

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 19 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AUTOMOTIVE MACHINISTS LODGE
NO. 1173, INTERNATIONAL
ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS,

Petitioner,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent.

No. 16-70637

NLRB No. 32-CA-066979
National Labor Relations Board

ORDER

FAA CONCORD H., INC., DBA Concord
Honda,

Petitioner,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent.

No. 16-70694

NLRB No. 32-CA-066979

NATIONAL LABOR RELATIONS
BOARD,

Petitioner,

v.

No. 16-71955

NLRB No. 32-CA-066979

FAA CONCORD H., INC., Respondent.
--

Before: TASHIMA, SILVERMAN, and GRABER, Circuit Judges.

On January 24, 2018, this court issued orders staying proceedings in these consolidated petitions pending the issuance of the United States Supreme Court's decisions in *Epic Systems Corp. v. Lewis*, 16-285, *Ernst & Young v. Morris*, 16-300, and *NLRB v. Murphy Oil USA*, 16-307. On May 21, 2018, the Supreme Court issued its decision in the referenced cases ("*Epic Systems*"). Accordingly, the stay orders filed January 24, 2018, are lifted and these consolidated petitions shall proceed.

The National Labor Relations Board's ("NLRB") motion for FAA Concord H, Inc.'s petition for review to be severed in part and vacated and remanded in part, for the NLRB's cross-application for enforcement to be severed in part and vacated and remanded in part, and for Automotive Machinists Lodge No. 1173, International Association Of Machinists And Aerospace Workers's ("Union's") petition for review to be summarily denied (Docket Entry No. 33 in petition No. 16-70694, Docket Entry No. 22 in petition No. 16-71955, and Docket Entry No. 25 in petition No. 16-70637), is granted in part and denied in part.

The court vacates the NLRB's decision and remands petition Nos. 16-70637, 16-70694, and 16-71955, with instructions to consider the Union's alternative legal

theories as to the arbitration agreement, and to give the NLRB's decision such reconsideration as the NLRB deems necessary in light of *Epic Systems*.

VACATED and REMANDED.