

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANANATIONAL LABOR
RELATIONS BOARD

MISCELLANEOUS ACTION

VERSUS

NUMBER: 17-7347

M&B SERVICES, INC.; ET AL

SECTION: MBN

FINDINGS AND RECOMMENDATION

Pursuant to the provisions of Federal Rule of Appellate Procedure 48, the undersigned makes the following Findings and Recommendation regarding the disposition of the National Labor Relations Board's ("NLRB") Motion for Entry of Default Contempt Adjudication in proceeding No. 15-60783 on the docket of the United States Court of Appeals for the Fifth Circuit.

On January 6, 2016, the Fifth Circuit entered Judgment enforcing a previous order of the NLRB that directed the Respondents herein, Carolyn and Milton Berry (the "Berrys"), to make whole, in the amount of \$223,781.00 plus interest, specified employees whom the Berrys had subjected to unfair labor practices. After the Berrys failed to comply with that Judgment, the NLRB petitioned the Fifth Circuit to adjudge the Berrys in civil contempt. That resulted in the issuance of an Order to Show Cause by the Fifth Circuit on May 25, 2017, directing the Berrys to answer the Petition within 30 days. After that Order was not complied with, the NLRB then moved for the entry of a default contempt adjudication against the Respondents, submitting in conjunction therewith a proposed order that, *inter alia*, adjudged the Berrys in civil contempt which could be purged by immediately paying the amount remaining due on the Judgment, \$223,243.55 plus interest, "... or by monthly installment payments of not less than \$500 until that full amount is satisfied." It was that

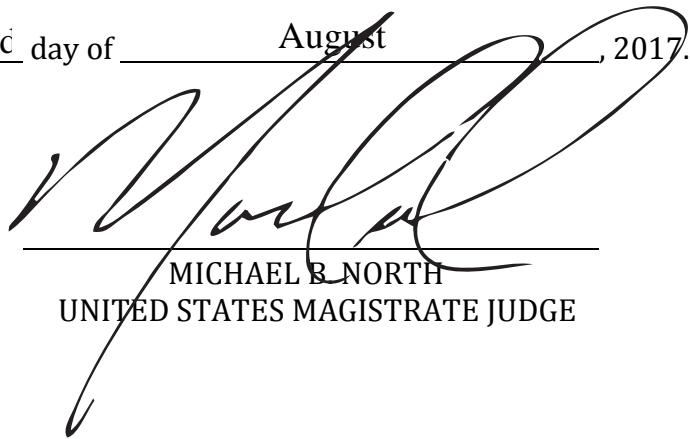
Motion that was referred to the undersigned to act as a Special Master pursuant to Rule 48, F.R.A.P. (Rec. doc. 1).

By correspondence dated August 22, 2017, a copy of which is attached hereto, counsel for the Respondents has advised the Court that the Respondents will not contest the NLRB's Motion for Entry of Default Contempt Adjudication and will consent to the entry of the proposed Default Contempt Adjudication that was proposed to the Fifth Circuit in connection with the NLRB's Motion. That being the case, it will be recommended that the Default Contempt Adjudication that was proposed by the NLRB to the Fifth Circuit be granted.

RECOMMENDATION

For the foregoing reasons, it is recommended that the Default Contempt Adjudication that was proposed to the Fifth Circuit by the NLRB on July 17, 2017 be entered.

New Orleans, Louisiana, this 22nd day of August, 2017.



MICHAEL B. NORTH
UNITED STATES MAGISTRATE JUDGE

CLERK TO NOTIFY:
Allison Lopez/CA05/05/USCOURTS