

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FALCON TRUCKING, LLC and
RAGLE, INC., A SINGLE EMPLOYER
and/or JOINT EMPLOYERS

Respondents

and

Cases: 25-CA-132518
25-CA-135316
25-CA-135335
25-CA-159531

CHAUFFEURES, TEAMSTERS AND HELPERS
LOCAL UNION NO. 215 A/W INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

**RESPONDENTS' MOTION TO STRIKE OR IN THE ALTERNATIVE, MOTION FOR
LEAVE TO FILE RESPONDENTS' REPLY TO GENERAL COUNSEL'S BRIEF IN
SUPPORT OF MOTION FOR DEFAULT JUDGMENT**

Respondents, Falcon Trucking, LLC ("Falcon") and Ragle, Inc. ("Ragle"), by counsel, file this Motion to Strike or in the alternative Motion for leave to file Respondents' Reply to General Counsel's Brief in Support of Motion for Default Judgment and in support of this Motion would state the following:

1. On June 2, 2017, General Counsel filed her Motion to Transfer and for Default Judgment. On this date General Counsel did not file a brief in support of her motion.
2. On June 6, 2017, the Board issue an Order transferring proceedings to the Board and a Notice to Respondents' to show cause why General Counsel's Motion should not be granted.
3. On June 9, 2017, Respondents' filed their Opposition to General Counsel's Motion to Transfer and for Default Judgment.
4. Eleven (11) days thereafter, on June 20, 2017, General Counsel filed her "Brief In Support Of Motion For Default Judgment".

5. If General Counsel intends for her brief to be a response to Respondent's Opposition to General Counsel's Motion to Transfer and for Default Judgment, General Counsel's filing should be stricken because it was untimely filed.

6. Under the Board's Rules §102.24(c) a "party that has filed a motion may file a reply to an opposition to its motion within 7 days of receipt of the opposition." Under the Board's time computation rules, §102.2 (a), intermediate Saturdays, Sundays, and holidays are included unless the period of time prescribed or allowed by the rules "is less than 7 days."

7. General Counsel received Respondents' Opposition filing via email on June 9, 2017. General Counsel had up to seven (7) days to file a response. Excluding June 9th but including Saturdays and Sundays, General Counsel's response should have been filed on or before Friday June 16, 2017. It was not timely filed and thus should be stricken pursuant to the Board's rules.

8. In the alternative, if the Board considers General Counsel's late filing, it should also consider Respondents' Reply filed with this Motion.

WHEREFORE, for all the foregoing reasons, Respondents, by counsel, respectfully request that the Board issue an Order either:

A. Striking General Counsel's Brief in Support of Motion for Default Judgment and:

1. Denying General Counsel's Motion for Default Judgment finding Respondents have not violated the Settlement Agreement; or
2. Denying General Counsel's Motion for Default Judgment and remanding the case to Region 25 for a hearing on the question of whether Respondents fully complied with the terms of the Settlement

Agreement and if not, what would be the appropriate remedial action;

or

B. Consider Respondents' Opposition to General Counsel's Motion for Default Judgment, along with Respondents' Reply to General Counsel's Brief in Support of Motion for Default Judgment filed herewith and:

1. Deny General Counsel's Motion for Default Judgment finding Respondents have not violated the Settlement Agreement; or
2. Deny General Counsel's Motion for Default Judgment and remand the case to Region 25 for a hearing on the question of whether Respondents fully complied with the terms of the Settlement Agreement and if not, what would be the appropriate remedial action;

C. For all other relief that is just and appropriate.

Respectfully submitted,

F. STEPHEN SHEETS & ASSOCIATES

By: 
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ZIEMER, STAYMAN, WEITZEL & SHOULDERS

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CERTIFICATE OF SERVICE

The undersigned counsel for one of the Respondents hereby certifies that on June 23, 2017, a true copy of the foregoing pleading and attachments were emailed and mailed by regular first class, United States Mail, postage prepaid, to the following:

Patricia Nachand, Regional Director
National Labor Relations Board - Region 25
575 N. Pennsylvania St. - Room 238
Indianapolis, IN 46204-1577

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Wm. Michael Schiff