

**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**

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

Genpak, LLC [hereinafter “Genpak”], by and through the undersigned counsel, submits this reply 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.

General Counsel argues that Genpak’s Motion for Summary Judgment should be considered a motion for reconsideration. Opp. at 1. This is incorrect. While Genpak previously submitted a motion for summary judgment to the Board, which the Board declined to grant without providing any opinion or analysis of the arguments raised by the General Counsel or Respondent, Section 102.35(a)(8) specifically grants the Administrative Law Judge assigned to the case the ability to consider and grant motions for summary judgment—and the instant motion was specifically filed with the presiding Administrative Law Judge.

While the General Counsel claims the instant motion should be considered a motion for consideration, citing § 102.48(c), there is nothing in that section that precludes a party from filing a motion for summary judgment with the assigned administrative law judge after a denial by the Board. Further, this section provides no support for General

Counsel's contention that a subsequent motion for summary judgment filed with the administrative law judge must be treated as a motion for reconsideration. Neither section cited by General Counsel prohibits a party from filing a motion for summary judgment with both the Board and the assigned administrative law judge. Accordingly, General Counsel has set forth no authority that Genpak's Motion for Summary Judgment must be considered as a motion for reconsideration, nor has General Counsel provided any authority that precludes Your Honor from deciding a motion for summary judgement. As such, General Counsel has failed to establish that Genpak improperly filed this Motion for Summary Judgment, and thus, Genpak has sufficiently filed its Motion for Summary Judgment pursuant to Sections 102.24(a), 102.25 and 102.35(a)(8). And, of course, the General Counsel's opposition does not address the Summary Judgment motion on the merits.

For the foregoing reasons, Respondent Genpak respectfully requests that Your Honor issue a notice to show cause why this Motion for Summary Judgment should not be granted, grant Respondent summary judgment, dismiss the Complaint in its entirety with prejudice, and grant it such other and further relief as is just and proper.

Dated: June 8, 2020

BOND, SCHOENECK & KING, PLLC

By: /s Michael D. Billok

Michael D. Billok

Attorney for Respondent

268 Broadway, Suite 104

Saratoga Springs, NY 12866-4281

Telephone: (518) 533-3236

Facsimile: (518) 533-3299

Email: mbillok@bsk.com

TO: Amiel J. Provosty
National Labor Relations Board
Region 15
600 S. Maestri Place, 7th Floor
New Orleans, LA 70130-3413

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

Allen Gregory
Retail Wholesale and Department Store Union, Mid-South Council
1901 10th 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 June 8, 2020, I served by electronic mail my Reply Memorandum of Law in Support of Motion for Summary Judgment in Case 15-CA-237525 on:

Amiel J. Provosty
National Labor Relations Board
Region 15
600 S. Maestri Place, 7th Floor
New Orleans, LA 70130-3413
Amiel.Provosty@nrlb.gov

M. Kathleen McKinney, Regional Director
National Labor Relations Board
Region 15
600 S. Maestri Place, 7th Floor
New Orleans, LA 70130-3413
kathleen.mckinney@nrlb.gov

Allen Gregory
Retail Wholesale and Department Store Union, Mid-South Council
1901 10th Ave South
Birmingham, AL 35205
agregory@rwdsumidsouth.org

/s Michael D. Billok
Michael D. Billok, Esq.
Email: mbillok@bsk.com