

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**TEAMSTERS LOCAL UNION NO. 455 (CARGILL
MEAT SOLUTIONS CORPORATION)**

and

Case 27-CB-168294

SAID ALI, AN INDIVIDUAL

**BRIEF IN SUPPORT OF THE GENERAL COUNSEL'S
MOTION TO TRANSFER PROCEEDING TO THE BOARD AND
MOTION FOR DEFAULT JUDGMENT**

On January 24, 2016, the Executive Secretary of National Labor Relations Board (Board) issued an Order Transferring Proceeding to the Board and Notice to Show Cause in connection with Counsel for the General Counsel's Motion to Transfer Proceeding to the Board and Motion for Default Judgment filed with the Board on June 23, 2016.

On July 8, 2016, Teamsters Local Union No. 455 (Respondent) filed its Response to the Notice to Show Cause and Opposition to Counsel for the General Counsel's Motion for Default Judgment (Opposition). In doing so, Respondent requests that the Board deny the General Counsel's Motion for Default Judgment pursuant to Section 102.24 of the Board's Rules and Regulations on the grounds that a genuine issue of fact may exist, which Respondent raised in an untimely filed answer to the

complaint. Respondent further contends that its failure to file a timely answer was due to oversight and a result of administrative errors. Respondent does not dispute that it received a copy of the complaint and does not dispute that it was given an additional opportunity to file a timely answer.

The General Counsel files this brief in support of its Motion for Default Judgment arguing that Respondent's reasons for failing to file an untimely answer do not warrant denying its motion in accord with Board law. Specifically, in *King Courier*, 344 NLRB 485, 485 (2005), the Board granted a motion for default judgment over objections similar to the ones raised by Respondent here. In that case, the respondent asserted that it did not file a timely answer because of "inadvertent attention of counsel" and requested that the Board deny the motion because "substantive and factual issues need[ed] to be addressed in [that] case." *Ibid.* The Board granted the motion for default judgment finding that both of respondent's reasons were not sufficient to establish good cause. *Ibid.* Similarly, in *Electra-Cal Contractors*, 339 NLRB 370, 370 (2003), the Board granted a motion for default judgment over objections similar to Respondent's stated reasons. In that case, respondent argued in response to the notice to show cause that the complaint lacked merit, that respondent answered the allegations in the unfair labor practice charges in the course of the investigation, that respondent denied the complaint's allegations during the investigation of the unfair labor practices charges, and that respondent had filed an answer with its response to the notice to show cause. *Ibid.*

In this case, Respondent's stated reasons for why the Board should deny General Counsel's Motion for Default Judgment are strikingly similar to the respondents' reasons raised in *King Courier* and *Electra-Cal*, which the Board determined were not sufficient to deny a motion for default judgment. Accordingly, for the same reasons the Board granted the motions for default judgment in *King Courier* and *Electra-Cal*, the Board should also grant the General Counsel's Motion of Default Judgment because Respondent's reasons do not constitute good cause.

Respectfully submitted this 8th day of July 2016.

A handwritten signature in black ink, appearing to read 'José R. Rojas', written over a horizontal line.

José R. Rojas
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**AFFIDAVIT OF SERVICE OF: BRIEF IN SUPPORT OF GENERAL COUNSEL'S MOTION
TO TRANSFER PROCEEDING TO THE BOARD AND MOTION FOR DEFAULT
JUDGMENT**

I, José R. Rojas, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 8, 2016, I served the above-entitled document(s) by **e-file, e-mail, or regular mail** upon the following persons, addressed to them at the following addresses:

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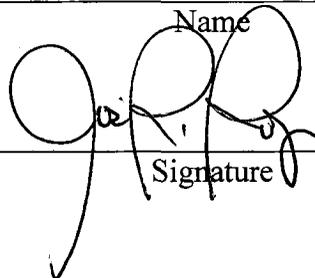
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July 8, 2016
Date

José R. Rojas, Designated Agent of NLRB
Name


Signature