

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

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NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	
)	
v.)	No. 17-2617
)	
TRANS-ED, INC.)	
)	
Respondent)	
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**MOTION TO WITHDRAW MOTION FOR ENTRY OF DEFAULT AND
TO DISMISS WITHOUT PREJUDICE
THE BOARD’S APPLICATION FOR ENFORCEMENT**

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

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, moves to withdraw the Board’s motion for entry of default judgment and to dismiss without prejudice its application for enforcement in the above-captioned case, and shows:

1. On July 24, 2017, the National Labor Relations Board filed an application for the enforcement of its February 6, 2017 Decision and Order issued against the Company and reported at 365 NLRB No. 25.
2. As of October 11, 2017, no attorney had appeared on behalf of the Company, and the Company had not answered the Board’s application for

enforcement. On that day, the Board filed a motion requesting that the Court enter a default judgment enforcing the Board's Order in full.

3. Since that time, the parties have resolved this case through settlement negotiations, obviating the necessity for further litigation.

4. As part of their settlement, the Board has agreed to dismiss its application for enforcement of its Order without prejudice to its right to file a future application to enforce, should the Company fail to continue its compliance with the prospective relief in the Board's Order. *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 labor 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).

5. Accordingly, the Board requests that the Court dismiss without prejudice the Board's application for enforcement, and further moves to withdraw its earlier motion for entry of default judgment.

WHEREFORE, the Board respectfully moves to withdraw its motion for entry of default and requests that its application for enforcement, previously filed herein, be dismissed without prejudice.

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

Dated at Washington, DC
this 10th day of January, 2018

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 27(d)(2)(A) and 32(g)(1), the Board certifies that its motion contains 350 words of proportionally spaced, 14-point type, 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
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CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2018, I electronically filed the foregoing document with Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the 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
this 10th day of January, 2018