

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

VOITH INDUSTRIAL SERVICES, INC.

and

GENERAL DRIVERS, WAREHOUSEMEN &
HELPERS LOCAL UNION NO. 89, AFFILIATED
WITH THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

Cases 9-CA-075496

9-CA-078747

9-CA-082437

and

UNITED AUTOMOTIVE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA, AFL-CIO

and

UNITED AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA, LOCAL UNION NO. 862, AFL-CIO

And

GENERAL DRIVERS, WAREHOUSEMEN &
HELPERS, LOCAL UNION 89, AFFILIATED
WITH THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

9-CB-0755075

9-CB-082805

**RESPONDENT, VOITH INDUSTRIAL SERVICES, INC.'S RESPONSE IN
OPPOSITION TO COUNSEL FOR THE ACTING GENERAL COUNSEL'S REQUEST
FOR SPECIAL PERMISSION TO APPEAL**

Pursuant to Section 102.26 of the Board's Rules and Regulations, Respondent, Voith Industrial Services, Inc., hereby responds to Counsel for the Acting General Counsel's Request for Special Permission to Appeal to the Board Administrative Law Judge Bruce Rosenstein's

Order Revoking Counsel for the Acting General Counsel's Subpoena Duces Tecum. For the reasons stated below, Respondent Voith respectfully requests that Counsel's Request for Special Appeal be denied or, in the alternative, if the Board grants Counsel's request for special appeal, that the August 19, 2012, order of Administrative Law Judge Bruce Rosenstein be upheld.

I. Factual and Procedural Background

On August 7, 2012, Counsel for the Acting General Counsel served by mail upon Respondent Voith a Subpoena Duces Tecum, which is attached as Exhibit A. Because it was served by mail, Respondent Voith did not receive the subpoena until, at the earliest, August 8, 2012, less than two weeks before trial in this matter.

The initial charge in this matter was filed on February 28, 2012 – nearly six months ago – alleging that Respondent Voith engaged in unfair labor practices in violation of Sections 8(a)(1), (2), (3) and (5) of the National Labor Relations Act. The Region began its investigation shortly after the filing of the charge and has undertaken to thoroughly investigate this matter since the outset. During the Region's investigation, Respondent Voith has produced thousands of pages of documents pursuant to requests made by the Region's investigator. Despite the long and painstaking investigation conducted by the Region, at no point did it request the documents sought by Item No. 23 of the subpoena duces tecum. It made this burdensome request, for the first time, within two weeks of the beginning of trial in this matter.

As a result of the untimely and burdensome nature of the subpoena duces tecum, Respondent Voith moved to quash certain of the requests made. Administrative Law Judge Rosenstein issued an order on August 19, 2012, quashing Items 6-10, 14-16, and 19, to the extent they are duplicative. On the first day of the hearing, Counsel for the Acting General Counsel and Voith were able to resolve these issues through consultation. In his August 19, 2012 order,

Judge Rosenstein held in abeyance any ruling with respect to Items 18 and 22. At the hearing, Voith produced responses to Item 18 and Judge Rosenstein revoked the subpoena with respect to Item 22.

Concerning Item 23, Administrative Law Judge Rosenstein wrote:

With respect to the information sought in Item 23 of the Subpoena Duces Tecum, I note that the subject charges were filed in February, April, and June 2012, and the Amended Second Consolidated Complaint issues on August 3, 2012. Thus, the charges have been pending investigation for over a five month period. In agreement with Respondent Voith, I find that the Acting General Counsel's request for documents in Item 23 (October 1, 2011 to the present) while mailed on August 7, 2012 were not received by Respondent Voith until after that date. Accordingly, this did not permit sufficient time prior to the scheduled August 21, 2012 hearing for Respondent Voith to compile the information and prepare its Petition to Quash the Subpoena Duces Tecum. Additionally, the information sought is unduly burdensome by seeking all e-mails and other correspondence among and between Respondent Voith's managers and supervisors, agents, or employees of Aerotek, Ford and/or the United Auto Workers pertaining to Teamsters Local 89 and the unionization of Aerotek's employees. Under these circumstances, I grant Respondent Voith's request to quash the Subpoena Duces Tecum regarding the documents sought in Item 23.

(ALJ Rosenstein's Aug. 19, 2012 Order, Exhibit B).

II. Argument

Requests for special appeals are discouraged by the Board. *See How to Take a Case Before the NLRB*, 8th Ed., Ch. 16. VIII.C. (2008). Ordinarily, trial proceeds and a judge's rulings are challenged through exceptions to the ultimate decision. *See NLRB Rules and Regulations* § 102.26. A similar process should be followed here.

Administrative Law Judge Rosenstein issued this order pursuant to sec. 102.31 of the Board's Rules and Regulations, which calls for the revocation of a subpoena by an administrative law judge "if in his/her opinion the evidence whose production is required does

not relate to any subject matter under investigation or question, or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid.”

An administrative law judge’s interlocutory decision is not subject to special appeal unless the judge acted arbitrarily or capriciously or otherwise abused his discretion in reaching the decision. *See Pueblo Sheet Metal Workers*, 292 NLRB 855 (1989); *Consumers Distrib.*, 274 NLRB 346 (1985). Counsel for the Acting General Counsel asserts that Administrative Law Judge Rosenstein abused his discretion in reaching his decision on Respondent Voith’s petition to quash. However, sec. 102.31, explicitly states that administrative law judges may quash subpoenas if, in their opinion, the subpoena is invalid. Here, Administrative Law Judge Rosenstein formulated such an opinion. As such, special appeal is inappropriate.

Counsel for the Acting General Counsel argues that special appeal is appropriate because more time could have been granted for Respondent Voith to respond and, accordingly, Administrative Law Judge Rosenstein abused his discretion in failing to grant more time if it was needed. However, such grants of additional time are within the sound discretion of the administrative law judge. *See N.L.R.B. v. Glacier Packing Co., Inc.*, 507 F.2d 415 (9th Cir. 1974). Here, Counsel for the Acting General Counsel essentially asks that a continuance be granted, or at least that additional time be provided so that it may obtain documents which it had more than five months to request but sought for the first time within two weeks of the hearing. In addition, this new willingness to allow more time runs contrary to Counsel for the Acting General Counsel’s adamant opposition to any delays at every turn up to this point in the process. Administrative Law Judge Rosenstein was well within his discretion to quash such a request.

Counsel for the Acting General Counsel also posits that Administrative Law Judge Rosenstein abused his discretion because he decided that Item 23 was unduly burdensome without adequate showing of burdensomeness from Respondent Voith. First, Administrative Law Judge Rosenstein's order succinctly acknowledges that the timing of the service of the subpoena jeopardized Respondent Voith's ability to prepare a petition to quash. The timing limited Respondent Voith's ability to undertake a thorough analysis of just how arduous a process searching for the correspondence outlined in Item 23 would be. Second, and perhaps more importantly, Item 23, on its face, is unduly burdensome. This fact was clearly recognized by Administrative Law Judge Rosenstein.

A request for "all" records should be avoided wherever possible pursuant to the NLRB Case Handling Manual sec. 11776. Item 23 seeks all e-mail communications and documents between Respondent Voith, Aerotek, Ford and the UAW dating back more than a year from the date of the subpoena concerning the unionization of Voith and Aerotek employees. An adequate search of all of the relevant databases and drives would take well in excess of the thirteen days Respondent Voith had to respond to this request before the start of trial in this matter. Administrative Law Judge Rosenstein recognized the burdensomeness of the request and acknowledged as much in his order.

Counsel for the Acting General Counsel argues that Voith did not provide "sufficient grounds" for asserting that the subpoena would be overly broad and unduly burdensome. To the contrary, Item 23 is overly broad and unduly burdensome on its face. The request seeks:

True copies of all emails and other correspondence among and between Respondent's managers supervisors and/or between Respondent's managers and/or supervisors and managers, supervisors, agents or employees of Aerotek, Ford, and/or UAW pertaining to Teamsters 89, the unionization of Aerotek's

employees performing yard work at LAP during the period from October 1, 2011 through the present.

Voith Industrial Services has approximately 2000 employees spread throughout the world, about half of which are union employees. Emails are management's primary means of communication. Managers involved in this case estimate that they average over 200 emails a day. Obviously, it would be physically impossible for even a large team of reviewers to actually review such a vast array of emails. Accordingly, the only feasible method of performing the search that Counsel for the Acting General Counsel has demanded is through advanced electronic discovery techniques, which cannot be developed and executed in a few days. Even assuming that electronic discovery techniques were employed, the request remains overwhelming. For example, a search for the terms "union" or "UAW" would undoubtedly result in hundreds of thousands of emails during the period identified in the request.

Even after documents are captured by searching for certain key terms, the process of electronic discovery does not end there. Voith's counsel would then have to manually read through every email which the key-word search found to locate relevant documents, not to mention screen the documents for attorney-client and work-product protection. To have Voith's counsel undertake such a task in the last two weeks before the hearing would have severely hampered Voith's ability to prepare its defense. Even worse, Counsel for the Acting General Counsel now suggests as a solution that Voith's counsel conduct such a review during the hearing. This request is the very definition of overly broad and unduly burdensome from a manpower perspective, not to mention the astronomical expense which it would impose on Voith. Like Counsel for the General Counsel, Voith's attorneys are entitled to focus their full

attention on presenting their case at hearing. Item 23 would be unreasonable had it been made during the investigative phase. Just before and during the hearing it is absurdly unfair.

Moreover, the request is nothing more than an unauthorized request for discovery, to which parties are not entitled in Board proceedings. *See Emhardt Ind. V. NLRB*, 907 F.2d 372, 378 (2d Cir. 1990); *David Webb Co.*, 311 NLRB 1135-36 (1993); *see also Kenrich Petrochemical, Inc. v. NLRB*, 893 F.2d 1468, 1483 (1990) (neither the NLRA nor the Administrative Procedures Act confers the right of discovery in federal administrative proceedings).

The breadth of Counsel's request seeks documents dating to well before the filing of the initial charge in this matter, in some cases more than a year ago. Despite this, at no point prior to the service of this subpoena did Counsel or the Region request the documents that are the subject of Item 23. Apparently, at this late date, Counsel is still searching for a discriminatory motive in this action – something that should have been established long before the matter reached this stage. *See SOS Staffing Services, Inc.*, 331 NLRB 815, 816 (2000) (discriminatory motive is a necessary element of any violation of Sec. 8(a)(3)).

Because it appears that Counsel has no support for any discriminatory motive theory, it has embarked upon a fishing expedition less than two weeks before trial in an effort to obtain heretofore undiscovered evidence that any such discriminatory motive existed. Fishing expeditions of this nature should not be allowed. *See Great Atl. & Pac. Tea Co. (Cranston, R. I.)*, 118 NLRB 1280, 1283 (1957) (broad or blind fishing expeditions will not be tolerated); *see also Jencks v. United States*, 353 U.S. 657, 667 (1957); *Bowman Dairy v. United States*, 341 U.S. 214, 221 (1951). Accordingly, Administrative Law Judge Rosenstein acted within his discretion in granting Respondent Voith's petition to quash Counsel's Subpoena Duces Tecum.

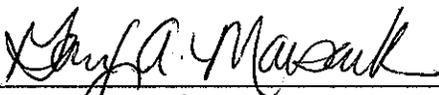
Therefore, special appeal is unnecessary and, even if deemed necessary, Judge Rosenstein's order should be upheld.

III. Conclusion

Administrative Law Judge Rosenstein properly considered and granted Respondent Voith's petition to quash Counsel for the Acting General Counsel's Subpoena Duces Tecum, specifically with respect to Item 23 of the subpoena which is untimely, unduly burdensome, and constitutes unauthorized pretrial discovery in a Board proceeding. Judge Rosenstein was well within his discretion to order that Item 23 be quashed given the nature and timing of the request. Accordingly, Counsel for the Acting General Counsel's request for special appeal should be denied. Alternatively, if Counsel's request is granted, the appeal should be denied and Administrative Law Judge Rosenstein's order quashing portions of Counsel's Subpoena Duces Tecum should be upheld.

Respectfully submitted this 22nd day of August, 2012.

By:



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Stephen.richey@thompsonhine.com
Attorneys for Respondent Voith Industrial Services, Inc.

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Erwin Gebhardt, Director of Labor Relations, Voith Industrial Services, Inc.,
9395 Kenwood Road, Suite 200, Cincinnati, Ohio 45242

As requested by Jonathan D. Duffey, Counsel for the Acting General Counsel
whose address is Room 3003, John Weld Peck Federal Building,
550 Main Street Cincinnati, Ohio 45202
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge
_____ of the National Labor Relations Board

at Room 47, Gene Snyder Courthouse, 601 West Broadway
in the City of Louisville, Kentucky

on the 20th day of August 2012 at 1:00 ~~PM~~ (p.m.) or any adjourned
or rescheduled date to testify in VOITH INDUSTRIAL SERVICES, INC.
Cases 9-CA-075496; 9-CA-078747; 9-CA-082437;
9-CB-075505; 9-CB-082805
(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

In accordance with the Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings), objections to the subpoena must be made by a party to the proceedings and must be filed as set forth therein. Petitions to revoke must be received within five days of your having received the subpoena. 29 C.F.R. Section 102.111(b) (3). Failure to follow these regulations may result in the loss of any ability to raise such objections in court.

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

B - 643335

Issued at Cincinnati, Ohio

this 6th day of August 20 12

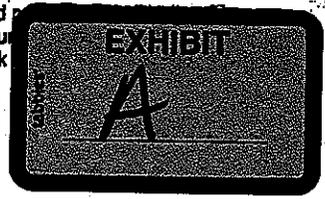


Lesfer A. Neltzer

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will not request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek in federal court.



DEFINITIONS AND INSTRUCTIONS

1) When used in this subpoena, the word "document" or "documents" means any existing printed, typewritten, handwritten or otherwise record material of whatever character, including, but not limited to, letters, correspondence, memoranda, telegrams, mailgrams, minutes, notes, statements, affidavits, agreements, summaries, records of telephone conversations, telephone bills, recordings of personal conversations, interviews or meetings, transcripts, diaries, reports, charts, contracts, calendars, interoffice communications, books, records, tax records, bookkeeping and/or accounting work papers, canceled checks, accounts, account receivable records, ledgers, journals, purchase orders, invoices, bills of lading, billing slips, delivery records, receiving records, photographs, microfilm, audio or video tapes, voice mail messages, material existing on computer software or hardware, computer tapes or disks and electronic mail, and all data contained thereon that may be retrieved, including material stored on hard disks, an any carbon, photographic or other duplicate copy of such material in the possession of, control of, or available to the subpoenaed party or any attorney, agent, representative or other person acting in cooperation with, in concert with, or on behalf of the subpoenaed party.

2) Voith Industrial Services, Inc. shall be referred to as "Respondent."

3) General Drivers, Warehousemen & Helpers, Local Union 89, Affiliated with the International Brotherhood of Teamsters, shall be referred to as "Teamsters 89."

4) United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO and United Automobile, Aerospace and Agricultural Implement Workers of America, Local Union No. 862, AFL-CIO, shall be referred to independently and collectively as "UAW".

5) Aerotek, Inc. shall be referred to as "Aerotek"

6) The Ford Motor Company and any sub-divisions thereof shall be referred to as "Ford".

7) "Yard Work" shall refer to all work traditionally and commonly referred to as such at Ford's Louisville Assembly Plant (LAP), including, but not limited to, the batching and holding of vehicles intended for sale (units), shuttle operations, yard/inventory management, and rail loading and unloading.

8) The term "person" or "persons" means natural persons, corporations, partnerships, sole proprietorships, associations, organization, trust, joint venture, or group of natural persons or other organizations or any other kind of entity.

9) Whenever used in this subpoena, the singular shall be deemed to include the plural, and vice versa; the present tense shall be deemed to include the past tense, and vice versa; reference to parties shall be deemed to include any and all of their officers, agents and representatives; the masculine shall be deemed to include the feminine, and vice versa; the disjunctive "or" shall be deemed to include the conjunctive "and," and vice versa; and each of the words "each," "any," "every," and "all" shall be deemed to include each of the other words.

10) Unless otherwise stated, this subpoena covers the period from October 1, 2011 to

present.

11) Unless otherwise stated, the term "Respondent's facility" means the facilities where Respondent's employees work at Ford's Louisville Assembly Plant in Louisville, Kentucky (LAP).

12) Any copies of original documents which are different in any way from the original, whether by interlineation, receipt, stamp, notations, indication of copies sent or received, or otherwise, shall themselves be considered original documents and must be produced separately from the originals or copies of originals.

13) All documents produced pursuant to this subpoena should be organized by the subpoena paragraph to which each document or set of documents is responsive.

ATTACHMENT

The following documents and/or other items in the possession or control of either Respondent or its agents and attorneys:

Or, in lieu of the subpoenaed materials, a sworn affidavit by Respondent's officer having personal knowledge of facts relating to the information requested, but provided that said records and other documents will be made available at hearing for inspection by an authorized agent of the National Labor Relations Board, if requested, and said affiant will be available to testify with respect to the information sought at the hearing.

1. Any job descriptions for Respondent's employees who perform janitorial or custodial work at Ford's Louisville Assembly Plant facility (LAP).
2. Any job descriptions for Respondent's employees who perform yard work at LAP.
3. Any tests, physical fitness requirements and/or other standards that must be met by Respondent's employees who perform janitorial or custodial work at LAP.
4. Any tests, physical fitness requirements and/or other standards that must be met by Respondent's employees who perform yard work at LAP.
5. All communications, in any form, between Respondent and Aerotek regarding hiring for yard work at LAP.
6. For all of Respondent's employees who perform yard work at LAP, documents showing the date they were hired, the date they started work for Respondent in any capacity, and the date that they started performing yard work duties at LAP.
7. All job applications of Respondent's employees who performed yard work duties at LAP between January 1, 2012 and present, regardless of when the application was submitted to Respondent or what position was applied for.

8. Any notes taken in the hiring process for employees who applied for and/or were ultimately assigned to perform yard work duties at LAP
9. Any communications between Respondent and Teamsters 89 pertaining to whether Respondent had an obligation to recognize and bargain with Teamsters 89 on behalf of employees at LAP.
10. All collective bargaining agreements in effect between October 1, 2011 and present between Respondent and UAW covering employees at LAP.
11. All advertisements or postings for work for employees to perform yard work duties at LAP.
12. All contracts between Respondent and Ford defining the scope of Respondent's work at LAP in effect during the time period from October 1, 2011 to present, regardless of when the contracts were entered into.
13. Any and all communications, regardless of form, between Ford and Respondent about yard work at LAP from October 1, 2011 to present.
14. Any and all communications, regardless of form, between Respondent and UAW about yard work at LAP from October 1, 2011 to present.
15. Respondent's handbook(s) in effect at LAP from January 1, 2012 to present.
16. Respondent's policies pertaining to solicitation and distribution in effect at LAP from January 1, 2012 to present.
17. All union cards relied upon by Respondent in granting recognition to UAW.
18. Any documents showing vehicles damaged by Respondent's employees at LAP.
19. The personnel files of all of Respondent's employees at LAP who performed yard work from January 1, 2012 to present.
20. Any notes taken by or relied upon by Respondent in meetings held with Respondent's employees at LAP on or about June 1, 2012.
21. Any notes taken by or relied upon by Respondent in hiring employees to perform yard work duties at LAP.
22. Dennis Frank's cell phone records for any incoming or outgoing calls on April 11, 2012.
23. True copies of all emails and other correspondence among and between Respondent's managers and supervisors and/or between Respondent's managers and/or

supervisors and managers, supervisors, agents or employees of Aerotek, Ford, and/or UAW pertaining to Teamsters 89, the unionization of Respondent's employees performing yard work at LAP or the unionization of Aerotek's employees performing yard work at LAP during the period October 1, 2011 through the present. With regard to this item, please provide the following related information:

- **Whose email was searched?** A search of the email of all individuals ("custodians") who are most likely to possess communications covered by the subpoena is expected.
- **What email was searched?** For each custodian's mailbox, what folders, archives and document management systems were searched? Did the search include both email stored on the Respondent's server for its company email system, and email stored in personal folders and archives on individual computers? Did the search include email hosted on third-party service providers such as Google or Yahoo, including both company and personal accounts used by custodians for work-related communications?
- **How was the search conducted?** Who conducted the searches, and what search software and/or search terms were used to locate emails?

Lindsay, Garey E.

From: Duffey, Jonathan D.
Sent: Sunday, August 19, 2012 6:46 PM
To: Lindsay, Garey E.
Subject: FW: Voith Industrial Services, Inc.-Cases 9-CA-75496, 9-CA-78747 and 9-CA-82437

From: Rosenstein, Bruce
Sent: Sunday, August 19, 2012 8:55 AM
To: Duffey, Jonathan D.; Taylor, Eric A.; gmarsack@lindner-marsack.com; stephen.richey@thompsonhine.com
Subject: Voith Industrial Services, Inc.-Cases 9-CA-75496, 9-CA-78747 and 9-CA-82437

Counselors,

I received Respondent Voith's Petition to Quash the Acting General Counsel's Subpoena Duces Tecum (B-643335), and the Acting General Counsel's Memorandum in Opposition to Respondent Voith's Petition to Quash Subpoena Duces Tecum late on Friday afternoon, August 17, 2012.

The Subpoena Duces Tecum seeks the production of 23 items as set forth in the attachment.

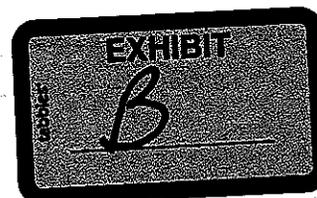
In representations by the Acting General Counsel of its willingness to discuss stipulations regarding the materials sought, I direct the parties to discern whether the materials in Items 6, 7, 8, 9, 10, 14, 15, 16, 19, and 21 of the Subpoena Duces Tecum have previously been provided by Respondent Voith to the Acting General Counsel. If so, then Respondent Voith does not need to produce the identical information. If the above items or any portions thereof have not been provided or are not in the possession of the Acting General Counsel, the materials must be produced as being necessary and relevant to the complaint allegations.

Regarding Items 18 and 22 of the Subpoena Duces Tecum, I will hold in abeyance any ruling until the commencement of the hearing to address their relevancy.

With respect to the information sought in Item 23 of the Subpoena Duces Tecum, I note that the subject charges were filed in February, April, and June 2012, and the Amended Second Consolidated Complaint issued on August 3, 2012. Thus, the charges have been pending investigation for over a five month period. In agreement with Respondent Voith, I find that the Acting General Counsel's request for documents in Item 23 (October 1, 2011 to the present) while mailed on August 7, 2012 were not received by Respondent Voith until after that date. Accordingly, this did not permit sufficient time prior to the scheduled August 21, 2012 hearing for Respondent Voith to compile the information and prepare its Petition to Quash the Subpoena Duces Tecum. Additionally, the information sought is unduly burdensome by seeking all e-mails and other correspondence among and between Respondent Voith's managers and supervisors, agents, or employees of Aerotek, Ford, and/or the United Auto Workers pertaining to Teamsters Local 89 and the unionization of Aerotek's employees. Under these circumstances, I grant Respondent Voith's request to quash the Subpoena Duces Tecum regarding the documents sought in Item 23.

Lastly, all documents not subject to the Petition to Quash the Subpoena Duces Tecum must be produced and turned over to the Acting General Counsel (Items 1-5, 11-13, 17, and 20).

Judge Rosenstein



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Respondent, Voith Industrial Services, Inc.'s Response in Opposition to Counsel for the Acting General Counsel's Request for Special Permission to Appeal was served upon the National Labor Relations Board by electronic filing in PDF format using the Agency's E-filing system on this 22nd day of August, 2012.

I further certify that a copy of the foregoing was served upon the following by email in accordance with CFR 102.11(4) on this 22nd day of August, 2012:

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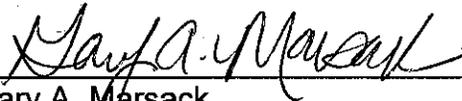
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Gary A. Marsack
Attorney for Respondent Voith Industrial Services, Inc.