

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

NATIONAL LABOR RELATIONS BOARD,	)	
	)	
Petitioner/Cross-Respondent	)	Case Nos. 19-10524,
	)	19-10752
v.	)	
	)	Board Case No.
MITSUBISHI HITACHI POWER SYSTEMS	)	12-CA-188952
AMERICAS, INC.,	)	
	)	
Respondent/Cross-Petitioner	)	

**UNOPPOSED JOINT MOTION TO DISMISS  
THE BOARD’S APPLICATION FOR ENFORCEMENT  
AND MITSUBISHI’S CROSS-PETITION FOR REVIEW**

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

Pursuant to Federal Rule of Appellate Procedure 42(b) and Eleventh Circuit Rule 42-1(a), the National Labor Relations Board (“the Board”), by its Acting Deputy Associate General Counsel, and Mitsubishi Hitachi Power Systems Americas, Inc. (“Mitsubishi”), by its counsel, jointly move to dismiss the Board’s application for enforcement and Mitsubishi’s cross-petition for review in the above-captioned case, and show:

1. This case is before the Court on the Board's application to enforce, and Mitsubishi's cross-petition to review, a Board Order issued against Mitsubishi on June 18, 2018. *See* 366 NLRB No. 108.

2. The parties hereby notify the Court that pursuant to a settlement, Mitsubishi has complied with the Board's Order in a manner satisfactory to the Board, thus dispensing with the need for further litigation at this time.

3. The parties therefore agree that the Board's application for enforcement should be dismissed without prejudice to the Board's right to file a future application for enforcement of its 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). Accordingly, the parties jointly request that the Court dismiss the Board's application for enforcement in case number 19-10524 without prejudice.

4. The parties further agree that Mitsubishi's cross-petition for review should be dismissed with prejudice. Accordingly, the parties jointly request that the Court dismiss the petition for review in case number 19-10752 with prejudice.

5. Each party is to bear its own fees and costs.

6. Counsel for Mitsubishi, Stacy D. Blank and William deMeza, have authorized Board counsel to file this motion on their behalf.

7. Attached hereto is the Board's Certificate of Interested Persons.

WHEREFORE, Mitsubishi and the Board respectfully request that the Clerk enter an order dismissing the application for enforcement without prejudice and dismissing the cross-petition for review with prejudice.

Respectfully submitted,

s/ Stacy D. Blank

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For Mitsubishi  
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(813) 227-6613

s/ David Habenstreit

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For the Board  
David Habenstreit  
Acting Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
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s/ William deMeza

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For Mitsubishi  
William deMeza  
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Tampa, FL 33602  
(813) 227-6631

Dated at Washington, DC  
this 12th day of September 2019

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	)	
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v.	)	
	)	Board Case No.
MITSUBISHI HITACHI POWER SYSTEMS	)	12-CA-188952
AMERICAS, INC.,	)	
	)	
Respondent/Cross-Petitioner	)	

**AMENDED CERTIFICATE OF INTERESTED PERSONS AND  
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. R. 26.1 and Local Rules 26.1-1 and 26.1-4, the National Labor Relations Board (“the Board”), by its Acting Deputy Associate General Counsel, hereby certifies that the following persons and entities have an interest in the outcome of this case:

1. Blank, Stacy D., Attorney for Respondent
2. Carter, Geoffrey, Administrative Law Judge for Board
3. Cohen, David, Regional Director for Board (Region 12, Tampa)
4. deMeza, Jr., William, Attorney for Respondent
5. Dheenan, Usha, Board Counsel
6. Emanuel, William J., Board Member
7. Habenstreit, David, Acting Deputy Associate General Counsel for Board
8. Holland & Knight LLP, Attorneys for Respondent

9. McFerran, Lauren, Board Member
10. Mendoza Uriol, Jessica, Board Counsel
11. Mitsubishi Hitachi Power Systems America, Inc., Respondent
12. National Labor Relations Board, Petitioner
13. Plympton, John, Counsel for the General Counsel (regional office)
14. Ring, John F., Board Chairman
15. Robb, Peter B., General Counsel for the Board
16. Shahat, Mohamed, Charging Party
- 17. Stock, Alice, Deputy General Counsel for the Board\***
18. Zerby, Christopher, Counsel for the General Counsel (regional office)

Additions to the list of interested persons and entities are indicated in bold and with an asterisk. The following individual, included on the original certification dated February 27, 2019 no longer has an interest in the outcome of this case.

1. Kyle, John, Deputy General Counsel

s/ David Habenstreit

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David Habenstreit  
Acting Deputy Associate General Counsel  
National Labor Relation Board  
1015 Half Street SE  
Washington, DC 20570  
(202) 273-2960

Dated at Washington, DC  
this 12th day of September 2019

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	)	
Respondent/Cross-Petitioner	)	

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its document contains 510 words of proportionally spaced, 14-point type, and that the word processing system used was Microsoft Word 2016.

/s/ David Habenstreit  
David Habenstreit  
Acting Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half St SE  
Washington, DC 20570  
(202) 273-0979

Dated at Washington, D.C.  
this 12th day of September 2019

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	)	
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 12, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system. I certify further that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ David Habenstreit  
David Habenstreit  
Acting Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half St SE  
Washington, DC 20570  
(202) 273-0979

Dated at Washington, D.C.  
this 12th day of September 2019