

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of:

MILUM TEXTILE SERVICES COMPANY,

Respondent,

And

UNITE HERE!

Charging Party.

Case Numbers:

28-CA-20898

28-CA-20896

28-CA-20973

28-CA-21050

28-CA-21203

**RESPONDENT'S REPLY TO THE CROSS-EXCEPTIONS
FILED BY THE GENERAL COUNSEL**

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I. Overview

It cannot be overemphasized that the Union waged two very separate and very distinct campaigns at Milum during the period from May 2005 through the date of this hearing (March 2007). One campaign involved an organizational campaign and directly involved the employees at Milum [hereinafter “employee campaign”], and commenced at the end of February 2006. The second campaign – the real campaign -- that the Union waged against Milum was a “corporate campaign” to achieve a neutrality card check agreement with Milum, and was commenced by the Union in May 2005¹ and continues through the present. Daisy Pitkin² confirmed that the goal of the Union’s corporate campaign at Milum was to obtain a card check neutrality agreement. [Tr 1672]³ The corporate campaign was focused on distributing materials to Milum’s customers and to the customers of Milum’s customers to force Milum’s customers to cease doing business with Milum. Thus, the corporate campaign had very little if any relationship to the employee campaign. The purpose of the corporate campaign was to coerce Milum to sign a card check neutrality agreement with UNITE HERE!

Craig Milum set forth the distinction between the employee campaign and the corporate campaign in his letter to Representative Grijalva dated 6 July 2006:

We have had no meetings or management initiated discussions with our employees to address the matter of the union’s organizational drive except for a work stoppage initiated by the union shortly after the campaign started at which time our employees as a group requested that I speak with them. The union has been, practically speaking, unopposed to date by Milum Textile Services in its direct effort to convince the employees to support the union....We, have, however, taken many steps to oppose the corporate campaign. [GC 103]

Thus, any animus attributed to Milum related exclusively to the corporate campaign – not the

¹ As set forth in the EEOC charge filed by full time union organizer Martha Chacon, her first alleged visit to Milum seeking employment was in May 2005. [Respondent’s Exhibit 16].

² Daisy Pitkin is the union organizer responsible for the UNITE HERE! campaign at Milum. [Transcript p. 1622]

³ References to the transcript are “Tr”, to the General Counsel’s exhibits are “GC” and to the General Counsel’s Cross-Exceptions Brief at “GC C-EX”.

employee campaign. And, contrary to the General Counsel's statement that the employees who desired to be represented by the Union signed the petition, the testimony at the hearing revealed that some of the employees did not know what they were signing when they signed the petition.⁴

II. The ALJ Erred In Her Determination that the Discharge of Denise Knox and Soe Min Violated Section 8(a)(3) and (1) of the Act

In an attempt to justify Soe Min's behavior, the General Counsel argues that Soe Min was a "new employee" at the time of his discharge. [GC C-EX at 21] This is absurd in light of the fact that Soe Min was hired on 9 February 2006 – five months prior to his discharge.⁵ The General Counsel also tries to equate the behavior of Soe Min and Denise Knox to repeatedly going to the bathroom or smoking a cigarette in the bathroom on one or two occasions.⁶ [GC C-EX at 23] Min's and Knox' behavior not only constituted theft of time, but they engaged in multiple and deliberate acts of subterfuge by acting early in the shift when only the lead person – not the supervisor -- was present.⁷ Knox' and Min's behavior is far removed from the type of behavior for which solely warning notices were given.

The General Counsel erroneously contends that Milum failed to "conduct any investigation". [GC C-EX at 26] This is absolutely false as the record clearly shows that Milum conducted a full and fair investigation: immediately after being informed of the alleged misconduct (the next morning), Craig Milum personally conducted an investigation, and during the course of that investigation he found Denise Knox and Soe Min engaged in time theft. Further, during the course of the investigation Craig Milum personally confronted Denise Knox

⁴ Examples include: Patricia Goebel signed but did not join the union [Tr 1445-1446]; Maria Teres Velasquez Garcia just signed, did not read the petition [Tr 1107]; Maria Martinez signed, tried to retract [Tr 1547]

⁵ Craig Milum's testimony exclusively relates to "new" employees, and Craig Milum testified that Soe Min was not a "new" employee. [Tr 272]

⁶ Even if we assume, *arguendo*, that repeatedly going to the bathroom or smoking are at the same level with time theft, the evidence presented by the General Counsel does not provide evidence that would show if these incidents involved a new employee or whether no questions were asked because of the rather delicate nature of asking questions of employees regarding the exact nature of what transpired in the bathroom.

⁷ The lead person, Maria Zambrano, was afraid to disclose Min's and Knox' behavior to management. [Tr. 1838]

and Soe Min when he found them in the lunch area on work time, and discussed the situation with each of them.⁸ It is not disputed that when Craig Milum stated to Denise Knox that she was “stealing on the job from the company, she responded, “You caught me.” Nothing else needed to be investigated once Denise Knox admitted that she had violated the rules repeatedly. Further, the General Counsel’s own cases support a finding that Milum conducted a reasonable investigation. In *Publisher’s Printing Co.*, 317 NLRB 933, 938 (1995) an employee (Maynard) was disciplined and discharged for leaving his job before it was finished. The Board found that another employee had informed the supervisor that Maynard had left a mess, and that supervisor directed another supervisor to talk with Maynard to see what happened. The supervisor gave Maynard a chance to explain his conduct, and the supervisor decided to issue the warning notice. The Board held that this was a “fair investigation”.⁹ [*Id* at 938] The General Counsel argues that when Craig Milum caught Knox sleeping on the clock, she informed him that other employees engaged in the same conduct,¹⁰ and that Milum “did not look into this **defense.**” [GC C-EX at 26] The fact that others may have committed the same act without the knowledge of the employer does not constitute a defense, and Milum had no duty to investigate this claim – especially in light of the fact that the statement was made when Knox had just been caught in the act of misconduct. Furthermore, there is absolutely no evidence that Milum did not continue the investigation after the discharges.

The General Counsel misstates the ALJ’s decision when he argues that it was “well-established practice for all the soil-sort employees to remain in the lunchroom for several

⁸ Denise Knox did not testify at the hearing, and all of Milum’s testimony must be credited.

⁹ In *Burger King*, 279 NLRB 227, 239 (1986) the company discharged an employee who had openly criticized the company’s change in the pay system. There was an incident involving the truck that the employee drove, and the employee was discharged. Since the employee was neither told the full nature of the problem, nor was he provided with an opportunity to respond to the complaint in writing as other employees had been permitted to do or to invoke the established grievance procedure, the Board held that the “investigation” was not fair. These facts are quite different from the facts in the instant case.

¹⁰ GC C-EX at 26

minutes after clocking in instead of beginning work”, and therefore the discharges were pretextual. [GC C-EX at 21] In fact all the ALJ merely stated that one of the employees had stated in an affidavit to the NLRB that all the soil-sort employees did this. [ALJD at 10, fn. 27] There is no evidence that Milum was aware of this occurring or that it was an acceptable practice, and when Craig Milum personally investigated the situation, he only found Knox and Min engaging in the theft of time. This is no different from a situation where an entire accounting department engages in embezzlement -- the act of embezzlement is neither legal nor accepted just by virtue of the fact that they are all involved. Under the circumstances, a prudent employer would only discharge those individuals that it personally caught in the act of embezzling or had proof that they embezzled. That is exactly what Milum did.

Three final notes regarding statements made by the General Counsel regarding this issue: First, in his brief the General Counsel sets forth the “facts” according to Min. [GC C-EX at 22] The ALJ, however, stated that she gave weight to Craig Milum’s testimony because she could not fully credit Min’s testimony: “Mr. Min’s testimony appeared calculated to fit the established time period rather than to present a straightforward account.” [ALJD at 10, fn. 29] Second, there is no evidence that any of the employees were permitted to or wore union shirts while working as alleged by the General Counsel.¹¹ In fact, all of the employee witnesses confirmed this fact. [Tr. 429, 504, 602-602, 1083, 1137-1138, 1190, 1444, 1508, 1975] Third, the General Counsel argues that in July 2006 Milum was “furiously trying to find a way to stop the Union at his plant,...and send a message to his workers to ‘realize the seriousness and foolishness’ of their union activities.” [GC C-EX at 26] First, nothing had occurred at the plant in the five month period of time between the work stoppage in early March and the discharge of Knox and Min other than the advent of the metal union pin. Thus, there is no basis for stating that Milum was “furiously”

¹¹ GC C-EX at 7; See Tr 1138, 1975]

trying to do anything. Second, the statements made by Knox two days prior to her discharge during the approximately twenty (20) second “interview” were innocuous: she merely stated that she had a criminal background and that Milum was the only company who would hire her because of that fact. (GC 60) These revelations are not significant to any of the parties, and the General Counsel did not provide any evidence that the employees were aware that these statements were made or that the union was engaging in a corporate campaign outside the work site.

III. The ALJ Erred in Her Determination that Milum Violated Section 8(a)(1) of the Act on 26 April 2006 by Pursuing Preliminary Injunctive Relief in the Federal Lawsuit

The Respondent excepts to the ALJ’s finding that Milum violated Section 8(a)(1) of the Act on April 26, 2006 by filing a motion for a temporary restraining order [“TRO”] in the federal lawsuit. In its opposition, the General Counsel argues that the request for a TRO violated the Act because it was “retaliatory.” In *BE & K Construction Co., 351 NLRB No. 29 slip op. at 6*, the Board held that the maintenance of a reasonably based lawsuit does not violate the Act, regardless of whether the lawsuit is ongoing or is completed, and regardless of the motive for initiating the lawsuit. The test is whether a reasonable litigant could realistically expect success on the merits. Even if we assume, *arguendo*, that a “motion” for a TRO can be segregated from the remainder of the lawsuit and deemed to be a violation of the Act in and of itself, the fact remains that in order to violate Section 8(a)(1) the request for the TRO and the underlying claim must be baseless. Milum’s Motion for a TRO was clearly not baseless. The facts in *San Antonio Community Hospital v. Southern California District Council of Carpenters, 125 P.3d 1230 (9th Cir. 1997)*, are virtually identical to this case, and show that a denial of a TRO does not render the “lawsuit” baseless, and that the underlying claim is not baseless. In *San Antonio* the hospital **filed an unfair labor practice** against the union regarding the banner that the union was

displaying at its operation which stated, “This medical facility is full of rats.” The Union **did not have any relationship with the hospital** which it was targeting. The Board refused to go to complaint. The Hospital then filed **a lawsuit** in federal court including various state tort claims and a **federal claim for an unlawful secondary boycott**. The hospital also filed a **motion for temporary restraining order** which the court **denied**. The Court then conducted an evidentiary hearing on the hospital’s request for a **preliminary injunction** (separate request) during which evidence (New York Times standard) was presented. **At the conclusion of the evidentiary hearing**, the Court ruled that the hospital had met the requirements for a **preliminary injunction** set forth in the NLA, and enjoined the union from using the banner that they were then using. The fact that the hospital attempted to obtain relief from the NLRB and was denied such relief did not make its claim baseless. Nor was the hospital’s claim rendered baseless because the Court denied its request for a TRO. As set forth in *San Antonio*, the hospital did not submit its proof of actual malice **until the time of the evidentiary hearing** on its request for **preliminary injunction**. In this case, Milum’s Motion for a TRO was denied, and Milum did not request preliminary injunctive relief. The fact that Milum neither requested preliminary injunctive relief upon which an evidentiary hearing would have been conducted, does not render its TRO request baseless. In *San Antonio* the hospital’s complaint set forth six damage claims: libel, trade libel, intentional interference with prospective economic advantage, negligent interference with prospective economic advantage, interference with contractual rights, and secondary boycott under section 303 of the LMA – virtually identical to Milum’s causes of actions. The Court in *San Antonio* held that the injunction could be predicated on the hospital’s defamation claims, and that libel actions under state law are pre-empted by the federal labor laws **unless the defamatory statements are published with knowledge of their falsity or reckless disregard for the truth**

pursuant to *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964). The Court went on to state that the union’s right to use inflammatory rhetoric during a labor dispute **is not unbridled** under the NLA, and “Where, as here, a union’s fraudulent language is **directed at any entity with which no labor dispute exists**, the NLA does not prevent a district court from exercising jurisdiction to issue an injunction prohibiting the fraudulent activity.” *San Antonio* at 1235. The Court further stated, “Fraud and violence are as unlawful and as reprehensible in a labor controversy as elsewhere.” *San Antonio* at 1235. Thus, Milum’s request for a TRO was clearly not baseless.

The General Counsel cites *Grinnell Fire Protection Systems Co.*, 328 NLRB 585 (1999), in support of its argument that the Board breaks up cases into parts. First, this is a pre-*BE & K* case, and the standards are different, and second, the Board was examining the “causes of action” set forth in the lawsuit – not the “motions” that were made – in determining whether the causes of action were baseless and could be enjoined by the Board.

IV. The ALJ Erred in Her Decision that Milum Violated Section 8(a)(1) of the Act on 27 June and on 4 July 2006 by Promulgating and Maintaining a Rule Prohibiting Employees from Wearing the Metal Union Pins While Working.

The test for determining whether the **singular** restriction on wearing the metal union pin while working violates the Act is whether that act **reasonably** tended to interfere with the employees’ exercise of their guaranteed rights.¹² It is unreasonable to believe that the singular prohibition of the metal pin interfered with the employees’ rights where the employees had and wore union nametags, paper union stickers and plastic union bracelets while working – without objection¹³ -- and where General Counsel’s own expert testified that in his opinion the metal union button should not be worn while working. [Tr. 239] Milum’s situation was very different

¹² GC C-EX at 19

¹³ ALJD at 4; Milum also did not object to the placement of the 9’ X 4’ union poster and the microwave with union stickers in the lunch area. [*Id.*]

from that in *Inland Counties Legal Services*, 317 NLRB 941 (1995), where the employer prohibited the wearing of a union button because it was a public service law office, the pin was of a political nature, and the employer wanted to avoid controversy. Further, the instant case is distinguishable from the case cited by the General Counsel because Milum never permitted the employees to wear any type of pin on their uniforms that the employees received from an outside third party or took it upon themselves to wear. In *Airport 2000 Concessions, LLC*, 346 NLRB No. 86 slip op. at 3 (2006) dealt with a situation where the employer had not only permitted the employees to wear other kinds of pins and buttons while working, but in fact permitted the employees to wear the union pins until the organizing activity increased.

The General Counsel misstates the ALJ's decision. The ALJ stated that she accepted "employee testimony that employees regularly wore jewelry without supervisory objection."¹⁴ The ALJD did not state that the safety risk of the jewelry was "indistinguishable from the union buttons".¹⁵ The General Counsel also misstates the testimony regarding Craig Milum's demonstration of the company nametag: there is no evidence that "Milum shook his arm, the nametag quickly flew off, almost hitting the Judge."¹⁶ As Judge Gontram stated, "Mr. Milum was shaking [his arm] vigorously and [the name tag] – but it did come off." [Tr. 172]

The evidence supports a finding that the singular prohibition of the metal union pin did not reasonably interfere with the employees' rights.

V. The ALJ Erred in Her Decision that Milum Violated Section 8(a)(1) of the Act in January 2007 When it Placed a Security Camera in the Lunch Area

The General Counsel cites *Trailmobile Trailer, LLC*, 343 NLRB 95 (2004) to support its argument that the placement of the video camera in the lunchroom violated the Act. The facts in

¹⁴ ALJD at 7, fn. 19

¹⁵ GC C-EX at 18

¹⁶ GC C-EX at 17

Trailmobile, however, are distinct from those in the instant case. First, unlike *Trailmobile*, the installation of the video camera in the lunchroom was part of the overall replacement and upgrade of the security system that was already in place at Milum at the time that the union organizing campaign began. [Tr. 1402-1422] Second, at the time that Milum placed the camera in the lunchroom, the union's organizing campaign had been ongoing for almost a full year, and nothing had occurred at the plant that could possibly be considered a "trigger." Third, in *Trailmobile* the employer neither had a preexisting camera security system nor did it provide a basis for the alleged vandalism justifying the installation of the cameras in the parking lot and facing the entrance to its facility as it had waited 8 months since the vandalism had occurred, but at the height of the union organizing campaign at the company. Further, the vandalism upon which it based its actions had occurred in the parking lot – not at the entrance of the facility. In this case Milum installed the camera in the lunch area almost a full year after the union's organizing campaign had begun. And, there is no evidence in record that the installation of the camera in the lunch area had a reasonable tendency to interfere with protected activity under the circumstances, and the lunchroom was not a pivotal place for union activity contrary to the General Counsel's allegations: the microwave and the 9' X 4' union poster were placed there in March 2006 – nine full months prior to the installation of the security camera, the union's blitz had occurred over ten months prior to this, and although union fliers may have been placed in the lunch area, there is no evidence of them being placed specifically in the lunch area at any time even remotely connected to January 2007, and as Rafael Parra testified, the union fliers were "everywhere". [Tr 1617]. Furthermore, the testimony is undisputed that all of the union's activities occurred outside Milum's building on 6th Avenue – and it is important to note that was a location where Craig Milum specifically decided **not** to place a camera because there was

union activity in that area. [Tr. 1422] Thus, there is no basis for a finding that the installation of the camera in the lunch area violated the Act.¹⁷

VI. Attacks on Craig Milum’s Credibility Are Unwarranted and Should Be Disregarded

The General Counsel makes an unwarranted attack on Craig Milum’s credibility in footnote 11 of his Cross-Exceptions, stating that the “record is replete with instances in which Milum contradicted his testimony, equivocated in response to the General Counsel’s questions, and generally refused to provide testimony for which he could be held accountable.” The General Counsel cites 60 page references to the transcript, but does not take the time to even try to explain these blatant attacks. As set forth in Exhibit A, the testimony on these pages clearly shows that Craig Milum answered the questions fully and completely. This is a totally unwarranted attack and should be disregarded.

VII. Conclusion

Based upon the foregoing and the evidence in the record, the findings of the ALJ’s with respect to the restriction on the metal union pin [and the discipline to Guzman based thereon], the discharge of Knox and Min, the filing of the Motion for Temporary Restraining Order, and the placement of the security camera in the lunch area, should be overturned.

Dated this 22nd day of January 2008.

s/ Laurie A. Laws
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¹⁷ It is interesting to note that while the General Counsel argues in the section involving the lawsuit that there was no damage caused to Milum as a result of the union’s defamatory leafleting, he then states that the camera was installed in the lunchroom “just a few weeks after one of its largest customers had informed Respondent it wished to terminate its contract with Respondent **because of the Union’s publicity campaign.**” [GC C-EX at 20]

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **RESPONDENT'S REPLY TO THE CROSS-EXCEPTIONS FILED BY THE GENERAL COUNSEL** was E-filed with the NLRB and served on this 22nd day of January 2008 as follows:

Original and Eight Copies via Federal Express Overnight Delivery:

Lester A. Heltzer, Executive Secretary
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s/ Laurie A. Laws
Laurie A. Laws

EXHIBIT A

	[page number in transcript]	<p>General Counsel characterized the record as replete with such instances in his footnote 11. Mr. Milum's testimony is contained in 474 pages of the 2,265 pages of the transcript of the hearing. This is the testimony by Mr. Milum that General Counsel was most likely referring to when General Counsel cited certain pages of the transcript as containing instances in which Mr. "Milum contradicted his affidavit testimony, equivocated in response to the General Counsel's questions, and generally refused to provide testimony for which he could be held accountable". As set forth below, the General Counsel's allegations are without basis.</p>
1	33	<p>In response to GC questioning on page 32 regarding what documents Mr. Milum reviewed prior to the hearing to prepare for his testimony, Mr. Milum responded besides affidavits given to the board, he had looked at correspondence between himself and the company attorney, himself and customers, union leaflets, and articles appearing in the media. Then when questioned as to whether there was anything else, Mr. Milum responded, "Not that I recall."</p>
2	41	<p>Q When did that occur? A I would guess July, maybe August. Q What did he tell you? A He said that – as I recall, that the union was quite competent or strong in litigation and therefore don't get involved with attempting to litigate or make claims against the union in the court. That would be, probably in his mind, a mistake.</p>
3	42	<p>Q And what did you discuss with this gentleman? A He asked me to review kind of what had occurred to date. Q And did you give him a review? A Probably like a five-minute overview. Q Did you make any notes of these conversations? A I think I made a few. They are not detailed notes, but like his name and his number. Q Could I ask that maybe tomorrow you could produce those> A His name is Carlos Restropo, I think. Q Carlos Restropo, perhaps? A I think that is what his name is. Q Would you look for those notes this evening and if you have them would you please bring them with you tomorrow? A Sure. Q And what did Mr. Restropo tell you? A I think he said – he was talking kind of like in the context of election campaign, how to conduct an election campaign. Q Anything else? A No, not that I recall.</p>
4	44	<p>A Greg Brown of Mickey's Linen. Q Is that here locally? A I think they are in Michigan and Ohio, operate several plants. Q What did you discuss with him? A Same sort of thing. Q Anybody else? A Not that I recall. Q And to the extent you have any notes to those conversations could you please look for those and bring</p>

4 [cont.]		<p>them with you. A Yes. Q Now at some point towards the end of February you received a telephone call from State Senator Bill Brotherton, did you not? A I did. Q And what was the nature of that conversation, if you recall? A He told me that he understood our employees wanted to form a union and that he hoped that we wouldn't strike or cause problems in that process. Q And what did you tell him? A I don't recall what I told him.</p>
5	58 [actual pages are 57-58]	<p>Q BY MR. GIANNOPOULOS: Let's go back to this event, meeting, and work stoppage, whatever we want to call it. How about work shirts, didn't employees complain to you that they didn't have work shirts? A Not that I recall. Q Do you remember any other complaints that they had? A Somebody said something about Angela tapping them pretty hard on their shoulder to get their attention, they didn't like that or he didn't like that or she didn't like that. I think it was more than one person that said something like that. Q And other than Angela, any complaints other than Angela? A Not that I recall. Q How about the union, what did you say to the employees about the union? A Somebody asked, what is this union, what is that all about? I said, well, the union is seeking to represent the employees here in discussions about wages and working conditions in exchange for paying dues, or in exchange for dues. Q And is that all that was said about the union? A That I said or that others said? Q That you said. A That is all I recall saying. Q Did you talk to the employees about the process of the union election? A Not that I recall.</p>
6	59	<p>Q Did you discuss with employees other ways that you could resolve their complaints other than these name tag issue? A What did I Q Apparently you are saying you talked about Angela? A Yes, I told the employees that there are other ways to get their attention rather than clapping the hands and at that point no need to press somebody pretty hard. Q So all of the employees had stopped work, had gathered together and asked you to come down and they presented you with the Petition and the only thing you said about unions was that short explanation? A That is what I recall. Q How long did this meeting last? A I would probably like 35 minutes, something like that. Q How about 45 minutes to an hour? A I didn't think it was that long, but it might have been. You understand that everything was being translated. So it took at least twice as long to clarify things than it would if everybody spoke the same language. Q Sure. And you gave an affidavit to the NLRB during various investigations; correct? A Right.</p>

7	61	<p>Q BY MR. GIANNOLPOULOS: I am going to show you a document marked General Counsel's 33. Do you recognize this document?</p> <p>A Yes.</p> <p>Q This is the letter that the union sent you, dated March 3rd, 2006?</p> <p>A It looks like it. As far as I know it is.</p> <p>Q The date of the letter at least?</p> <p>A Yeah. I don't remember exactly the date, but it looks like it.</p> <p>Q That is the letter that you received about the time of that work stoppage?</p> <p>A That is what I recall.</p>
8	65	<p>A I talked to an Adrian Mynt, a person in the Burmese community, who is terribly well known and respected and is bilingual. I told him that we had this work stoppage on Saturday and that I thought pretty much everybody understood what was said except for the Burmese people. They were in the area away from the others and they seemed to have no understanding at all. As I recall, we told me after that meeting or in the course of it that I would try to get somebody who could explain what was being said so that they would understand it.</p> <p>Q And who arranged for this meeting?</p> <p>A I did.</p> <p>Q Who is Mr. Mynt?</p> <p>A He is a person who I think it reasonably well thought of in the Burmese community, who is bilingual. And had facilitated some Burmese people in coming to work for our company.</p> <p>Q And when did you call Mr. Mynt?</p> <p>A Monday, I think, after the Saturday work stoppage.</p>
9	66	<p>Q Who served as the interpreter for this meeting?</p> <p>A Adrian Mynt. M-y-n-t.</p> <p>Q And how was it determined which employees would attend this meeting?</p> <p>A I think the employees who were there who spoke Burmese, at the time that Adrian was available to come were the ones who attended.</p> <p>Q So I just want to get the sequence straight. After the work stoppage, a couple of days later, you called Mr. Mynt and invited him to come down and explain to the Burmese employees what had happened?</p> <p>A That is what I recall, yes.</p> <p>Q How many Burmese employees did you have working there at the time; do you recall?</p> <p>A I would guess either eight or nine, I am not sure.</p> <p>Q Now these Burmese employees, are most of them political refugees?</p> <p>A That is what I understand.</p> <p>Q And you said Mr. Mynt arranges their employment?</p> <p>A I said he facilitated it.</p> <p>Q Facilitate, how does he do that?</p> <p>A I don't recall how we – I think we had hired one or two Burmese people and I think he brought them to work one day and I ran into him and struck up a conversation, something like that.</p>

10	67	<p>Q Do you know what he does for a living? A Works with Intel. Q So you know what organization he worked as a facilitator to the Burmese employees? A I think they were people he knew, he wasn't part of an organization. Q Do you work with him currently? A He has translated for us some documents and also some – he is like – he helped us train people when we had an English script or training video and had to translate it in Burmese and so he translated that into Burmese for people who were congregated in the area so they could learn. Q I am going to show you again your affidavit of August 9th of 2006. I would have you look to page 20, go to Line 19 and that last sentence there that says, "I wanted to clarify what happened during the work stoppage." That is what it says; correct? A That is what it says. Q And that is relating to the meeting with the Burmese employees? A That is correct. Q What did you want to clarify with them?</p>
11	77	<p>Q What about the union, about the election process, did you explain that to them? A Not that I recall. I might have – well, not that I recall. Q You may have? A I might have, but if I did – I might have talked about if the union gets 30 percent of the cards signed and they can go to the National Labor Relations Board and ask for an election, I might have said that. I don't recall if I did or not. Q Okay. A I remember being very careful to not say anything that wasn't accurate and - I think was a little discussion about an election, I think I did say that and I think I said if an election is scheduled by the National Labor Relations Board that there would be a period which the union would explain the benefits of its program and the company would explain its perspective on it. I think I said something to that effect.</p>
12	99	<p>Q BY MR. GIANNOPOULOS: You've discussed yesterday some individuals that you spoke to at Sintos. A Yes, sir. Q I'm curious if you, also, talked to an individual named Bob Welsh. A Not that I recall. MR. GIANNOPOULOS: W-e-l-s-h, for the Court Reporter. COURT REPORTER: c-h? MR. GIANNOPOULOS: s-h. Q BY MR. GIANNOPOULOS: How about someone named Dan Petrocelli? A Not -- not that I recall.</p>
13	111	<p>Q Okay. I'm curious, what were the wages before this wage increase? A The starting wage was \$7.60 for the All Other category and each of the categories was raised, approximately, 40¢ per hour. It was 3. something percent overall, as I recall.</p>
14	117	<p>Q Did you ever send Mr. Slipakoff or anyone at Air Mark a copy of your proposed Lawsuit? A Not that I recall. I might have but I don't recall. Q Did you get any advice from anyone back there other than what's reflected in these notes about -- to sue or whether you should proceed with the Suit? A From Air Mark, you mean? Q Yes. A No.</p>

14 [cont.]		<p>Q Okay and then, Mr. Slipakoff gave you the name of Carlos Restrapa, which we talked about yesterday and it's spelled in GC-39, for the Court Reporter. Correct?</p> <p>A That is right.</p> <p>Q Okay and then, apparently after you spoke to him, you called Carlos Restrapa.</p> <p>A Correct.</p> <p>Q Do you recall how soon or how late after you talked to Mr. Slipakoff?</p> <p>A If I remember correctly, I think I waited a couple of weeks or so.</p> <p>Q Okay. So, maybe, towards the end of July?</p> <p>A It might have been. I'm not sure.</p>
15	128	<p>Q BY MR. GIANNOPOULOS: Did Jaime tell you how he knew those statements he gave -- he said to you about Maria Manjares?</p> <p>A I don't remember him like, initiating any statements about Maria Manjares.</p> <p>Q How about Ms. Guzman?</p> <p>A I don't remember him initiating any conversations about her, either.</p> <p>Q Well, did you initiate them?</p> <p>A I have.</p> <p>Q And then, did he tell you how he knew these things?</p> <p>A Not that I recall.</p> <p>Q What did you say to him to initiate this conversation?</p> <p>A In the context of having a feel for the level of support that the union had generated among our employees.</p>
16	138	<p>Q What prompted this letter to this individual?</p> <p>A As I recall, during that meeting, one of the participants gave to me a letter from Chicanos Por La Causa, signed by Mr. Hidalgo.</p> <p>Q And then, you wrote this letter to him? (General Counsel's Exhibit 44 is marked.)</p> <p>A That is correct.</p> <p>Q It says in this letter, in that first, full paragraph, third sentence: Some employees here have indicated that organizers have been so persistent and so pesky that some employees signed cards just to get the organizers to stop bothering them. Which employees told you that?</p> <p>A I don't recall.</p> <p>Q How did that come out -- how did that come about to become part of this letter?</p> <p>A I wrote it down there.</p> <p>Q Right, but for you to write it down, did you just make it up?</p> <p>A No. No. It came up in the work stoppage.</p>
17	146	<p>Q Now, in about April of 2006, Angela told you that an employee named, Zuleyma Ruiz, was talking to the union organizers who were outside on the sidewalk through the window. Correct?</p> <p>A I think I recall that.</p> <p>Q Let me have you turn back -- have you turn to GC-29. This is a picture of your -- of the Sixth Avenue entrance.</p> <p>A Yes, sir.</p> <p>Q Would those be the windows that she's talking about?</p> <p>A Some of those windows or one of those windows.</p> <p>Q Okay.</p> <p>A Or windows similar to those windows.</p>

18	147	<p>Q She called and told you that Luz was passing out buttons. A Or a button. I'm not sure if it was button or buttons, sitting here right now. Q Okay. But it was Luz that she talked about. A That's what I recall. Q Was this the same Luz that you were talking about earlier that made those statements in the work stoppage? A That's what I believe. MR. GIANNOPOULOS: Let's go off the record for the Court Reporter, Judge. JUDGE GONTRAM: I'm sorry. Yes. Off the record. (Off the record.) JUDGE GONTRAM: On the record. Q BY MR. GIANNOPOULOS: And Angela asked you if she should stop them from doing that. Correct? A I think not them. It's not them. I think she said to stop Luz from engaging in that activity while she was supposed to be working.</p>
19	149	<p>Q My question is, did Angela tell you that she had told Zuleyma not to do that, not to pass out buttons? A I don't recall if Angela was at the point of asking Zuleyma had she done it because Luz had said she had done it or if she was past that point and saying, don't do it. Q Okay. In any event, you saw Zuleyma wearing a union button. Correct? A I did. Q And she had it on her right shoulder near her chest? A That's what I recall.</p>
20	158	<p>Q Did you explain the safety problem to her? A At that point, as I recall, I felt I had needed to somebody to interpret because Evangelina doesn't speak English very well and I don't speak Spanish very well. Q Okay. Who'd you bring over? A Raphael Parra. Q Did you tell Raphael to interpret to Evangelina what you were going to tell her? A Yes, sir. Q Okay and then, did you explain the safety problems? A I did. Q You told her that the button she was wearing wasn't safe because the pin could press into a person's body, if, for example, she picked up an armful of linens. Right? A I said more than that. I like -- I think I motioned and then, tried to accurately communicate how that could happen and verbally gave a detailed explanation concurrently with that. Q You, also, told her that if the pin fell into the ironer, the ironer could be scratched. A I, probably, did. I don't remember that but I, probably, did. Q You, also, told her that jewelry wasn't allowed to worn, either. Correct? A I don't recall that. People wear rings and bracelets and I might have said, like a long necklace that, you know, could get caught in the moving parts of the fiber -- system but I don't think I said, no jewelry.</p>
21	159-162 [part A]	<p>Q Okay. Let me have you -- have you look at your Affidavit, again, and have you go to page 11, line 19. The last sentence says: I, also, told her that jewelry was not allowed to be worn, either and that it was not a matter of the pin being a Unite Here pin. Correct? A Yes, that's right. Q Okay. So, this statement, again, is your August 9, 2006 Affidavit that you gave to the NLRB. A My guess is I didn't use those words and I said something similar to that. But my guess is I didn't indicate that no jewelry -- at the time, I was wearing a ring, wedding ring, and people commonly wear rings and I don't think I actually said to her: cannot wear jewelry. I don't think I said, in the Affidavit: cannot -- jewelry. As I indicated yesterday, there was like, hundreds of changes I made in this.</p>

21 [cont.]		<p>Q Right.</p> <p>A And anything that -- you know, like soon after I started making all these changes, I decided that if something was reasonably representational of what I said, I was not going to split hairs about it.</p>
22	159-162 [part B]	<p>Q Okay and, at least, then the Affidavit says, I, also, told her that jewelry was not allowed to be worn either and that it was not a matter of the pin being a Unite Here pin.</p> <p>A Well, you said that before and then, I responded to you and I could respond to you, again, with the same comment.</p> <p>Q Okay. Fair enough and if you go up on the Affidavit, line 17, the last sentence says: I, also, told her that if the pin fell into the ironer, the ironer could be scratched and we would never be able to get the scratch out of the iron.</p> <p>A My belief is that I didn't tell her we would never be able to get the scratch out of the ironer, although I might have. My belief is I explained that the person taking the Affidavit that, that was a motivating thought on my part but I'm not sure and I do see what it says.</p> <p>Q Okay. But, in any -- in any event, you told Ms. Guzman that if the pin fell into the iron that the ironer would be -- could be scratched.</p> <p>A I think I did, yes, sir.</p> <p>Q Ms. Guzman wanted to continue wearing the pin. Right?</p> <p>A That is true.</p> <p>Q You told her that if she -- that she could not punch in and work wearing the pin.</p> <p>A She may have already punched in. I don't recall but I definitely told her that she couldn't work with the pin on, that it was a safety problem.</p> <p>Q I'll have you look back at the Affidavit and have you go to line -- page 12, line 2 and the sentence starts on line 1. It says: She still said that she wanted to wear the pin but I told her that she could not punch in and work.</p> <p>A That is correct.</p> <p>Q Okay. Do you remember now whether she punched in or not?</p> <p>A No, I don't remember.</p> <p>Q But, at least, when you gave your August 9th Affidavit, you said: I told her she could not punch and work.</p> <p>A Yeah. That -- my -- my guess is, sitting here, that it is correct that she had not yet punched in.</p> <p>Q Okay.</p> <p>A And that I did tell her she could not punch in and work, if she continued to wear the pin.</p> <p>Q Okay. Thank you and you told her that, if she went home that day and did not work, that she would lose holiday pay because it was the Fourth of July holiday.</p> <p>A That is correct.</p> <p>Q Okay and she turned around and walked out.</p> <p>A That is -- true. I mean, I'm not saying that those were exactly the words that preceded that but they were pretty close. There may have been other words, also, and I'm sure there were other words but that -- at least, words similar to those were, you know, uttered.</p> <p>Q Okay.</p> <p>A Before she walked out.</p> <p>Q Okay and then, another employee named, Lydia Roberts, came and asked you why Ms. Guzman had walked out.</p> <p>A She didn't come and ask me. After a few minutes, maybe, 15 or 20 or 30 minutes later, I was working in an area adjacent to her. I think, actually, I was taking up tablecloths and, maybe, while somebody went to the restroom who was doing that and then, giving them to two flat work Ironer Operators who then placed them in a flatwork iron.</p> <p>Q That's when she asked you that?</p> <p>A That's what I recall.</p> <p>Q Okay and you told her that Ms. Guzman had a pin on and she had to take it off, for safety reasons, and she couldn't wear it while working.</p>

22 [cont.]		<p>A I don't know if I said all that but I said something like that, that she had a pin on and I told her that she had to take it off or she couldn't work and -- and that's why she left.</p> <p>Q Okay and Roberts told you that Ms. Guzman was crying.</p> <p>A That is correct.</p>
23	244	<p>Q Oh, okay. Now, Denise Knox and Soe Min were not talking to each other, were they?</p> <p>A No.</p> <p>Q But you had seen them talking together before. Correct?</p> <p>A Not that I recall.</p> <p>Q Let me ask you -- I'll have you look at your Affidavit. It's dated August 9th, 2006 and let me have you go to page 20, line 11. It says: I may have seen him, meaning Soe Min, talk to union supporter, Denise, because they worked in the same area.</p> <p>A I see that.</p> <p>Q So, do you recall if you had ever seen them working or talking to each other before?</p> <p>A No. I think that's why I said I may have seen, is because I didn't remember it but I was saying I may have seen them --</p> <p>Q Okay.</p> <p>A Because they work in the same area.</p> <p>Q You may have or you may not have.</p> <p>A That is correct.</p>
24	245	<p>Q You walked over to Denise Knox. Correct?</p> <p>A She was immediately in front of me, as I entered the lunchroom.</p> <p>Q You asked her if she had punched in?</p> <p>A I did.</p> <p>Q And you asked her if it was normal for her to punch in and then, go to the lunchroom and sit down?</p> <p>A After she answered that she had punched in.</p> <p>Q Right and then, you asked her if it was normal for her to punch in and then, go sit down and she said, no.</p> <p>A That's what I recall.</p>
25	266	<p>Q And you told during the explanation he couldn't work there anymore?</p> <p>A Correct.</p> <p>Q And about how long do you think it took him to understand? A couple of minutes, maybe?</p> <p>A Two or three minutes I guess.</p> <p>Q Okay. And then, at some point, he seemed to understand and he left?</p> <p>A That is correct.</p> <p>Q And then you assigned Arafat to take his place, right?</p> <p>A No.</p> <p>Q You did not?</p> <p>A Not that I recall.</p>
26	275	<p>Q And you went there with Jaime, didn't you?</p> <p>A Correct. I believe so.</p> <p>Q And you told Zambrano that you had discharged Denise Knox and Soe Min for being in the break area while being clocked in?</p> <p>A I don't have a very good recollection of that. I think that I did talk with her and with Jaime and I think I made sure that she understood what happened and the seriousness of that and that, as lead person, it was her responsibility to help insure that people didn't do that.</p> <p>Q And what did Maria tell you?</p> <p>A I think okay. I think I may have told her that Denise said that she was doing the same thing and, as I recall, Maria said no, that she hadn't done that.</p>

27	304	<p>Q BY MR. GIANNOPOULOS: And you were actually in Tucson that day to be interviewed for this news clip, weren't you?</p> <p>A I was not interviewed, but I was there anticipating that I would be interviewed.</p> <p>Q Anticipating you'd be interviewed. And someone had told you they wanted to interview you?</p> <p>A I got two or three calls from media people in Tucson the day before and I think that two of them were indicating they would like to interview me.</p> <p>Q Okay. They told you what was going on in Tucson?</p> <p>A Yeah. They said something about there was going to be a hearing the next evening, as I recall. I think it was the day before I first heard about that.</p>
28	328	<p>Q BY MR. GIANNOPOULOS: In fact, Mr. Milum, you were offering to give your customers legal services to assist them I filing charges with the NLRB, weren't you?</p> <p>A I don't recall that. I recall offering to assist them in facilitating that, but I don't remember offering to pay for it or to, you now, assist in that fashion. (General Counsel Exhibit 67 marked for identification)</p> <p>Q BY MR. GIANNOPOULOS: I show you a document marked General Counsel's 67. It's an e-mail dated October 26th, 2006 from you to Mike Geavaras and Brian Stoll at the Fox Restaurant Group and it says, one, two, three, on the fourth paragraph I talked to a Phoenix police officer this morning in the union reaction squad. What were you talking to a Phoenix police officer about?</p> <p>A I probably was talking to a Phoenix police officer about activities that were occurring at our plant.</p> <p>Q At your plant?</p> <p>A I believe that's what I was talking about.</p>
29	364	<p>Q Isn't it true that Ms. Laws here has been working on your production floor?</p> <p>A She has at times worked in our production floor for short periods of time to familiarize herself with the work.</p> <p>Q And she worked there in January, didn't she?</p> <p>A Yes. But I think you said she started, as if that was the first time.</p> <p>Q But she worked on the production floor next to your employees trying to unionize in January of 2007, didn't she?</p> <p>A I don't know why you say but. She did, but it wasn't the first time.</p> <p>Q And isn't it true that at about this same time you started installing surveillance cameras at your facility?</p> <p>A I don't remember when we started that, but I think it was in January. Either than or February. Either early February or late January is my recollection of installing cameras.</p> <p>Q Of 2007?</p> <p>A Correct.</p>
30	369	<p>Q BY MR. GIANNOPOULOS: Mr. Milum, I'm going to ask you, please, to look at -- well, first of all, let me take a step back and ask about the testimony before we went off for lunch about your attorney working on the production floor and she had told me that she had done that in the past. When did, or at least, do you recall that Ms. Law started working on your production floor?</p> <p>A I think it was probably June she had suggested that and suggested that she start in the hospital soiled linen area. So we gave her documentation and training for blood borne pathogens and hepatitis B inoculations and she came to work on a Saturday morning. I believe she worked for three hours as I recall. Three or four.</p> <p>Q June of 2006?</p> <p>A I think it was.</p> <p>Q Okay. And about how many times since then can you estimate that she's worked on the production room floor?</p> <p>A I think about four or five times.</p>

30 [cont.]		<p>Q Okay.</p> <p>MS. LAWS: Are you talking about just the production room floor or are you talking about the soil sort area, which are two different areas?</p> <p>Q BY MR. GIANNOPOULOS: Well, you tell me, Mr. Milum, about how many times either on the production floor or the soiled sort area?</p> <p>A I think it was like two or three times in the hospital soil sort and two or three times in the production floor. I think one time had, you know, a couple of hours in one area and then followed by an hour in the other area, if I remember right.</p>
31	374	<p>Q And it's about that time when yourself and the Fox Group have been having discussions about Fox canceling you contracts?</p> <p>A Say that again.</p> <p>Q Is it about that time then, in the January timeframe, that Fox and yourself had been having discussions about Fox canceling your contract with Milum?</p> <p>A The discussions had started, I think I said, maybe, like early December and I think that was the last word from anybody representing Fox on the issue, as I recall.</p>
32	389	<p>Q Does that -- that second paragraph says Becky said she was tied up on the job when a call came in about Bobby's Thursday night and she departed for Bobby's at her first opportunity. Who is Becky?</p> <p>A Detective Becky Mulkly. She's in the unit of the police department that is specialized in responding to union actions, activities.</p> <p>Q And do you recall the conversations you had with this police officer?</p> <p>A Do I recall that conversation that --</p> <p>Q Yeah. That led you to write that.</p> <p>A I recall her saying something to that effect. I don't recall what else was discussed in that conversation.</p>
33	396	<p>A I think they were getting leafleted on their property. I think the organizers were actually coming into the restaurant, as I recall. I think they owned the property as I -- I believe.</p> <p>Q And did you call Becky? Did you call the Phoenix police and tell them to get out there?</p> <p>A I don't remember if Becky called me or if I called Becky and I don't remember the purpose of the phone call, but I'm sure from reading this, I have a vague recollection of describing the situation to detective Mulkly and she saying that she was going to go visit the restaurant.</p> <p>Q And then go to the second page, the second paragraph from the bottom. It says if you and Mancuso's make the charge, it will be harder yet for the NLRB to do nothing about it. Correct?</p> <p>A Yes.</p> <p>Q So you were urging this Customer A to join in with Mancuso's or file the charge along with the Mancuso's against the union, correct?</p> <p>A Well, I would say against the illegal secondary boycott activities.</p>
34	405	<p>A Angela related the incident.</p> <p>Q To you?</p> <p>A As I recall, I think Jaime and Angela were involved in relating that incident to me.</p> <p>Q Okay. And who made the decision to discipline Ms. Guzman and give her probation?</p> <p>A Jaime Chavez.</p> <p>Q And when did he come and talk to you about that?</p> <p>A I think it was Angela and Jaime together and I don't think he or they came to me. I think I went into the production floor and we had a discussion with her.</p> <p>Q And what was the nature of the discussion?</p> <p>A I think there was a relation of what happened.</p>
35	408	<p>Q Do you recall them telling you why they chose six months or why they thought six months would be appropriate?</p> <p>A No.</p>

35 [cont.]		<p>Q Do you remember any other employee being put on probation for a period of six months?</p> <p>A I'm sure it's happened. I can't give you any names. In my mind, when there's like a series of things, then that's like an extra level of an intensity of response</p> <p>Q And here what was the series?</p> <p>A I think it was the one before that December and I think there was something a little bit similar to this situation here in January where Evangelina asked not to be at work on a certain day and she was told, no, she needed to be to work on a certain day and then she didn't come. I think there may have been some conflict between, you know, the reasons given, that they were inconsistent as I recall.</p> <p>Q Do you remember when that happened?</p> <p>A No, I don't.</p>
36	1893	There is nothing on page 1893 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
37	1939	There is nothing on page 1939 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
38	1951	There is nothing on page 1951 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
39	1954	There is nothing on page 1954 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
40	1972	There is nothing on page 1972 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
41	1983	<p>Q BY MS. LAWS: What is the company policy regarding taking breaks? When can you do it; when can you not do it?</p> <p>A Breaks are determined by the company and those are the only breaks to be taken.</p> <p>Q If a shift starts at 5:00 a.m. and the break is at 10:00 a.m., what is the employee permitted to do from 5:00 a.m. until the break at 10:00?</p> <p>A Restroom use and water.</p> <p>JUDGE GONTRAM: This policy? Is this written or not?</p> <p>THE WITNESS: Not that I recall.</p>
42	1988	<p>JUDGE GONTRAM: Well, yes. Let me ask this. Is there any written policy dealing with written warnings?</p> <p>THE WITNESS: Not that I recall.</p> <p>JUDGE GONTRAM: Is there any written policy that even mentions written warnings?</p> <p>THE WITNESS: I think that there is a statement in our operations manual about our attempts to have as appropriate, progressive aspect of the disciplinary action including, I think, written warnings, I think, are mentioned, but I am not sure.</p>
43	2044	There is nothing on page 2044 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
44	2055	There is nothing on page 2055 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.

45	2067	<p>Q And what was the name of each individual that contacted you?</p> <p>A Bill Brotherson was one and I forget what the name of the other one was.</p> <p>Q Did Mr. Brotherson have a complaint for you?</p> <p>A As I recall, he just left a message for me on my phone. He probably would have talked to me if I had answered the phone but I wasn't there when he called. So I think his message was something along the lines, are you interested in UNITE HERE --</p> <p>MR. GIANNOPOULOS: Objection. Hearsay.</p> <p>JUDGE GONTRAM: Sustained.</p> <p>Q BY MS. LAWS: Did you respond to Mr. Brotherson's inquiries?</p> <p>A I did.</p> <p>Q How did you respond to his inquiry?</p> <p>A By letter.</p> <p>Q You indicated another legislator called you. Can you tell jus the name of that individual?</p> <p>A I don't recall his name.</p>
46	2074	<p>Q BY MS. LAWS: Was this the first time that you had ever placed something a uniform at Milum?</p> <p>A Correct.</p> <p>Q Did you discuss the issue of wearing nameplates with your workmen's comp carrier?</p> <p>A Not that I recall. Oh, not at the time. I think maybe two or three or four months later -- maybe five months later I had a discussion which I think that was like a non-important part of the conversation but I think probably there was a sentence or two discussing that.</p>
47	2090	<p>Q BY MS. LAWS: Do you recall a time in 2006 when an individual employee wore a metal Union pin to work?</p> <p>A I remember a case where Zulema Ruiz put one on sometime after work started.</p> <p>Q What occurred?</p> <p>A She had the pin on during a work session. Angela had called me about it.</p>
48	2102	There is nothing on page 2102 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
49	2107	There is nothing on page 2107 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
50	2111	There is nothing on page 2111 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
51	2113	There is nothing on page 2113 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
52	2123	There is nothing on page 2123 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
53	2124	There is nothing on page 2124 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
54	2181	There is nothing on page 2181 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.
55	2182	There is nothing on page 2182 of the transcript that seems to be in anyway related to a lack of a full response by Mr. Milum to the General Counsel's questioning.

56	2185	There is nothing on page 2185 of the transcript that seems to be in anyway related to a lack of a full response by Mr. Milum to the General Counsel's questioning.
57	2200	<p>Let me ask you, did you review any transcripts of this proceeding between the time you last testified and today?</p> <p>A Yes.</p> <p>Q And what portions or what -- whose testimony transcript did you look at?</p> <p>A Some of mine.</p> <p>Q Some of yours. How about anyone else's?</p> <p>A I think I did, but I don't remember now whose I did. I sort of skimmed at it.</p> <p>Q Skimmed at it. How about Evangelina Guzman?</p> <p>A No.</p> <p>Q Maria Minjares?</p> <p>A No.</p> <p>Q How about any of the Union organizers?</p> <p>A Not that I recall.</p> <p>Q Other than your own then, what other testimony did you skim?</p> <p>A I remember looking at some others, but like I said, I sort of skim read it, and I don't remember what I was looking at. But I do remember looking at some other than mine for just a few minutes.</p> <p>Q But you don't specifically remember whether this was it was Ms. Guzman or Ms. Minjares's or any of the Union organizers?</p> <p>A It may have been some of the Union organizers. I'm pretty sure it was not either Evangelina Guzman or Maria Minjares.</p>
58	2203	<p>At 2203 the General Counsel inquires about lockout mechanism:</p> <p>Q Today. And you testified about lockout mechanisms, right?</p> <p>A In the safety devices for equipment?</p> <p>Q Right.</p> <p>A That there was an upgrade of equipment that included improvements in those areas, yes.</p> <p>Q And when did that occur?</p> <p>A I guess that occurred like kind of year by year. As we would put in more modern equipment, it tended to have safer mechanisms, such as the vises. It would prevent it's use in such a way that would be likely to harm somebody.</p> <p>Q Isn't it true that in 2004 the Arizona Department of Environmental Quality found that you did not have a lockout and tagout program?</p> <p>A Which department?</p> <p>Q The Arizona Department of Environmental Quality. Isn't that true?</p> <p>MS. LAWS: Objection.</p> <p>A BY THE WITNESS: Not that I recall.</p> <p>Then there is a lengthy discussion regarding Mr. Milum's testimony between Judge Gontram and both counsel on pages 2204-2205. Then the General Counsel marks his Exhibit 142 at page 2205. There is another discussion between Judge Gontram and both counsel on pages 2205 -2208. At page 2206, the General Counsel states that he is going to use this exhibit to impeach Mr. Milum.</p> <p>Ultimately, on page 2209 the General Counsel discovers that he has made a mistake, that the document is an OSHA document – not a ADEQ document -- and the General Counsel withdraws the exhibit, and moves on to the next question.</p>

59	2220	<p>Commencing at page 2217, the General Counsel was asking about the time that counsel for Respondent [Laws] worked in the laundry facility in June 2006. At page 2220, the questioning was as follows:</p> <p>Q And what job was Ms. Guzman doing? A I think she was folding towels. Q There was only one person folding towels at that time? A There was only one person folding mop towels at that time. Q And that's what Ms. Guzman was doing? A I think so. Q What other stations did Ms. Laws work at? A I think she fed napkins and she fed tablecloths. Those are the four stations I recall. There probably were some others, but I don't recall. Q So there were -- I mean she could have worked in other areas, right, where she wasn't working next to Ms. Minjares or Ms. Guzman? A She did frequently. Or in the main she worked in other areas.</p>
60	2225	<p>On page 2224 the General Counsel has his Exhibit 124 marked for identification which is a group of pages taken from the large policy manual. The questioning is as follows:</p> <p>Q Is this the policy manual you were referring to? A (General Counsel's Exhibit No. 143, marked for identification). Q Well, how big -- how many policies that you have in that manual? A It's probably 350 pages or so, and it's what we call our online operations manual. Q Okay. But that policy manual then is 350 pages. Other than what I just showed you, what else is in there? A There's quite a few statements about procedures. I think there's are master safety data sheets in there. Q Procedures with respect to employee procedures? A Well, like when you're -- I think there's something in there about like a pre-trip inspection with your truck. Q Okay. How about stuff having to do with employee conduct? A I think that sort of thing would be -- I think you probably have it. Q This is the only thing you have? A That was it, yeah. Q So about job behavior, this is all you have? A I haven't looked at each of those, but I know that we try to be completely responsive to what you asked for and we thought we were. Q Let me show it to you and ask if you could look at it. (Pause). A Okay. And what's your question? Q Do you have any other policies other than what I just showed you that deal with employee discipline? A We may, but not that I recall. These are some documents out of that policy manual that I was referring to.</p>
61	2236-37	<p>There is nothing on pages 2236-37 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.</p>