

Procedure Rule 15(b)(2) states that a respondent must file an answer to an application for enforcement within 21 days of its being filed or “the court *will* enter judgment for the relief requested.” Fed. R. App. P. 15(b) (emphasis added). In the absence of an answer by W.B. Mason, Inc. the Board’s application shall be granted.

3. On June 15, 2018, the Court issued an Order citing Fed. R. App. P. 17(a), “The agency must file the record with the circuit clerk within 40 days after being served with a petition for review” and directing that the Board file the record on or before July 16, 2018. The order goes on to state: “A briefing schedule will be set once the administrative record is complete.”

4. Under Federal Rule of Appellate Procedure 17(a), the Board is relieved from filing the record with the Court when the respondent fails to file an answer to the Board’s application for enforcement. *See* Fed. R. App. P. 17(a) (“The agency must file the record with the circuit clerk within 40 days . . . *unless* the respondent fails to answer”) (emphasis added). *See also* Fed. R. App. P. 17(a) advisory committee’s note (“Forty days are allowed in order to avoid useless preparation of the record or certified list in cases where the application for enforcement is not contested.”).

5. Given the basis set forth in the Board’s application for summary entry of a judgment in this case, and considering W.B. Mason, Inc.’s failure to respond to

the Court and provide an answer, there are no issues before the Court which would necessitate setting a briefing schedule.

WHEREFORE, in order to conserve the resources and time of both the Court and the Board, the Board respectfully requests that the Court vacate its order directing the filing of the record and grant its application for enforcement of the Board's order.

/s/ Linda Dreeben

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this 20th day of June, 2018

