

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 18-1087, 18-1169

Caption [use short title]

Motion for: Enforcement of an Order of the National Labor Relations Board Upon Stipulation of the Parties For Consent Judgment

Set forth below precise, complete statement of relief sought: The Board respectfully requests that its motion be granted, and that the Court enter a consent judgment enforcing the Board's Order in full.

East End Bus Lines, Inc. v. NLRB

A copy of the proposed consent judgment is attached to the motion.

MOVING PARTY: National Labor Relations Board

OPPOSING PARTY: East End Bus Lines, Inc., Floyd Bus Company, Inc.

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Linda Dreeben

OPPOSING ATTORNEY: Jedd Mendelson

[name of attorney, with firm, address, phone number and e-mail]

National Labor Relations Board 1015 Half Street, SE, Washington, D.C. 20570 202-273-2960/Linda.Dreeben@nrlrb.gov

Littler Mendelson P.C. 900 Third Avenue, New York, NY 10022 973-848-4758/JMendelson@littler.com

Court- Judge/ Agency appealed from: National Labor Relations Board

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? Has this relief been previously sought in this court? Requested return date and explanation of emergency:

Opposing counsel's position on motion: Unopposed Opposed Don't Know

Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date:

Signature of Moving Attorney:

/s/ Linda Dreeben Date: 8/22/18 Service by: CM/ECF Other [Attach proof of service]

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

EAST END BUS LINES, INC.,)	
FLOYD BUS COMPANY, INC.)	
Petitioners/Cross-Respondents)	Case Nos.
)	18-1087 & 18-1169
v.)	
NATIONAL LABOR RELATIONS BOARD)	Board Case Nos.
)	29-CA-188517
Respondent/Cross-Petitioner)	29-CA-194097
)	

**UNOPPOSED MOTION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD
UPON STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT**

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves this Court for entry of consent judgment in the above-captioned case. The Board, East End Bus Lines, Inc. (“East End”), and Floyd Bus Company, Inc. (“Floyd”), have stipulated to the entry of a consent judgment. In support of its motion, the Board shows as follows:

1. On April 3, 2018, the Board issued its Decision and Order against East End and Floyd, which is reported at 366 NLRB No. 54.
2. On April 13, 2018, East End and Floyd filed a petition for review of that decision, which the Court docketed as case number 18-1087. On April 23, the Board filed a cross-application for enforcement of its decision, which the Court docketed as case number 18-1169.

3. As part of a resolution of the above-captioned case, the parties have agreed to entry of a consent judgment, which will obviate the need for further appellate proceedings in this case.

4. Counsel for East End and Floyd does not oppose the granting of this motion.

5. Each party is to bear its own costs.

WHEREFORE, the Board respectfully requests that its motion be granted, and that the Court enter a consent judgment enforcing the Board's Order in full. A copy of the proposed consent judgment is attached.

Respectfully submitted,

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, D.C. 20570

Dated at Washington, DC
this 22nd day of August, 2018

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

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EAST END BUS LINES, INC.,)	
FLOYD BUS COMPANY, INC.)	
)	Case Nos.
Petitioners/Cross-Respondents)	18-1087 & 18-1169
)	
v.)	
)	Board Case Nos.
NATIONAL LABOR RELATIONS BOARD)	29-CA-188517
)	29-CA-194097
Respondent/Cross-Petitioner)	
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STIPULATION FOR ENTRY OF CONSENT JUDGMENT

Subject to the approval of the Court, the National Labor Relations Board (“the Board”), East End Bus Lines, Inc. (“East End”), and Floyd Bus Company, Inc. (“Floyd”), hereby stipulate and agree that:

1. On April 3, 2018, the Board issued its Decision and Order against East End and Floyd, which is reported at 366 NLRB No. 54. On April 13, 2018, East End and Floyd filed a petition for review of that decision, which the Court docketed as case number 18-1087. On April 23, the Board filed a cross-application for enforcement of its decision, which the Court docketed as case number 18-1169.

2. As part of a resolution of the above-captioned case, the parties have agreed to entry of a consent judgment, which will obviate the need for further appellate proceedings in this case. (*See* attached consent judgment.) In entering into this stipulation, the Board, East End, and Floyd agree that issues relating to

make whole relief under the consent judgment are to be determined in future proceedings, if necessary.

3. Counsel for East End and Floyd, Jedd Mendelson, has consented to the Board providing his signature below.

Dated at Washington, D.C.
this 22nd day of August, 2018

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
Counsel for the Board

Dated at New York, NY
this 22nd day of August, 2018

/s/ Jedd Mendelson
Jedd Mendelson
Littler Mendelson P.C.
900 Third Avenue
New York, NY 10022-3298
*Counsel for East End Bus Lines, Inc.,
and Floyd Bus Company, Inc.*

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

EAST END BUS LINES, INC.,	:	
FLOYD BUS COMPANY, INC.	:	
	:	
Petitioners/Cross-Respondents	:	Nos. 18-1087
	:	18-1169
v.	:	
	:	Board Case Nos.:
NATIONAL LABOR RELATIONS BOARD	:	29-CA-188517
	:	29-CA-194097
Respondent/Cross-Petitioner	:	

CONSENT JUDGMENT

THIS CAUSE came to be heard upon a petition filed by East End Bus Lines, Inc. and Floyd Bus Company, Inc., for review of an Order of the National Labor Relations Board in Board Case Nos. 29-CA-188517 and 29-CA-194097, issued on April 3, 2018, reported at 366 NLRB No. 54, and a cross-petition by the National Labor Relations Board for enforcement of its Order. East End Bus Lines, Inc., Floyd Bus Company, Inc., and the Board having advised this Court of their desire to dispose of this matter by entry of a consent judgment enforcing the Board's Order:

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the said Order of the National Labor Relations Board is hereby enforced and that the Petitioners/Cross-Respondents, East End Bus Lines, Inc. and Floyd Bus Company, Inc., their officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in its Order. (See attached Order.)

Judge, United States Court of Appeals
for the Second Circuit

Judge, United States Court of Appeals
for the Second Circuit

Judge, United States Court of Appeals
for the Second Circuit

EAST END BUS LINES, INC.,
FLOYD BUS COMPANY, INC.

v.

NATIONAL LABOR RELATIONS BOARD

ORDER

Respondent, East End Bus Lines, Inc. and Floyd Bus Company, Inc., a single employer, Medford, New York, its officers, agents, successors, and assigns, shall take the following affirmative actions necessary to effectuate the policies of the Act.

1. Transfer back all bus routes (South Country School District and Longwood School District) that were performed by East End out of the Respondent's Medford yard.
2. Fill East End positions by requiring the Floyd employees to transfer to East End in order of reverse seniority, except for those employees employed by First Student, Inc. immediately prior to working for Floyd.
3. Not reduce the wage rates of any employee transferred from Floyd to East End.
4. Provide the Region with updates on the progress of the transferred work on a weekly basis until completed.
5. On request, rescind any or all changes to employees' terms and conditions of employment that were made without bargaining with the Union and reaching a good faith, valid impasse.
6. On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment:

All full-time and regular part-time drivers, monitors, mechanics, dispatchers, and maintenance workers employed by Respondent at its facility located at 3601 Horseblock Road, Medford, New York, but excluding all other employees, guards, watchmen, office clerical employees, professional employees, confidential employees, and supervisors as defined in Section 2(11) of the Act.

7. Within 21 days after service by the Region, file with the Regional Director for Region 29 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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)	29-CA-194097
Respondent/Cross-Petitioner)	
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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its motion contains 291 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2016.

Dated at Washington, DC
this 22nd day of August, 2018

/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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NATIONAL LABOR RELATIONS BOARD)	29-CA-188517
)	29-CA-194097
Respondent/Cross-Petitioner)	
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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2018, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Second 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
this 22nd day of August, 2018