

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ALLE PROCESSING CORP. d/b/a MEAL MART)	
)	
)	No. 20-1140
Petitioner/Cross-Respondent)	20-1189
)	
v.)	
)	Board Case No.
NATIONAL LABOR RELATIONS BOARD,)	29-CA-213963
)	
Respondent/Cross-Petitioner)	

**UNOPPOSED JOINT MOTION TO DISMISS WITH
PREJUDICE THE EMPLOYER’S PETITION FOR REVIEW
AND TO DISMISS WITHOUT PREJUDICE THE
BOARD’S CROSS-APPLICATION FOR ENFORCEMENT**

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

Pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure, the National Labor Relations Board (“the Board”), by its Assistant General Counsel, and Alle Processing Corp. d/b/a Meal Mart (“the Employer”), by its counsel of record, respectfully move to dismiss with prejudice the Employer’s petition for review, and to dismiss without prejudice the Board’s cross-application for enforcement. In support of their joint motion, the parties show:

1. On April 2, 2020, the Board issued a Decision and Order against the Employer, reported at 369 NLRB No. 52. On April 27, the Employer filed a petition for review of the Board’s Order with the Court, which was docketed as

Case No. 20-1140. On June 4, the Board filed a cross-application for enforcement docketed as Case No. 20-1189 and consolidated with Case No. 20-1140.

2. On September 21, 2020, the parties filed a joint motion to stay the briefing schedule pending the Employer's compliance with the terms of a written settlement agreement reached by the parties. The Court granted the parties' joint motion and began holding the case in abeyance on September 23.

3. The Employer has now fulfilled its obligations pursuant to the parties' written settlement agreement to the satisfaction of the Board.

4. Accordingly, the parties respectfully move to dismiss the Employer's petition for review with prejudice, and to dismiss the Board's cross-application for enforcement without prejudice to the Board's right to file a future application for enforcement, if necessary, in the event that the Employer ceases compliance with the Board's Order. *See NLRB v. Mexia Textile Mills*, 339 U.S. 563, 567 (1950) (explaining that, 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); *see also NLRB v. Raytheon Co.*, 398 U.S. 25, 27-28 (1970).

5. The parties agree that each party is to bear its own costs.

6. Counsel for the Employer, Jeffery A. Meyer, has authorized the Board to file this joint motion on the Employer's behalf.

WHEREFORE, the parties respectfully request that the Court dismiss with prejudice the Employer's petition for review and dismiss without prejudice the Board's cross-application for enforcement.

/s/ Jeffery A. Meyer
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(Counsel for the Employer)

/s/ David Habenstreit
David Habenstreit
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(Counsel for the Board)

Dated at Washington, D.C.,
this 2nd day of December, 2020

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the Board certifies that its motion contains 384 words of proportionally spaced, 14-point type, and that the word-processing system used was Microsoft Word 2016.

Dated at Washington, D.C.,
this 2nd day of December, 2020

/s/ David Habenstreit
David Habenstreit
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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2020, I 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 that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

Dated at Washington, D.C.,
this 2nd day of December, 2020

/s/ David Habenstreit
David Habenstreit
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