOINT AND UNOPPOSED MOTION TO VOLUNTARILY DISMISS,
WITHOUT PREJUDICE, THE NATIONAL LABOR RELATIONS
BOARD’S APPLICATION FOR ENFORCEMENT**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), the National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, and United Food and Commercial Workers Union Local 4 (“the Union”), respectfully move to voluntarily dismiss, without prejudice, the Board’s application for enforcement.

1. On May 22, 2017, the Board filed an application for enforcement of its February 22, 2016 Order against the Union, reported at 363 NLRB No. 127, as amended by its Order issued on February 13, 2017, reported at 365 NLRB No. 32.

2. The Board and the Union have reached a resolution of this dispute which dispenses with the need for further litigation.

3. The Board and the Union, therefore, now move to dismiss the Board's application for enforcement, without prejudice to the Board's right to file a future application for enforcement, if necessary, to enforce the "continuing obligation" imposed on the Union by the Board's Order. *See NLRB v. Mexia Textile Mills*, 339 U.S. 563, 567 (1950) (a party's compliance does not deprive the Board of the right to secure enforcement of its order from an appropriate court because "a Board order imposes a continuing obligation" and "the Board is entitled to have [any] resumption of the unfair practice barred by an enforcement decree"). *Accord NLRB v. Raytheon Co.*, 398 U.S. 25, 27-28 (1970).

4. The parties agree that each party is to bear its own costs.

5. David Rosenfeld, counsel for the Union, consents to this motion and has given the Board permission to sign this motion on his behalf.

WHEREFORE, the Board and the Union respectfully request that this motion be granted and that the Board's application for enforcement against the Union be dismissed without prejudice.

Respectfully submitted,

/s/Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
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(202) 273-2960

/s/David A. Rosenfeld
David A. Rosenfeld
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1001 Marina Village Parkway
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(510) 337-1001

Dated at Washington, DC
this 30th day of October 2017

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that the foregoing motion contains 299 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
(202) 273-2960

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2017, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth 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
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

Dated at Washington, DC
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