

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

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	No. 18-2407
)	
v.)	Board Case Nos.
)	29-CA-183238 &
GREEN APPLE SUPERMARKET OF JAMAICA, INC.)	29-CA-188130
)	
Respondent)	

**MOTION OF THE NATIONAL LABOR RELATIONS BOARD TO
DISPENSE WITH ORAL ARGUMENT AND
SUBMIT THE CASE ON THE BRIEFS**

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

The National Labor Relations Board (the Board), by its Assistant General Counsel, respectfully moves the Court to dispense with oral argument in the above-captioned case and to submit the case on the briefs. In support of this motion, the Board shows as follows:

1. The Court has scheduled oral argument, via telephone, in this case to be held on May 13, 2020.

2. This case involves a series of uncontested violations and otherwise waived challenges over which the Court does not have jurisdiction. The sole preserved issue properly before the Court for review is the straight-forward question of whether substantial evidence supports the Board’s finding that Green

Apple Supermarket of Jamaica, Inc. (the Company), committed unfair labor practices by unlawfully disciplining and discharging two employees because of their union activities. The applicable legal principles governing this issue are well-settled and fully set forth in the Board's brief. Accordingly, the Board maintains that disposition of this case does not require oral argument.

3. Moreover, submitting the case on the briefs would avoid the technical difficulty of proceeding with a telephone conference for oral argument. It would also conserve any judicial resources that would otherwise be spent preparing for and attending oral argument.

4. Board counsel contacted David Yan to ascertain the Company's position on this motion but had not heard back by the time of filing.

WHEREFORE, the Board respectfully requests that this Court grant this unopposed motion to dispense with oral argument and to take the case on submission of the briefs.

/s/ David Habenstreit
David Habenstreit
Assistant General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

Dated in Washington, DC
this 10th day of April 2020

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d)(2), the Board certifies that its document contains 357 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2016.

/s/ David Habenstreit
David Habenstreit
Assistant General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street SE
Washington, DC 20570-0001
(202) 273-1714

Dated at Washington, DC
this 10th day of April 2020

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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2020, I electronically filed the foregoing with the Clerk for the Court of the United States Court of Appeals for the Second 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.

/s/ David Habenstreit
David Habenstreit
Assistant General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street SE
Washington, DC 20570-0001
(202) 273-1714

Dated at Washington, DC
this 10th day of April 2020

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): No. 18-2407

Caption [use short title]

Motion for: Dispense with Oral Argument and Submit the Case on the Briefs

Set forth below precise, complete statement of relief sought:

The Board moves to dispense with oral argument in this case and submit the case on the briefs.

MOVING PARTY: National Labor Relations Board

OPPOSING PARTY: Green Apple Supermarkets of Jamaica, Inc.

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: David Habenstreit

OPPOSING ATTORNEY: David Yan

[name of attorney, with firm, address, phone number and e-mail] NLRB, 1015 Half St SE, WDC 20570 202.273.2960

Law Offices of David Yan 136-20 38th Avenue, Suite 11E Flushing, NY 11354 (718) 888-7788

Court- Judge/ Agency appealed from: NLRB

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: May 13, 2020

Signature of Moving Attorney:

/s/ David Habenstriet Date: 4/10/20 Service by: CM/ECF Other [Attach proof of service]