



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

December 17, 2013

Lyle W. Cayce
Clerk United States Court of
Appeals for the Fifth Circuit
F. Edward Hebert Bldg.
600 S. Maestri Place
New Orleans, LA 70130-3408

Re: D.R. Horton, Inc. v. *NLRB*, 5th Cir. No.
12-60031

Dear Mr. Cayce:

On December 3, 2013, the Court handed down its opinion granting the petition of D.R. Horton, Inc. in part and granting in part the Board's cross-application for enforcement. Pursuant to Rule 19 of the Federal Rules of Appellate Procedure, I hereby submit the Board's Proposed Judgment in the above entitled manner. A certificate of service is enclosed.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1099 14th Street, NW
Washington, DC 20570
(202) 273-2960

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

D.R. HORTON, INCORPORATED

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

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* No. 12-60031
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* Board Case No.
* 12-CA-25764
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JUDGMENT

Before: King, Southwick and Graves Circuit Judges

THIS CAUSE came to be heard upon a petition filed by the D.R. Horton, Inc. to review an Order of the National Labor Relations Board dated January 3, 2012, in Case No. 12-CA-25764, reported at 357 NLRB No. 184, and upon a cross-application for enforcement filed by the National Labor Relations Board to enforce said Order. The Court heard argument of the parties and has considered the briefs and agency record filed in this cause. On December 3, 2013, the Court, being fully advised in the premises, handed down its opinion granting in part the petition of D.R. Horton, Inc. and granting in part the Board's cross-petition for enforcement. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the United States Court of Appeals for the Fifth Circuit that the Petitioner/Cross-Respondent D.R. Horton, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:
 - (a) Maintaining a mandatory arbitration agreement that employees reasonably could believe bars or restricts their right to file charges with the National Labor Relations Board.
 - (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed to them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Rescind or revise the Mutual Arbitration Agreement to make it clear to

employees that the agreement does not restrict employees' right to file charges with the National Labor Relations Board.

- (b) Notify the employees of the rescinded or revised agreement, to include providing them a copy of the revised agreement or specific notification that the agreement has been rescinded.
- (c) Within 14 days after service by the Region, post at its facility at Deerfield Beach, Florida, and any other facility where the Mutual Arbitration Agreement has been in effect, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 12 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 3, 2010.
- (d) Within 21 days after service by the Region, file with the Regional Director for Region 12 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Mandate shall issue forthwith

ENTERED:

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT maintain a mandatory arbitration agreement that employees reasonably could believe bars or restricts their right to file charges with the National Labor Relations Board.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Federal labor law.

WE WILL rescind or revise the Mutual Arbitration Agreement to make it clear to employees that the agreement does not restrict employees' right to file charges with the National Labor Relations Board.

WE WILL notify employees of the rescinded or revised agreement, including providing them with a copy of the revised agreement or specific notification that the agreement has been rescinded.

D. R. HORTON, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I further certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1099 14th Street, NW
Washington, DC 20570

Dated at Washington, D.C.
this 17th day of December, 2013