

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**

**GENPAK, LLC.**

and

**Case 15-CA-237525**

**RETAIL, WHOLESALE AND DEPARTMENT  
STORE UNION, MID-SOUTH COUNCIL**

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Genpak, LLC [hereinafter “Genpak”], by and through the undersigned counsel, submits this memorandum of law pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board [hereinafter “Board”] in support of its Motion for Summary Judgment dismissing the Complaint.

**PRELIMINARY STATEMENT**

The following facts are undisputed:

- a certification election took place for Genpak’s employees on July 31 and August 1, 2018, at which employee Horace Brown was an election observer;
- on August 9, 2018, the Board certified the election results that the Union lost the election, precluding a petition for any new election for twelve months;
- Genpak is unaware of any additional union-related activities by Mr. Brown or any other employee since the election ended August 1, 2018; and
- On February 27, 2019, Genpak terminated Mr. Brown, after Genpak’s Safety Coordinator observed him waist-deep in a machine that was not locked out and tagged out, in violation of company policy.

Given the above facts—where Mr. Brown’s termination occurred almost a full seven months after the last known organizing activity—it is simply incredible that the General

Counsel filed a complaint alleging that his termination, and a warning a month prior for leaving work early to stand by the time clock, were due to anti-union animus.

Indeed, the General Counsel's complaint is so vague regarding the essential element upon which the entire complaint relies—that Genpak disciplined and terminated Mr. Brown because he “assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities”—that the company filed a motion for a bill of particulars so that the General Counsel would identify the concerted activities. After the General Counsel refused to provide them—likely because they would conclusively show the utter lack of connection or proximity between Mr. Brown's activities and his termination—the Chief Administrative Law Judge denied the company's motion.

Thus, Genpak has no choice but to file a motion for summary judgment in order to obtain dismissal of a complaint that never should have been filed in the first place. Regardless of the fact that Genpak terminated Mr. Brown for the legitimate reason of his lockout/tagout violation, his last union activity was more than six months before his termination, and therefore is too attenuated to allege or establish any causal connection to his termination as a matter of law. Accordingly, Genpak respectfully requests this court grant summary judgment and dismiss the Complaint in its entirety.

### **STATEMENT OF FACTS**

Genpak hired Mr. Brown on October 16, 2001 as an Operator for the Thermoforming Department on the A shift. See Exhibit A. As a part of this employment with Genpak, Mr. Brown was trained on a variety of company policies and procedures, and signed an acknowledgement of receipt of the Genpak Employee Handbook for Hourly Employees on January 27, 2012. See Exhibit B. The employee handbook instructs all

employees to adhere to the company's Lock-Out Tag-Out Zero Tolerance policy prior to any "cleaning, adjusting or repairing [of] any machine" and to promptly report any "[u]nsafe conditions and defective equipment." *Id.* Accordingly, Mr. Brown was assigned a lock to lock-out machines in compliance with Genpak's Lock-Out Tag-Out Zero Tolerance policy. See Exhibit C.

On July 31 and August 1, 2018, the Retail, Wholesale Department Store Union held an election under the Board's Rules and Regulations, for which Mr. Brown was an election observer. See Exhibit D. The Union lost the election, and the results were certified on August 9, 2018. See *id.*

On November 9, 2018, Mr. Brown instructed two employees, Eric Salter and Melissa Tatum to clean ovens. Exhibit E. Pursuant to Genpak policy, the employees were required to lock-out and tag-out the ovens before cleaning them, however, they failed to do so. *Id.*; Exhibit H. Accordingly, Mr. Salter and Ms. Tatum were terminated for a violation of the Lock-Out Tag-Out Zero Tolerance policy. Ex. E. Mr. Brown was also going to be disciplined for this incident, because he had failed to follow up with Mr. Salter and Ms. Tatum to ensure policy compliance after giving a directive to perform a safety task, a violation of the responsibilities of a Thermoforming Department Lead Operator. Exhibit F. Further, Mr. Brown dropped a roll while moving rolls inside of roll storage, causing damage to Genpak property, a violation of Genpak policy. *Id.* However, Mr. Brown's supervisor had failed to submit disciplinary reports in a timely fashion and therefore, Mr. Brown was not issued discipline for these incidents. *Id.*

On January 23, 2019, Mr. Brown abandoned his workstation well before his scheduled end of shift, 4 p.m., and was discovered on video to be standing by the

timeclock from 3:47 to 4:00 p.m. Exhibit G. Genpak determined this action to be stealing time and gave Charging Party a final written warning. *Id.* Mr. Brown was advised that he would be terminated if he was caught stealing time from the company again. *Id.*

On February 6, 2019, Charging Party was again trained on Genpak's Lock-Out Tag-Out Zero Tolerance policy. See Ex. H. Yet just two weeks later, on February 20, 2019, Safety Coordinator Steve Greenmeyer was doing a safety walk around 8:30 a.m., when he observed Mr. Brown laying under the catwalk of a trim press with only his legs sticking out while the machine remained in operation. Exhibit I. Mr. Greenmeyer tapped Charging Party on the legs and instructed him to exit his position. *Id.* Despite his recent training on February 6, 2019, Mr. Brown advised that he was unaware that he couldn't work on the machinery while in operation, and Mr. Greenmeyer pointed out two signs immediately above the access point that stated "Do Not Reach Past This Point." *Id.* After this discussion, Mr. Greenmeyer took a picture of the machinery that Mr. Brown was under and advised the supervisor of the infraction. *Id.* Accordingly, Mr. Brown was terminated on February 27, 2019 for the violation of the Lock-Out Tag-Out Zero Tolerance policy. *Id.*

Pursuant to the letter of Regional Director M. Kathleen McKinney dated January 17, 2020, the Complaint is restricted to only the allegation that Genpak violated Section 8(a)(3) of the National Labor Relations Act "by issuing a written warning to Horace Brown in January 2019 and by discharging him in February 2019." Exhibit K.

## **STANDARD FOR SUMMARY JUDGMENT**

It is well settled that summary judgment is appropriate where the record shows “that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Trinity Technology Group, Inc.*, 2016 NLRB Reg. Dir. Dec. LEXIS 198, at \*2 (2016) (citing *Security Walls, LLC*, 361 NLRB 348, 348 (2014)). Section 102.24(b) of the Board’s Rules and Regulations permit the Board to deny a motion for summary judgment “where the motion itself fails to establish the absence of a genuine issue, or where the opposing party’s pleadings, opposition and/or its response indicate on their face that a genuine issue may exist. NLRB Rules and Regulations § 102.24(b).

Here, General Counsel has alleged only that: “[a]bout January 27, 2019, Respondent issued a written warning to its employee Horace Brown”; “[a]bout February 28, 2019, Respondent discharged its employee Horace Brown”; and that Respondent issued the warning and termination “because the named employee of the Respondent assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.” Complaint at ¶ 7. As outlined above, Respondent admits that it issued Charging Party with a final written warning on January 27, 2019 and discharged Charging Party on February 27, 2019. Accordingly, the only issue is whether the warning and discipline were due to anti-union animus or not.

## ARGUMENT

### POINT I

#### **GENERAL COUNSEL CANNOT ESTABLISH THAT ANY UNION OR OTHER PROTECTED CONCERTED ACTIVITY WAS A MOTIVATING FACTOR IN RESPONDENT'S DISCHARGE OF CHARGING PARTY**

Pursuant to Section 8(a)(3), "it shall be an unfair labor practice for an employer ... by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization." *Valmont Indus. V. N.L.R.B.*, 244 F.3d 454, 463 (5th Cir. 2001) (quoting 29 U.S.C. § 158(a)(3)). To establish that a discharge violated the National Labor Relations Act under *Wright Line*, General Counsel must establish that the employee's union activity was a motivating factor in the employer's decision to discharge the employee. *Electrolux Home Products, Inc.*, 2019 NLRB LEXIS 447, at \*9-10 (2019) (citing *Wright Line*, 251 N.L.R.B. 1083, 1089 (1980)). To prove that the employer's decision to discharge the employee was motivated by the employee's union activity, the General Counsel must establish that: "(1) the employee engaged in union and/or protected activity, (2) the employer knew about the union activity, and (3) the employer harbored animosity towards the union activity." *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*48 (2017) (citing *Comaco Lorain Mfg. Plant*, 356 N.L.R.B. 1182, 1182-85 (2011) and *ADB Utility Contractors*, 353 N.L.R.B. 166, 166-67 (2008), enf. denied on other grounds 383 Fed. Appx. 594 (8th Cir. 2010)).

Animus may be inferred from circumstantial evidence based on the record as a whole. *Electrolux Home Products, Inc.*, 2019 NLRB LEXIS 447, at \*10. Discriminatory animus can be "established by circumstantial evidence, inferred from several factors, including pretextual and shifting reasons given for the adverse action, the timing between

the employees' protected activities and the adverse employment action, inconsistent treatment of employees, and the failure to adequately investigate alleged misconduct.” *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*53 (citing *Temp Masters, Inc.*, 344 N.L.R.B. 1188, 1193 (2005); *Promedica Health Systems, Inc.*, 343 N.L.R.B. 1351, 1361 (2004); and *Fluor Daniel, Inc.*, 311 N.L.R.B. 498 (1993)). A departure from past practice can also establish discriminatory animus. *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*54.

It is a matter of law that the General Counsel cannot establish that Mr. Brown's union activity, which ended August 1, 2018, had any connection to his termination almost seven months later:

- In *Electrolux Home Products, Inc.*, the Board held that a period of seven months between the alleged union activity and the employee's discharge was too remote to infer that the employee's discharge was unlawfully motivated. *Electrolux Home Products, Inc.*, 2019 NLRB LEXIS 447, at \*10 (citing *New Otani Hotel & Garden*, 325 N.L.R.B. 928, 930 (1998) (declining to rely on employer's alleged expression of antiunion animus eight months before discharge in part because it was temporally remote) and *Magic Pan, Inc.*, 242 N.L.R.B. 840, 853 (1979) (finding employer's alleged antiunion statements made six months before discharge too remote to support a finding of animus)).
- In *T-Mobile USA, Inc.*, the Board, in adopting the recommended order of the administrative law judge, held that the employee's vocal support of the union two months prior to his termination was too remote to demonstrate or

infer animus to the employee's union or protected activity. *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*61.

- In *Valmont v. N.L.R.B.*, the Fifth Circuit held that proximity in time between union activity and employee discipline was missing where the union election occurred ten months prior to the employee discipline. *Valmont Indus. v. N.L.R.B.*, 244 F.3d at 465.

The August 1, 2018 election occurred more than six months before Genpak terminated Mr. Brown. See Ex. D; see Ex. I. Similar to *Electrolux Home Products, Inc.* and *T-Mobile USA, Inc.*, any participation in the election is too remote from the termination of Mr. Brown to constitute a discriminatory animus as a matter of law. *Electrolux Home Products, Inc.*, 2019 NLRB LEXIS 447, at \*10; *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*61.<sup>1</sup>

Furthermore, Genpak terminated Mr. Brown for a legitimate safety reason. See Ex. I. Genpak's termination of Mr. Brown was consistent with Genpak's Lock-Out Tag-Out Zero Tolerance policy and Genpak's application of this policy to other employees. See Ex. E; see Ex. H; see Exhibit J. Genpak's employee handbook directed Charging Party to comply with the Lock-Out Tag-Out Zero Tolerance policy. See Ex. B. Mr. Brown was trained on the Lock-Out Tag-Out Zero Tolerance policy on February 6, 2019, just two

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<sup>1</sup> We also note that in other analyses of retaliatory claims under federal law, such as race, sex, or age discrimination, courts have repeatedly found that gaps of time over three months preclude such claims, because the adverse action is remote in time to the protected activity that allegedly caused the adverse action. See *Clark County School District v. Breeden*, 532 U.S. 268, 273 (2001) (finding that three months was too long a time to establish a causal connection of retaliation); *Drielak v. Pruitt*, 890 F.3d 297, 300-301 (D.C. Cir. 2018) (finding six months was too long a time, and citing *Clark County*); *Drake-Sims v. Burlington Coat Factory Warehouse of Ala., Inc.*, 330 Fed. Appx. 795, 804 (11th Cir. 2009) ("Drake-Sims was terminated approximately six months after she filed her second EEOC charge of discrimination. We have held that a three- to four-month period between the protected activity and the adverse employment action is not enough to show 'very close' temporal proximity.").

weeks prior to his safety violation, and Mr. Brown signed an acknowledgement that he was aware of the requirements of the policy. See Ex. H. Accordingly, Mr. Brown was fully aware of the requirements of the Lock-Out Tag-Out Zero Tolerance policy on February 20, 2019 when he knowingly did not lock-out and tag-out the trim press he was working on. See *id.* Pursuant to this policy, “[a]ny Lock-Out Tag-Out violation is a termination of employment offense.” *Id.* Accordingly, Mr. Brown was appropriately terminated in accordance with the Lock-Out Tag-Out Zero Tolerance policy. See *id.*; see Ex. I.

Similarly, other employees who violated the Lock-Out Tag-Out Zero Tolerance policy were terminated without a warning. See Ex. E; see Ex. J. When Eric Salter and Melissa Tatum failed to lock-out and tag-out the ovens prior to cleaning them on November 9, 2018, they were both terminated without receiving a final written warning pursuant to the Lock-Out Tag-Out No Tolerance policy. Ex. E. Likewise, Preston Wright violated the policy on October 14, 2018 when he failed to properly lock-out and tag-out the machine he was working on. Ex. J. Despite using one block, Mr. Wright failed to fully comply with the Lock-Out Tag-Out Zero Tolerance policy, and as such, Genpak determined that he violated the policy. See *id.* Similar to Mr. Brown, Mr. Wright was trained on the policy earlier that month. *Id.* Accordingly, Genpak terminated Mr. Wright for violating the policy on October 29, 2018 without a warning. *Id.* Genpak applied the Lock-Out Tag-Out Zero Tolerance policy to Mr. Brown in the same fashion as it applied it to several other employees, and as such, Genpak did not inconsistently treat employees or depart from past practice. *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*61. Accordingly, General Counsel cannot demonstrate or infer a discriminatory animus to Mr.

Brown's union activity. As such, General Counsel has failed to prove the third prong of a *prima facie* claim of an unfair labor practice. *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*48 (citations omitted).

Accordingly, General Counsel has failed to meet their burden to establish that Mr. Brown's union activity was a motivating factor in Genpak's decision to terminate him. *Electrolux Home Products, Inc.*, 2019 NLRB LEXIS 447, at \*9-10.

## POINT II

### **RESPONDENT WOULD HAVE TAKEN THE SAME ACTION EVEN IF CHARGING PARTY PARTICIPATED IN ANY UNION OR PROTECTED ACTIVITY**

If the General Counsel can establish their *prima facie* case under Section 8(a)(3), the burden "shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct." *Comaco Lorain Mfg. Plant*, 356 N.L.R.B. at 1185 (citing *Wright Line*, 251 N.L.R.B. at 1089). The employer must "show that the misconduct would have resulted in the same action even in the absence of the employees' union and protected activity." *T-Mobile USA, Inc.*, 2017 NLRB LEXIS 12, at \*54 (citing *Monroe Mfg.*, 323 N.L.R.B. 24, 27 (1997)).

As noted above, Mr. Brown's termination was consistent with Genpak's Lock-Out Tag-Out Zero Tolerance policy and Genpak's application of this policy to other employees. Mr. Brown committed a serious safety violation that could have resulted in a significant injury or death. See Ex. I. Genpak's Lock-Out Tag-Out Zero Tolerance policy was drafted precisely to protect employees from this type of danger. See Ex. H. Mr. Brown was trained on this policy on February 6, 2019, two weeks before the violation, and acknowledged that he understood the policy. *Id.* However, Mr. Brown ignored this



TO: M. Kathleen McKinney, Regional Director  
National Labor Relations Board  
Region 15  
600 S. Maestri Place, 7<sup>th</sup> Floor  
New Orleans, LA 70130-3413

Allen Gregory  
Retail Wholesale and Department Store Union, Mid-South Council  
1901 10<sup>th</sup> Ave South  
Birmingham, AL 35205

## **CERTIFICATE OF SERVICE**

I, Michael D. Billok, an attorney in the firm Bond, Schoeneck & King, PLLC, attorneys for Respondent Genpak, LLC, certify that on May, 2020, I served by electronic mail my motion for summary judgment in Case 15-CA-237525 on:

M. Kathleen McKinney, Regional Director  
National Labor Relations Board  
Region 15  
600 S. Maestri Place, 7<sup>th</sup> Floor  
New Orleans, LA 70130-3413  
[kathleen.mckinney@nlr.gov](mailto:kathleen.mckinney@nlr.gov)

Allen Gregory  
Retail Wholesale and Department Store Union, Mid-South Council  
1901 10<sup>th</sup> Ave South  
Birmingham, AL 35205  
[agregory@rwsumidsouth.org](mailto:agregory@rwsumidsouth.org)

/s Michael D. Billok  
Michael D. Billok, Esq.  
Email: [mbillok@bsk.com](mailto:mbillok@bsk.com)

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**

**GENPAK, LLC.**

and

**Case 15-CA-237525**

**RETAIL, WHOLESALE AND DEPARTMENT  
STORE UNION, MID-SOUTH COUNCIL**

**DECLARATION OF CATHERINE SAWCHUK**

CATHERINE SAWCHUK declares under penalty of perjury:

1. I am the Director of Human Resources for Respondent Genpak, LLC [hereinafter "Genpak"]. I am providing this affidavit in support of Genpak's motion for summary judgment.

2. I have personal knowledge of the facts of this case due to my position and review of documents in this case.

3. Charging Party, Horace Brown, was hired at the Genpak Hope Hill facility on October 16, 2001. Accordingly, Charging Party was trained on the procedures and policies of Genpak and provided with the corresponding literature. True and accurate copies of Genpak's procedures and policies with Charging Party's signed acknowledgements of receipt of said procedures and policies are enclosed as Exhibit "A".

4. A true and accurate copy of a selection of the Genpak Employee Handbook for Hourly Employees with Charging Party's signed acknowledgement of receipt is enclosed as Exhibit "B".

5. A true and accurate copy of Charging Party's signed acknowledgement of receipt of an assigned lock is enclosed as Exhibit "C".

6. On August 1, 2018, a union election was conducted under the National Labor Relations Board's Rules and Regulations. Horace Brown was an observer for the Union. A true and accurate copy of the Certification of Results of Election is enclosed as Exhibit "D".

7. On November 9, 2018, Charging Party instructed two employees, Eric Salter and Melissa Tatum, to clean ovens in the department. The employees were terminated for failing to lock out and tag out the ovens before cleaning as required by Genpak's policies. True and accurate copies of the disciplinary reports of this incident are enclosed as Exhibit "E".

8. Charging Party failed to follow up with the employees to ensure that they followed the Lock-Out Tag-Out Zero Tolerance policy and was subject to discipline. However, Charging Party's supervisor failed to issue the discipline in a timely manner, and it was not issued. A true and accurate copy of the memo to file prepared by Genpak's Human Resources is enclosed as Exhibit "F".

9. On January 27, 2019, Charging Party received a final written warning when he left his workstation well before the end of his shift at 4:00 p.m. and stood by the timeclock from 3:47 to 4:00 p.m. on January 23, 2019. A true and accurate copy of the disciplinary report of this incident is enclosed as Exhibit "G".

10. On February 6, 2019, Charging Party was trained on Genpak's Lock-Out Tag-Out Zero Tolerance policy and signed an acknowledgement of his receipt of the policy. A true and accurate copy of Genpak's Lock-Out Tag-Out Zero Tolerance policy with Charging Party's signed acknowledgement of receipt is enclosed as Exhibit "H".

11. On February 20, 2019, Charging Party was discovered by Genpak's Safety Coordinator, Steve Greenmeyer, under a machine while it was in operation. Charging Party failed to lock out and tag out the machine as required by Genpak policy and was immediately terminated. True and accurate copies of the disciplinary report of this incident, including the notes of Steve Greenmeyer, the picture taken by Steve Greenmeyer and separation notice, are enclosed as Exhibit "I".

12. Similar to Mr. Brown, Mr. Salter and Ms. Tatum, Preston Wright was terminated by Genpak when he failed to fully comply with the Lock-Out Tag-Out Zero Tolerance policy on October 14, 2018. A true and accurate copy of the disciplinary report of this incident is enclosed as Exhibit "J".

13. In a letter dated January 17, 2020, Regional Director M. Kathleen McKinney withdrew all of the allegations of the Complaint with the exception of the allegation that Genpak violated Section 8(a)(3) of the National Labor Relations Act "by issuing a written warning to Horace Brown in January 2019 and by discharging him in February 2019." A true and accurate copy of this letter is enclosed as Exhibit "K".

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 8, 2020

*Catherine M. Sawchuk*

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**Catherine Sawchuk**

# **EXHIBIT A**



Genpak Corporation  
 3255 Thomason Avenue  
 Montgomery, Alabama 36108  
 Telephone: (205) 264-5927  
 Fax Number: (205) 264-7645

SUPERVISOR'S CHECKLIST ON INDUCTION OF NEW EMPLOYEES

NAME OF EMPLOYEE HORACE BROWN  
 DATE STARTED 10/16/01  
 SUPERVISOR ENNIS

POSITION OPERATOR  
 DEPARTMENT T/F

INDUCTION TO DEPARTMENT  
 FOREMAN AND LEADMAN (✓)  
 FELLOW EMPLOYEES (✓)

TOUR OF DEPARTMENT (✓)

INDUCTION TO SAFETY  
 SMOKING-WHERE (✓)  
 FIRST AID SYSTEM ( )  
 EXPLAIN POSSIBLE JOB HAZARDS (✓)  
 EXPLAIN PROTECTIVE EQUIPMENT (✓)  
 COPY OF SAFETY MANUAL (✓)

INDUCTION TO POSITION DUTIES  
 HOURS OF WORK & OVERTIME (✓)  
 REST PERIODS & LUNCHES (✓)  
 ATTENDANCE-LATENESS (✓)  
 EQUIPMENT OR MATERIALS USED (✓)  
 BASIC COMPANY RULES (✓)  
 TIME CARD PROCEDURES (✓)  
 IMPORTANCE & RELATION OF POSITION (✓)  
 PRODUCT DESCRIPTION (✓)  
 PRODUCT & QUALITY STANDARDS (✓)  
 TELEPHONE PROCEDURES (✓)  
 ASSIGN NEW EMPLOYEE (BUDDY SYSTEM) (✓)  
 DATE OF FOLLOW-UP INTERVIEW (✓)  
 BULLETIN BOARD (✓)

Horace Brown  
 SIGNATURE OF EMPLOYEE

DATE 10/16/01

[Signature]  
 SIGNATURE OF FOREMAN

GENPAK LLC  
MONTGOMERY

TRAINING REQUIREMENTS

ALL EMPLOYEES MUST MAKE THEMSELVES AVAILABLE FOR TRAINING IN ORDER TO INSURE THAT THEY LEARN THEIR JOB DUTIES. IN ORDER TO ACHIEVE THESE RESULTS SOMETIMES IT REQUIRES NEW EMPLOYEES TO WORK OVERTIME TO ALLOW THEM TO WORK WITH MORE EXPERIENCED EMPLOYEES WHO MAY BE ON DIFFERENT SHIFTS. BY YOUR SIGNATURE BELOW YOU ARE STATING THAT YOU UNDERSTAND THAT YOU MUST BE AVAILABLE TO WORK OVERTIME FOR TRAINING PURPOSES.

Harold Brown  
EMPLOYEE SIGNATURE

10-20-01  
DATE

Genpak Corporation  
3255 Thomason Avenue  
Montgomery, Alabama 36108  
Telephone: (334) 264-5927  
Fax Number: (334) 264-7645



TO ALL EMPLOYEES:

WE WOULD LIKE FOR YOU TO UNDERSTAND THAT YOU ARE HIRED FOR A SPECIFIC SHIFT. YOU COULD REMAIN ON THAT SHIFT FOR THE DURATION OF YOUR EMPLOYMENT. FROM TIME TO TIME, WE DO REQUIRE PEOPLE TO CHANGE TO ANOTHER SHIFT BUT THAT DECISION WILL BE BASED ON COMPANY REQUIREMENTS FOR MANPOWER ON EACH SHIFT.

Horrell Brown  
EMPLOYEE SIGNATURE

10/16/01  
DATE

I, Harold Brown, BEING AN EMPLOYEE OF GENPAK DO UNDERSTAND THAT IT IS MY RESPONSIBILITY AND A CONDITION OF EMPLOYMENT WITH GENPAK TO WEAR THE REQUIRED SAFETY AND PROTECTIVE EQUIPMENT. I FURTHER UNDERSTAND THAT IF I DO NOT WEAR THE REQUIRED SAFETY AND PROTECTIVE EQUIPMENT I WILL BE SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING DISCHARGE.

Harold Brown  
EMPLOYEE SIGNATURE

10-20-01  
DATE

**ACKNOWLEDGEMENT**

I have read and understand the policies set forth in this Handbook is not a contract for employment and that all prior Handbooks are no longer in effect. Furthermore, I also understand that the Company reserves the right to add to, alter, or discontinue anything included in this Handbook with or without notice at the sole discretion of the company.

Signed: 14012688 B. MULLIN  
Witness: [Signature]  
Date: 10/26/01

**AGREEMENT**

1. Your employment with the Company is voluntarily entered into and you are free to resign at any time. Similarly, the company may terminate the employment relationship at any time the Company believes it is appropriate.
2. "I Agree to conform to the standards of conduct/work rules as determined by the Company. My employment may be terminated, at any time, at the option of either the Company or myself. I understand that no management representatives has any authority to enter into any agreement for employment for any specific period of time, or make any agreement contrary to the foregoing".

I have read and understand the policies set forth in this Handbook is not a contract for employment and that all prior Handbooks are no longer in effect. Furthermore, I also understand that the Company reserves the right to add to, alter, or discontinue anything included in this Handbook with or without notice at the sole discretion of the Company.

Signed: 14012688 B. MULLIN  
Witness: [Signature]  
Date: 10/26/01

As an employee of Genpak LLC, I pledge to familiarize myself and to abide by all Safety Regulations that are outlined in this booklet.

Signed WILLIAM BROWN

Witness R. STOKES

Date 10-20-01

# **EXHIBIT B**

#39



**EMPLOYEE HANDBOOK  
FOR HOURLY EMPLOYEES**

## GENERAL SAFETY RULES

The following is a list of general safety precautions and rules. This list in itself is not inclusive.

1. All injuries and illnesses, no matter how minor, must be reported to your supervisor immediately. Adhere to the company's policy on First Aid. Never attempt to treat another worker's injury unless medically qualified and you have been trained in Blood Borne Pathogens, First Aid and CPR.
2. The potential for injury from moving machinery throughout the plant must be recognized. Only operate machinery you have been trained on and have been checked off as competent to operate. Never put your hands in any moving machinery.
3. Guards shall be in correct position and safely functioning properly while machinery is in operation. Never operate your machine unless all guards are in the correct position.
4. Guards must never be removed unless machinery is locked out and the machine is in a safe condition. Guards must be replaced before the lockout is removed and machine is put back in operation. If a guard is not in its proper position, report this to your supervisor at once.
5. Unsafe conditions and defective equipment should be reported to your supervisor immediately upon discovery.
6. Before cleaning, adjusting or repairing any machine, follow the Company's Lockout/Tagout procedure. This is to be completed by an authorized employee.
7. Never oil a machine while it is in motion except where points of oiling are so located or guarded so that you are not subject to contact with moving parts.

8. Never reach into a running machine to remove debris or a jam-up from it.
9. Never wear loose clothing such as neckties, unbuttoned sleeves, and pockets containing loose-ended material while working in the vicinity of moving machinery.
10. Jewelry, rings, bracelets, watch chains, key chains, et. will not be worn; hair nets will be worn at all times in the production area.
11. Reporting to work under the influence of illegal drugs and/or alcohol will not be permitted or tolerated.
12. Employees must remain in their own department unless called away on business or in the regular course of their employment.
13. Never distract another employee and create an unsafe condition or situation by engaging in unnecessary conversations while they are operating machinery or equipment.
14. Common sense rules of general behavior shall be observed. This includes no running, no horseplay, no throwing of objects, scuffling and fooling around which could create a dangers and unsafe environment.
15. Smoking is prohibited in all areas inside the plant. Designated smoking areas have been provided outside the building.
16. Extra precaution must be taken on exterior stairways and walkways during inclement weather.
17. Maintain good housekeeping practices by keeping the area around you clean. Use appropriate receptacles for disposal of rags, trash, papers, etc. Make sure lids are securely in place when done.

I understand that the foregoing agreement concerning my at-will employment status and the company's right to determine and modify the terms and conditions of employment is the sole and entire agreement between me and Genpak concerning the duration of my employment, the circumstances under which my employment may be terminated and the circumstances under which the terms and conditions of my employment may change. I further understand that this agreement supersedes all prior agreements, understandings and representations concerning my employment with the company.

If I have questions regarding the content or interpretation of the policies and procedures contained in this Employee Handbook, I will bring them to the attention of the human resource department and seek their assistance to clarify or receive answers to my questions.

NAME Horace Brown

DATE 27 Jan. '2

EMPLOYEE  
SIGNATURE Horace Brown

# **EXHIBIT C**



As an employee of Genpak, I have been assigned a lock to lockout machines according to terms of Genpak's lockout tagout program. I understand that should I ever leave Genpak, I am responsible for returning this lock and key.

Horace Brown

**Employee Signature**

Horace Brown

**Printed Name**

9-24-15

**Date**

# **EXHIBIT D**

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15

Genpak, LLC

Employer

and

Case 15-RC-222585

Retail, Wholesale Department Store Union

Petitioner

TYPE OF ELECTION: STIPULATED

CERTIFICATION OF RESULTS OF ELECTION

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has not been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board,

It is certified that a majority of the valid ballots has not been cast for any labor organization and that no labor organization is the exclusive representative of the employees in the bargaining unit described below.

**Unit:** Included: All full-time and regular part-time warehouse employees, packers, extrusion employees, maintenance employees, quality assurance employees, and machine operator employees employed by the Employer at its facility at 7621 Bill Joseph Parkway, Hope Hull, Alabama 36043. Excluded: All office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.



August 9, 2018

*M. Kathleen McKinney*  
M. KATHLEEN McKINNEY  
Regional Director, Region 15  
National Labor Relations Board

**RECEIVED**

**AUG 13 2018**

**BOND, SCHOENECK & KING, PLLC**

# **EXHIBIT E**

# Separation Notice

Please Print

## Employee Information

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

Employee Name Melissa Jatum Position oper Department TF  
 Employee/Payroll # \_\_\_\_\_ Shift B Supervisor Cardell O'Brian  
 Hire Date 09/29/2004 Last Day Worked 11-9-18 Effective Separation Date 11-26-18  
 Separation Meeting Date 11-26-18 Time 3:45  AM  PM Location Hope Hull  
 List individuals present during separation meeting Sherrae Moore  
John Dunton

## Separation Details

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR (CHECK ALL BOXES THAT APPLY.)

### Type of Separation

- Discharge  Resignation  
 Failed to Return from Leave  Retirement  
 Layoff  Other \_\_\_\_\_

Remarks \_\_\_\_\_  
 \_\_\_\_\_

### Reason for Separation

- Unacceptable**  
 Performance  Other Employment  
 Attendance  Personal  
 Conduct  Better Position  
 Other \_\_\_\_\_

Remarks WOTO violation  
11-9-18

## Final Employee Evaluation

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

	Outstanding	Satisfactory	Unsatisfactory		Outstanding	Satisfactory	Unsatisfactory
Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Creativity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Productivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Initiative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adherence to Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reliability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Interpersonal Relationships	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Judgment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Supervisor Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(ANSWER QUESTION BELOW IF ALLOWABLE BY COMPANY POLICY.)

Would you rehire?  Yes  No  N/A

Remarks \_\_\_\_\_  
 \_\_\_\_\_  
 Evaluator's Signature \_\_\_\_\_ Date \_\_\_\_\_

## Separation Issues Discussed With Employee

TO BE COMPLETED BY HUMAN RESOURCES PERSONNEL

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> COBRA Rights                          | <input type="checkbox"/> Retirement /Savings Distribution Options | <input type="checkbox"/> 401(k)/403(b) Option Processed      | <input type="checkbox"/> Insurance Companies Notified          |
| <input type="checkbox"/> Company Materials/ Equipment Returned | <input type="checkbox"/> Trade Secret/Confidentiality Obligations | <input type="checkbox"/> COBRA Notification Processed        | <input type="checkbox"/> Dental                                |
| <input type="checkbox"/> Final Pay                             | <input type="checkbox"/> Vacation Due: Days _____                 | <input type="checkbox"/> Direct-Deposit Institution Notified | <input type="checkbox"/> Health (Major Medical & Medical)      |
| <input type="checkbox"/> Life Insurance Conversion             | <input type="checkbox"/> Hours _____                              | <input type="checkbox"/> Employee Records Archived           | <input type="checkbox"/> Life Insurance                        |
| <input type="checkbox"/> Mail/Pick Up Last Paycheck            |   | <input type="checkbox"/> Facility/Systems Rights Finalized   | <input type="checkbox"/> Separation Noted in Personnel Records |
| <input type="checkbox"/> Outstanding Expense Reports/Advances  |   | <input type="checkbox"/> Payroll Adjustment Forms Processed  | <input type="checkbox"/> _____                                 |
|  |   |  | <input type="checkbox"/> _____                                 |

Employee provided copy  Yes  No If yes, date: \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Human Resources Signature Sherrae Moore Date 11-26-18

233-2297

# Separation Notice

Please Print

## Employee Information

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

Employee Name Eric Salter Position operator Department TF  
 Employee/Payroll # \_\_\_\_\_ Shift B Supervisor Cardell O Brian  
 Hire Date 04/24/2016 Last Day Worked 11-9-18 Effective Separation Date 11-26-18  
 Separation Meeting Date 11-26-18 Time 4  AM  PM Location Hope Hull  
 List individuals present during separation meeting John Denton  
Sheree Moore

## Separation Details

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR (CHECK ALL BOXES THAT APPLY.)

<b>Type of Separation</b>	<b>Reason for Separation</b>
<input checked="" type="checkbox"/> Discharge <input type="checkbox"/> Failed to Return from Leave <input type="checkbox"/> Layoff <input type="checkbox"/> Resignation <input type="checkbox"/> Retirement <input type="checkbox"/> Other _____	<b>Unacceptable</b> <input checked="" type="checkbox"/> Performance <input type="checkbox"/> Attendance <input type="checkbox"/> Conduct <input type="checkbox"/> Other Employment <input type="checkbox"/> Personal <input type="checkbox"/> Better Position <input type="checkbox"/> Other _____
Remarks _____	Remarks <u>LOTO violation</u> <u>11-9-18</u>

## Final Employee Evaluation

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

	Outstanding	Satisfactory	Unsatisfactory		Outstanding	Satisfactory	U_satisfactory
Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Creativity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Productivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Initiative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adherence to Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reliability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Interpersonal Relationships	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Judgment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Supervisor Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(ANSWER QUESTION BELOW IF ALLOWABLE BY COMPANY POLICY.)  
 Would you rehire?  Yes  No  N/A  
 Remarks \_\_\_\_\_

Evaluator's Signature \_\_\_\_\_ Date \_\_\_\_\_

## Separation Issues Discussed With Employee

TO BE COMPLETED BY HUMAN RESOURCES PERSONNEL

<input type="checkbox"/> COBRA Rights	<input type="checkbox"/> Retirement /Savings Distribution Options	<input type="checkbox"/> 401(k)/403(b) Option Processed	<input type="checkbox"/> Insurance Companies Notified
<input type="checkbox"/> Company Materials/ Equipment Returned	<input type="checkbox"/> Trade Secret/Confidentiality Obligations	<input type="checkbox"/> COBRA Notification Processed	<input type="checkbox"/> Dental
<input type="checkbox"/> Final Pay	<input type="checkbox"/> Vacation Due: Days _____	<input type="checkbox"/> Direct-Deposit Institution Notified	<input type="checkbox"/> Health (Major Medical & Medical)
<input type="checkbox"/> Life Insurance Conversion	<input type="checkbox"/> Hours _____	<input type="checkbox"/> Employee Records Archived	<input type="checkbox"/> Life Insurance
<input type="checkbox"/> Mail/Pick Up Last Paycheck		<input type="checkbox"/> Facility/Systems Rights Finalized	<input type="checkbox"/> Separation Noted in Personnel Records
<input type="checkbox"/> Outstanding Expense Reports/Advances		<input type="checkbox"/> Payroll Adjustment Forms Processed	<input type="checkbox"/> _____
			<input type="checkbox"/> _____

Employee provided copy  Yes  No If yes, date: \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Human Resources Signature Sheree Moore Date 11-26-18



# **EXHIBIT F**

# **From the desk of: Kim Hudson**

11/30/2018

To: File

On 11/9/2018, Employee failed to follow up with subordinates after being given a direction to perform a safety task. On 11/10/18, Employee dropped a roll while moving rolls inside of roll storage. The Roll fell causing damage to Company Property. Employee was sent for drug screen which was negative under our near miss policy. Supervisor was instructed on both dates to discipline the employee. The discipline was never done and when it was brought back up, it was almost two weeks later and Supervisor turned write-ups in 11/28/2018.

Failure to turn these write-ups in a timely manner resulted in the write-ups not being issued because of the time frame and with such a serious safety issue, this was a major problem and was a failure on Managements to include Supervisor, Production Manager and Plant Manager.

**Kim Hudson**

**Human Resource Manager**

**Alabama Plants**

334-612-0314/334-264-5927



Genpak, LLC  
7621 Bill Joseph Parkway  
Hope Hull, AL 36043  
Telephone: (334) 612-0314  
Fax Number (334) 612-0608

DATE: 11-28-18

SUBJECT: Disciplinary Action

Horace Brown T/F C. O'Brian  
Employee Department Supervisor

The following infraction occurred on 11-10-18 at 8:00 am / pm

Type of action:

Verbal  Written  Final Written  Suspension  Termination

Reason for Discipline: Job Performance   
Conduct \_\_\_\_\_  
Overtime \_\_\_\_\_  
Insubordination \_\_\_\_\_

Remarks or Other Reasons: Employee dropped a roll while moving rolls inside of roll Storage. The roll fell causing damage to company property.

Employee Statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employee Acknowledgement of Receipt [Signature]  
Supervisor

\_\_\_\_\_  
Witness Department Manager



Genpak, LLC  
7621 Bill Joseph Parkway  
Hope Hull, AL 36043  
Telephone: (334) 612-0314  
Fax Number (334) 612-0608

DATE: 11-27-18

SUBJECT: **Disciplinary Action**

Horace Brown T/F C. O'Brian  
Employee Department Supervisor

The following infraction occurred on Nov. 09 at 8:00 am / pm

Type of action:

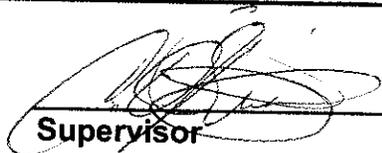
Verbal  Written  Final Written  Suspension  Termination

Reason for Discipline:    Job Performance   X    
                                  Conduct         
                                  Overtime         
                                  Insubordination       

Remarks or Other Reasons: Employee failed to follow up with his subordinates after  
They were given directions to perform a task that required lock out tag out procedure.  
As a team leader, it is a part of your duty to make sure operators are following company  
Procedures correctly.

Employee Statement: \_\_\_\_\_

\_\_\_\_\_  
Employee  
Acknowledgement of Receipt

  
Supervisor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Department Manager

# **EXHIBIT G**



Genpak, LLC  
7621 Bill Joseph Parkway  
Hope Hull, AL 36043  
Telephone: (334) 612-0314  
Fax Number (334) 612-0608

DATE: 1/27/19

SUBJECT: Disciplinary Action

Horace Brown Thermoforming Cardell O'Brien  
Employee Department Supervisor

The following infraction occurred on 1/23/19 at 3:47 am / pm

Observed waiting in hallway for more than 10 minutes waiting for the clock to reach 4:00 pm

Type of action:

Verbal  Written  Final Written  Suspension  Termination

Reason for Discipline: Job Performance   
Conduct   
Overtime   
Insubordination

Remarks or Other Reasons: Horace was observed stealing time from the company by  
Waiting for the clock to reach 4:00 pm before clocking out and leaving. If he is  
caught stealing time from company again, he will be  
terminated.

Employee Statement: \_\_\_\_\_

Employee refused to sign  
Employee  
Acknowledgement of Receipt

[Signature]  
Supervisor

Witness

[Signature]  
Department Manager



# **EXHIBIT H**

#13

Effective Date: Immediately

ORIGINAL: November 27, 2018

## Lock-Out Tag-Out Zero Tolerance

### Policy

Protecting our employees by providing a safe work environment is one of our organization's core values. This policy is a Zero Tolerance stance on violations to the Lock-Out Tag-Out policy

### Purpose

To keep employees safe while locking or tagging-out any machine in the facility.

### Requirements

- ▶ Any Lock-Out Tag-Out violation is a termination of employment offense.
- ▶ All Lock-Out Tag-Out machine specific procedures have to be followed when working inside guards or any other time that the machine must be locked or tagged out.
- ▶ Use all necessary Lock-Out devices to safely work on the machine. Examples: red platen locks, hasps, valve covers, and plug covers.
- ▶ "If In Doubt Lock It Out"
- ▶ Never take a chance with Lock-Out.

Questions concerning this policy shall be directed to your immediate Supervisor, Safety Manager, or to Human Resources.

Print: Horace Brown

Signature: Horace Brown

Date: 2-10-19

# **EXHIBIT I**

# Separation Notice

Please Print

## Employee Information

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

Employee Name Horace Brown Position \_\_\_\_\_ Department \_\_\_\_\_  
 Employee/Payroll # \_\_\_\_\_ Shift \_\_\_\_\_ Supervisor \_\_\_\_\_  
 Hire Date \_\_\_\_\_ Last Day Worked 2-20-19 Effective Separation Date 2-27-19  
 Separation Meeting Date \_\_\_\_\_ Time  AM  PM Location \_\_\_\_\_  
 List individuals present during separation meeting Ken Pierson  
Shenie Moore

## Separation Details

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR (CHECK ALL BOXES THAT APPLY.)

**Type of Separation**

Discharge  Resignation  
 Failed to Return from Leave  Retirement  
 Layoff  Other \_\_\_\_\_

Remarks \_\_\_\_\_

**Reason for Separation**

**Unacceptable**

Performance  Other Employment  
 Attendance  Personal  
 Conduct  Better Position  
 Other \_\_\_\_\_

Remarks safety violation

## Final Employee Evaluation

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

	Outstanding	Satisfactory	Unsatisfactory		Outstanding	Satisfactory	Unsatisfactory
Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Creativity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Productivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Initiative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adherence to Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reliability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Interpersonal Relationships	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Judgment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Supervisor Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(ANSWER QUESTION BELOW IF ALLOWABLE BY COMPANY POLICY.)

Would you rehire?  Yes  No  N/A

Remarks \_\_\_\_\_

Evaluator's Signature \_\_\_\_\_ Date \_\_\_\_\_

## Separation Issues Discussed With Employee

TO BE COMPLETED BY HUMAN RESOURCES PERSONNEL

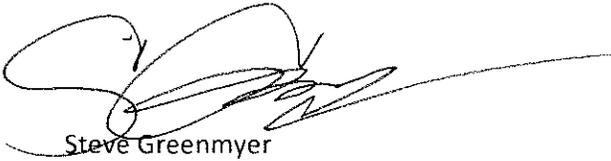
<input type="checkbox"/> COBRA Rights	<input type="checkbox"/> Retirement /Savings Distribution Options	<input type="checkbox"/> 401(k)/403(b) Option Processed	<input type="checkbox"/> Insurance Companies Notified
<input type="checkbox"/> Company Materials/ Equipment Returned	<input type="checkbox"/> Trade Secret/Confidentiality Obligations	<input type="checkbox"/> COBRA Notification Processed	<input type="checkbox"/> Dental
<input type="checkbox"/> Final Pay	<input type="checkbox"/> Vacation Due: Days _____ Hours _____	<input type="checkbox"/> Direct-Deposit Institution Notified	<input type="checkbox"/> Health (Major Medical & Medical)
<input type="checkbox"/> Life Insurance Conversion		<input type="checkbox"/> Employee Records Archived	<input type="checkbox"/> Life Insurance
<input type="checkbox"/> Mail/Pick Up Last Paycheck		<input type="checkbox"/> Facility/Systems Rights Finalized	<input type="checkbox"/> Separation Noted in Personnel Records
<input type="checkbox"/> Outstanding Expense Reports/Advances		<input type="checkbox"/> Payroll Adjustment Forms Processed	<input type="checkbox"/> _____
			<input type="checkbox"/> _____

Employee provided copy  Yes  No If yes, date: \_\_\_\_\_

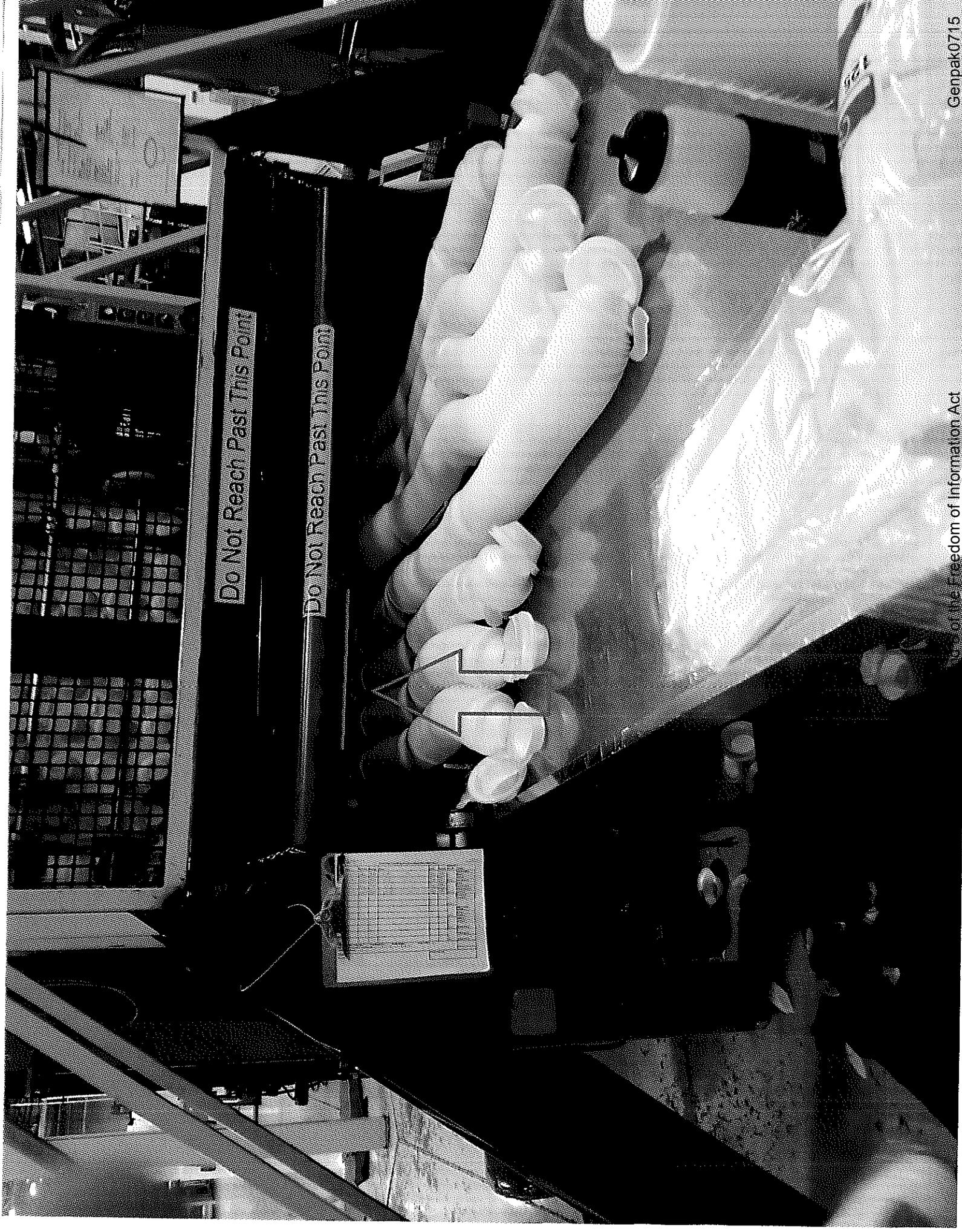
Supervisor Signature \_\_\_\_\_ Date 2-27-19

Human Resources Signature Shenie Moore Date 2-27-19

On 2/20/2019 at approximately 8:30 am while doing a safety walk around, I observed an operator laying on the packing table under the catwalk on Alabama Number 2 while the trim press was in operation. Operator was fully under the catwalk up to his knees. I tapped the operator on the leg and told him to get out of there and he stated to me that he didn't know he wasn't allowed to do that. I pointed out the clear indicators on the catwalk stating do not go past this point. I then informed the production supervisor of the infraction

A handwritten signature in black ink, appearing to read 'Steve Greenmyer', with a long horizontal line extending to the right.

Steve Greenmyer  
Safety Coordinator  
Middletown, NY



Do Not Reach Past This Point

Do Not Reach Past This Point

Clipboard with a document attached, hanging from the metal frame.

# **EXHIBIT J**

# Separation Notice

Please Print

## Employee Information

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

Employee Name Preston Wright Position TF op Department TF  
 Employee/Payroll # \_\_\_\_\_ Shift C Supervisor Charlie Stewart  
 Hire Date \_\_\_\_\_ Last Day Worked 10/14/18 Effective Separation Date 10/29/18  
 Separation Meeting Date 10/29/18 Time \_\_\_\_\_  AM  PM Location Hoge Hall  
 List individuals present during separation meeting John Hunter  
Kim Hudson

## Separation Details

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR (CHECK ALL BOXES THAT APPLY.)

### Type of Separation

- Discharge  Resignation  
 Failed to Return from Leave  Retirement  
 Layoff  Other \_\_\_\_\_

Remarks \_\_\_\_\_

### Reason for Separation

- Unacceptable**  
 Performance  Other Employment  
 Attendance  Personal  
 Conduct  Better Position  
 Other \_\_\_\_\_

Remarks safety - LOTO

## Final Employee Evaluation

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR

	Outstanding	Satisfactory	Unsatisfactory		Outstanding	Satisfactory	Unsatisfactory
Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Creativity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Productivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Initiative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adherence to Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reliability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Interpersonal Relationships	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Judgment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Supervisor Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(ANSWER QUESTION BELOW IF ALLOWABLE BY COMPANY POLICY.)

Would you rehire?  Yes  No  N/A

Remarks \_\_\_\_\_

Evaluator's Signature \_\_\_\_\_ Date \_\_\_\_\_

## Separation Issues Discussed With Employee

TO BE COMPLETED BY HUMAN RESOURCES PERSONNEL

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> COBRA Rights                          | <input type="checkbox"/> Retirement /Savings Distribution Options | <input type="checkbox"/> 401(k)/403(b) Option Processed      | <input type="checkbox"/> Insurance Companies Notified          |
| <input type="checkbox"/> Company Materials/ Equipment Returned | <input type="checkbox"/> Trade Secret/Confidentiality Obligations | <input type="checkbox"/> COBRA Notification Processed        | <input type="checkbox"/> Dental                                |
| <input type="checkbox"/> Final Pay                             | <input type="checkbox"/> Vacation Due: Days _____ Hours _____     | <input type="checkbox"/> Direct-Deposit Institution Notified | <input type="checkbox"/> Health (Major Medical & Medical)      |
| <input type="checkbox"/> Life Insurance Conversion             |   | <input type="checkbox"/> Employee Records Archived           | <input type="checkbox"/> Life Insurance                        |
| <input type="checkbox"/> Mail/Pick Up Last Paycheck            |   | <input type="checkbox"/> Facility/Systems Rights Finalized   | <input type="checkbox"/> Separation Noted in Personnel Records |
| <input type="checkbox"/> Outstanding Expense Reports/Advances  |   | <input type="checkbox"/> Payroll Adjustment Forms Processed  | <input type="checkbox"/> _____                                 |
|  |   |  | <input type="checkbox"/> _____                                 |

Employee provided copy  Yes  No If yes, date: \_\_\_\_\_

Supervisor Signature Kim Hudson  
 Human Resources Signature Sherrie Moore

Date \_\_\_\_\_  
 Date 11-14-18



# **EXHIBIT K**



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 15  
600 South Maestri Place – 7th Floor  
New Orleans, LA 70130-3413

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (504)589-6362  
Fax: (504)589-4069

January 17, 2020

Michael D. Billok  
Bond Schoneck & King, LLC  
268 Broadway, Suite 104  
Saratoga Springs, NY 12866

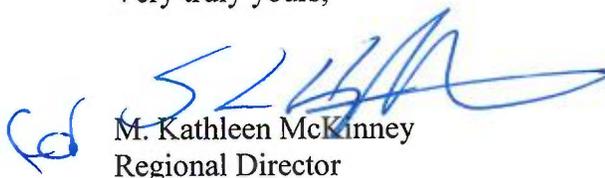
Re: Genpak LLC  
Case 15-CA-237525

Dear Mr. Billok:

This is to advise that I have approved the withdrawal of the allegations that the Employer discriminated against Horace Brown by constructively issuing two warnings to him in February 2019.

The remaining allegations that the Employer violated Section 8(a)(3) of the Act by issuing a written warning to Horace Brown in January 2019 and by discharging him in February 2019 remain subject to further processing.

Very truly yours,

  
M. Kathleen McKinney  
Regional Director

MKM/pal

cc: Beth Murphree, Staff Assistant  
RWDSU Midsouth Council  
1901 10th Avenue South  
Birmingham, AL 35205

James Cunningham, Plant Manager  
Genpak LLC  
7621 Bill Joseph Pkwy.  
Hope Hull, AL 36043

Allen Gregory, Business Representative  
Retail Wholesale and Department Store  
Union, Mid-South Council  
RWDSU, Midsouth District Council  
1901 10th Avenue, South  
Birmingham, AL 35205