

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MANHATTAN COLLEGE)	
)	
Petitioner/Cross-Respondent)	
)	
v.)	
)	Case Nos. 18-1113,
)	18-1158
NATIONAL LABOR RELATIONS BOARD)	
)	
Respondent /Cross-Petitioner)	
)	
and)	
)	
MANHATTAN COLLEGE ADJUNCT FACULTY UNION and NEW YORK STATE UNITED TEACHERS)	
)	
)	
Intervenors)	

UNOPPOSED JOINT MOTION FOR A 17-DAY EXTENSION OF TIME

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

The National Labor Relations Board and Manhattan College jointly move for a 17-day extension of time—from November 17, 2020, to and including December 4, 2020— to file their responses to Manhattan College Adjunct Faculty Union’s petition for hearing en banc. In support of this motion, we show as follows:

1. On April 27, 2018, the Board issued the underlying Decision and Order in this case, reported at 366 NLRB No. 73. That same day, the College filed a petition for review of the Board’s Decision and Order. On June 6, 2018, the Board

filed a cross-application for enforcement, and the Union intervened on the side of the Board.

2. On June 26, 2018, the Court placed this case in abeyance pending resolution of *Duquesne University v. NLRB*, 947 F.3d 824 (D.C. Cir. 2020).

3. On September 28, 2020, after issuing mandate in *Duquesne*, the Court ordered the parties to file motions to govern the instant case by October 28. On October 26, the Union filed its petition for en banc review in the instant case. On October 28, the College and the Board filed motions to govern asking the Court to grant the petition for review, vacate the Board's Order, and deny the application for enforcement. The Union filed a motion to govern seeking that the court grant its petition for en banc review.

4. On November 2, the Court ordered the College and the Board to file responses to the Union's petition, due November 17. No party previously has requested an extension for filing its response.

5. Counsel for the Board requests a 17-day extension of time until December 4 because of ongoing commitments in other cases and scheduling issues. Elizabeth Heaney, who is the supervisory attorney in this case, was out of the office on pre-approved leave on November 3. Ms. Heaney is also the supervisory attorney on *Mondelez Global, LLC v. NLRB*, 7th Cir. Nos. 20-1616, 20-1701, due November 9. In addition, Heather Beard, the briefing attorney in this case, was out of the office

on November 4, and both Ms. Heaney and Ms. Beard will be out of the office on November 11, which is a federal holiday. Given these circumstances, Board counsel will be unable adequately to review and file its response by November 17. In addition, Ms. Heaney is out of the office on pre-approved leave the week of Thanksgiving, from November 23 through November 27. Given this holiday period, an extension through and including December 4 will provide Board counsel with the adequate time it needs to prepare and review its response.

6. Because the Court's November 2 order contemplates that the responses of the Board and the College will be due the same date, Counsel for the College also requests a 17-day extension of time until December 4.

7. Counsel for the Union does not oppose this request.

WHEREFORE, the Board and the College respectfully request that the Court grant this unopposed joint motion and extend the time for filing their responses for 17 days, up to and including December 4, 2020.

Respectfully submitted,

/s/ David Habenstreit

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/s/ Stanley J. Brown

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Dated at Washington, DC
this 9th day of November, 2020

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Intervenors)	

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that the foregoing document contains 647 words of proportionally spaced, 14-point type, and that 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

Dated at Washington, DC
this 9th day of November 2020

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CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2020, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the 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.

	<u>/s/ David Habenstreit</u>
	David Habenstreit
	Assistant General Counsel
	NATIONAL LABOR RELATIONS BOARD
Dated at Washington, DC	1015 Half Street, SE
this 9th day of November 2020	Washington, DC 20570