

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

<b>VERONICA'S AUTO INSURANCE</b>	)	
<b>SERVICES, INC.</b>	)	
	)	
<b>Petitioner/Cross-Respondent</b>	)	
	)	
<b>v.</b>	)	<b>Nos. 16-1180, 16-1190,</b>
	)	<b>16-1260</b>
<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
	)	
<b>Respondent/Cross-Petitioner</b>	)	
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	)	
<b>ADRIANNA'S INSURANCE SERVICES, INC.</b>	)	
	)	
<b>and</b>	)	
	)	
<b>JUST AUTO INSURANCE SERVICES, INC.</b>	)	
	)	
<b>Petitioners/Cross-Respondents</b>	)	
	)	
<b>v.</b>	)	
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<b>NATIONAL LABOR RELATIONS BOARD</b>	)	
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**MOTION OF THE NATIONAL LABOR RELATIONS BOARD TO  
REMOVE THIS CASE FROM ABEYANCE AND SUMMARILY GRANT  
THE COMPANY'S PETITION FOR REVIEW AND DENY THE BOARD'S  
CROSS-APPLICATION FOR ENFORCEMENT OF ITS ORDER**

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

The National Labor Relations Board, by its Deputy Associate General Counsel, respectfully moves this Court to remove this case from abeyance and summarily grant the Companies' petitions for review and deny the Board's cross-application for enforcement, pursuant to the Supreme Court's decision in *Epic Systems Corp. v. Lewis*, No. 16-285, 2018 WL 2292444 (U.S. May 21, 2018). In support of this motion, the Board shows:

1. In the Decision and Order under review, the Board found that Adriana's Insurance Services, Inc., Just Auto Insurance Services, Inc., and Veronica's Auto Insurance Services, Inc. ("the Companies") had violated the National Labor Relations Act by maintaining and enforcing an arbitration agreement barring employees from concertedly pursuing work-related claims in any forum, arbitral or judicial. 364 NLRB No. 17, 2016 WL 3085828, at \*1 & n.4 (May 31, 2016). In doing so, the Board applied its rule set forth in *Murphy Oil, USA, Inc.*, 361 NLRB 774 (2014), *enforcement denied in relevant part*, 808 F.3d 1013 (5th Cir. 2015), *cert. granted*, No. 16-307 (Jan. 13, 2017). Each of the Companies petitioned for review of the Board's Order.

2. On September 16, 2016, the Court placed this case in abeyance pending the latter of this court's decision in *Price-Simms, Inc. v. NLRB*, D.C. Cir. No. 15-1457, or the Supreme Court's decision in *SW General Inc. v. NLRB*, 796 F.3d 67 (D.C. Cir. 2015), *cert. granted*, No. 15-1457 (June 20, 2016). *Price-*

*Simms* also involves the review of a Board Order finding that an employer violates the Act by maintaining an agreement barring employees from concertedly pursuing work-related claims in any forum, arbitral or judicial. The Court subsequently placed *Price-Simms* in abeyance pending the Supreme Court's decision in *Murphy Oil*.

3. On May 21, 2018, the Supreme Court issued its decision in *Epic Systems*, *Murphy Oil*, and *Ernst & Young v. Morris*, No. 16-300, holding that employers may lawfully maintain arbitration agreements that bar employees from concertedly pursuing work-related legal claims. The Board acknowledges that under that decision, the Decision and Order in this case is no longer enforceable. For the same reason, the Board filed a motion in *Price-Simms* on May 22, 2018, asking the Court to remove that case from abeyance and summarily grant the employer's petition for review and deny the Board's cross-application for enforcement. The Board therefore consents to the summary grant of the Companies' petitions for review, and the summary denial of the Board's cross-application for enforcement, of the Board's Order.<sup>1</sup>

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<sup>1</sup> In *NLRB v. SW Gen., Inc.*, 137 S. Ct. 929 (Mar. 21, 2017), the Court held that the Board's Acting General Counsel served in violation of the Federal Vacancies Reform Act, 5 U.S.C. § 3345 et seq. The Companies, in their motion to stay this case, argued that this case implicated both *Price-Simms* and *SW General*. Because the Board acknowledges that its order is invalid under *Epic Systems*, it has not addressed the Companies' assertion that its Order is also called into question by *SW General*.

WHEREFORE, the Board respectfully moves this Court to remove this case from abeyance, and summarily grant the Companies' petitions for review and deny the Board's cross-application for enforcement of the Board's Order.

Respectfully submitted,

/s/Linda Dreeben

Linda Dreeben  
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National Labor Relations Board  
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Dated at Washington, D.C.  
this 1st day of June 2018

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its motion contains 521 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

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**CERTIFICATE OF SERVICE**

I certify that on June 1, 2018, the foregoing motion was filed with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, and that all counsel are registered CM/ECF users.

s/ Linda Dreeben

Linda Dreeben

Deputy Associate General Counsel

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