

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

LABORERS INTERNATIONAL)	
UNION OF NORTH AMERICA,)	
LOCAL UNION NO. 561)	
)	
Petitioner/Cross-Respondent)	
)	
v.)	Nos. 15-2906, 15-3250
)	
NATIONAL LABOR RELATIONS)	
BOARD)	
)	
Respondent/Cross-Petitioner)	
)	
and)	
)	
MICHAEL FEIST)	
)	
Intervenor)	

**JOINT MOTION TO VOLUNTARILY DISMISS,
WITH PREJUDICE, THE PETITION FOR REVIEW
AND TO DISMISS, WITHOUT PREJUDICE,
THE CROSS-APPLICATION FOR ENFORCEMENT**

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

Pursuant to Federal Rule of Appellate Procedure 42(b), Laborers
International Union of North America, Local Union No. 561 (“the Union”), by its
counsel, and the National Labor Relations Board (“the Board”), by its Deputy
Associate General Counsel, respectfully move the Court for leave to voluntarily

dismiss, with prejudice, the Union's petition for review and to dismiss, without prejudice, the Board's cross-application for enforcement in the above-captioned case, and show:

1. On August 20, 2015, the Board issued a Decision and Order (362 NLRB No. 169) ("the Order") against the Union in Board Case No. 25-CB-130081, and against Industrial Contractors Skanska, Inc. ("the Company") in Board Case No. 25-CA-130127.

2. On September 2, 2015, the Union and the Company jointly filed with the Court a petition for review of the Board's Order. The Board cross-applied for enforcement of its Order in full on October 9, 2015 and the Court consolidated the appeals.

3. On August 12, 2016, the Court, granting the joint motion of the Company and the Board, ordered the voluntary dismissal of the petition for review and cross-application for enforcement only with respect to the Company. The appeals remained active with respect to the Union, per the Court's order.

4. Since then, the Union and the Board have sought to resolve these consolidated cases without further litigation or the costs associated with such litigation. The Union and the Board have reached such an agreement.

5. The Union and the Board, therefore, request that this Court dismiss, with prejudice, the Union's petition for review. The Union and the Board also ask that the Court dismiss the Board's cross-application without prejudice to the Board's

right to file a future application for enforcement, if necessary, to enforce the “continuing obligation” imposed on the Union by 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 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).

6. Each side is to bear its own costs.

7. Charles L. Berger, counsel for the Union, has given the Board permission to sign this motion on his behalf.

WHEREFORE, the Union and the Board respectfully request that their joint motion be granted, and that the petition for review be dismissed with prejudice and the cross-application for enforcement be dismissed without prejudice.

Respectfully submitted,

For the Board:

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

Dated: August 14, 2018

For the Union:

/s/ Charles L. Berger
Charles L. Berger
Berger & Berger
Suite 405
4424 Vogel Road
Evansville, IN 47715
(812) 425-8101

Dated: August 14, 2018

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Intervenor)	

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d)(2), the Board certifies that this motion contains 572 words of proportionally-spaced, 14-point type, and 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 20570-0001
(202) 273-2960

Dated at Washington, DC
this 14th day of August 2018

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CERTIFICATE OF SERVICE

I certify that on August 14, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system. I further certify that this document was served on all parties or their counsel of record through the appellate CM/ECF system, with the exception of the following party, who was served via first class mail:

Michael Feist
310 Bob Court Drive
Evansville, IN 47711

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

August 14, 2018