

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-098809</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A</b>	<b>Case: 02-CA-106094</b>

**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYER**

**and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL UNION,  
CTW, CLC**

**And**

**JO-DAN MADALISSE LTD, LLC d/b/a MCDONALD'S, Cases 04-CA-125567  
A FRANCHISEE OF MCDONALD'S USA, LLC and 04-CA-129783  
MCDONALD'S USA, LLC Joint Employers 04-CA-133621**

**And**

**PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**And**

**KARAVITES RESTAURANTS 11102, LLC, A Case 13-CA-106490  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**KARAVITES RESTAURANTS 26, INC., A Case 13-CA-106491  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**RMC LOOP ENTERPRISES, LLC, A McDONALD'S Case 13-CA-106493  
FRANCHISEE, AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**

**WRIGHT MANAGEMENT, INC., A McDONALD'S Cases 13-CA-107668  
FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT 13-CA-113837  
EMPLOYERS**

**V. OVIEDO, INC., A McDONALD'S FRANCHISEE, Cases 13-CA-115647  
AND McDONALD'S USA, LLC, JOINT EMPLOYERS 13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS, INC. Cases 13-CA-117083  
13-CA-118691**

	<b>13-CA-121759</b>
<b>LOFTON &amp; LOFTON MANAGEMENT V, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-118690</b>
<b>K. MARK ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 13-CA-123699 13-CA-129771</b>
<b>NORNAT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-124213</b>
<b>KARAVITES RESTAURANT 5895, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-124812</b>
<b>TAYLOR &amp; MALONE MANAGEMENT, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-129709</b>
<b>RMC ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-131141</b>
<b>KARAVITES RESTAURANT 6676, LLC, McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-131143</b>
<b>TOPAZ MANAGEMENT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-131145</b>

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

<b>MAZT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, AS JOINT EMPLOYERS</b>	<b>Cases 20-CA-132103 20-CA-135947 20-CA-135979 20-CA-137264</b>
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**and**

**WESTERN WORKERS ORGANIZING COMMITTEE**

<b>FAITH CORPORATION OF INDIANAPOLIS, A</b>	<b>Cases 25-CA-114819</b>
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**McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

**D. BAILEY MANAGEMENT COMPANY, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC AS  
JOINT EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

**And**

**LOS ANGELES ORGANIZING COMMITTEE**

**APPEAL FROM THE ADMINISTRATIVE LAW JUDGE'S ORDER DENYING  
MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.26 of the National Labor Relation Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, appeals to the Board from an Order issued on January 22, 2015 by Administrative Law Judge ("ALJ") Lauren Esposito denying McDonald's Motion for a Bill of Particulars, or in the Alternative, to Strike Joint Employer Allegations and Dismiss the Complaint. In a case with enormous implications not only for McDonald's but also for the entire franchising industry, the General Counsel seeks to find that McDonald's USA is a joint employer

with its independent franchisees, yet fails to plead any facts in the Complaint in support of this legal theory. Instead, the Complaints assert only three bare-bones allegations in support of joint employer liability: (1) the existence of a franchise agreement between McDonald's and each independent franchisee, (2) an assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a blanket legal assertion that McDonald's is a joint-employer. Such paltry allegations fail to provide McDonald's with even arguably adequate notice of the facts that create supposed joint employer status and are insufficient to allow McDonald's to prepare its defense(s). Without such notice, McDonald's is left only to guess at possible factual allegations or specific factors the General Counsel will rely upon to support his position at trial and is accordingly deprived of its fundamental right to due process under the Fifth Amendment to the U.S. Constitution. For these reasons, and those set forth more fully below, the ALJ's Order should be reversed and McDonald's USA's Motions for a Bill of Particulars be granted as to those paragraphs alleging joint employer status or, in the alternative, those paragraphs should be stricken and the Complaints should be dismissed as to McDonald's.

### **PROCEDURAL BACKGROUND**

On December 19, 2014, the Regional Directors in Regions 2, 4, 13, 20, 25, and 31 issued six separate Consolidated Complaints (the "Complaint" or "Complaints") against McDonald's and its various independent franchisees. Attached hereto as Exhibit A are copies of the Complaints. Together, these six Complaints stem from allegations made in 61 separate unfair labor practice charges filed between November 28, 2012 and September 22, 2014, involve 21 separate and distinct Independent Franchisees and a single McDonald's owned restaurant, and allege violations under the National Labor Relations Act (the "Act") occurring at 30 separate

restaurants, each with its own ownership, management, supervision and employees. In each Complaint, the General Counsel alleges that McDonald's is a joint employer with each independent franchisee by asserting three vague, factually unsupported allegations. Namely, each Complaint alleges (1) the existence of a franchise agreement between McDonald's and each independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a legal conclusion that McDonald's is a joint employer.<sup>1</sup> It neither states a single fact demonstrating how McDonald's allegedly possesses and/or exercises control over the labor relations policies of its franchisees nor identifies the labor relations policies at issue that give rise to the purported joint employer status as to any of the 21 identified independent franchisees.

On December 29, 2014, McDonald's filed with each Region a Motion for a Bill of Particulars, or, in the Alternative, to Strike Joint Employer Allegations and Dismiss the Complaint (the "Motion" or "Motions"). Attached hereto as Exhibit B are copies of the Motions. On January 5, 2015, the General Counsel transferred the cases from Regions 4, 13, 20, 25, and 31 to the Regional Director for Region 2. On January 6, 2015, the Regional Director for Region 2 consolidated the transferred cases with the already-consolidated cases from Region 2 for hearing, currently scheduled for March 30, 2015. Attached hereto as Exhibit C is a copy of the Order Consolidating the Cases. On January 7, 2015, the Associate Chief Administrative Law Judge issued an Order assigning ALJ Lauren Esposito to preside over the consolidated cases, attached hereto as Exhibit D. On January 14, 2015, Counsel for the General Counsel filed a

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<sup>1</sup> The specific paragraphs in each Complaint containing such conclusory allegations are as follows: Region 2 (¶¶ 5, 16, 25, 32, 41, 47, 55, 63, 69, 75, and 86), Region 4 ( ¶ 2(g)), Region 13 (¶¶ 5, 16, 29, 36, 44, 68, 73, 84, 91, 97, 109, 115, and 121), Region 20 (¶ 4), Region 25 (¶ 4), and Region 31 (¶¶ 4, 5, and 6).

single opposition to McDonald's USA's Motions.<sup>2</sup> Attached hereto as Exhibit E is a copy of Counsel for the General Counsel's Opposition. On January 22, 2015, ALJ Esposito issued an Order denying McDonald's Motions, which is attached hereto as Exhibit F. McDonald's also filed its Reply in Support of Its Motions on January 22, 2015, which is attached as Exhibit G. McDonald's filed a Motion for Reconsideration on January 26, 2015, urging ALJ Esposito to reconsider its Motion and Reply. Attached as Exhibit G is a copy McDonald's Motion for Reconsideration. On January 28, 2015, ALJ Esposito issued an Order denying McDonald's Motion for Reconsideration, attached hereto as Exhibit H.

### **ARGUMENT**

#### **I. The ALJ's Order Denying McDonald's Motion for a Bill of Particulars Must be Reversed and the Motion Granted**

The ALJ's Order denying McDonald's Motion for a Bill of Particulars should be reversed, and the Motion granted for the following reasons: (1) the GC's failure to plead factual allegations in support of joint employer liability has left McDonald's without adequate notice of the charges against it sufficient to prepare its defense(s) for trial, and (2) the harm caused by the ALJ's Order denying the Motion cannot be remedied by filing exceptions to the Order.

##### **A. The Complaint Fails to Include Sufficient Factual Allegations In Support of McDonald's Alleged Joint Employer Status**

The bare-bones allegations in the Complaints fail to provide McDonald's with sufficient notice regarding the basis of the alleged joint employer status, thereby depriving it of the opportunity to defend itself adequately and of its fundamental right to due process. In order to satisfy due process, the General Counsel must "clearly define the issues and advise an employer

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<sup>2</sup> Though filed with Region 2, Counsel for the General Counsel's Opposition also addressed the argument made in support of McDonald's pending Motions in Regions 4, 13, 20, 25, and 31. McDonald's subsequent Reply and this Appeal follow the same convention.

charged with a violation . . . of the specific complaint he must meet . . . . [The failure to do so] is . . . to deny procedural due process of law.” Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981); *see also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB. No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, “[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.”) In order to afford a Respondent a full and fair opportunity to defend itself, the Administrative Procedure Act, the Board’s Rules and Regulations, and the Board’s Casehandling Manual all require that the Complaint notify the Respondent of not only the law at issue, but also the facts underlying the alleged violations. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) (“Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of fact and law asserted” (emphasis added)); NLRB Rules and Regulations, § 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). In addition, the NLRB Pleadings Manual-Complaint Forms encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b). In order to satisfy these requirements, a Complaint must include sufficient *factual* allegations, not just the underlying legal theory, asserted against Respondent.

The Paragraphs in the Complaints fail to adhere to these requirements. The well-settled test for determining whether two entities are joint employers is whether they “share or

codetermine those matters governing the essential terms and conditions of employment” or “meaningfully affect” employment issues such as “hiring, firing, discipline, supervision and direction of work.” CNN America, 361 NLRB No. 47, at p.3 (2014) (quoting TLI Inc., 271 NLRB 798 (1984) and Laerco Transp., 269 NLRB 324, 425 (1984)). The Complaint alleges neither. Rather than include any factual allegations to support the General Counsel’s joint employer theory, such as identifying specific labor relations policies or conduct giving rise to joint employer status, the Complaint includes only conclusory allegations. Namely, each Complaint refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and asserts that McDonald’s is a joint employer with each franchisee. These allegations, without any factual support, are plainly insufficient to establish a joint employer relationship. They do not explain how McDonald’s allegedly possesses and/or exercises control over the labor relations policies of its franchisees, nor do they specifically identify the labor relations policies allegedly giving rise to a joint employer status. The only fact asserted in support of the joint employer status is the existence of a franchise agreement. However, the mere existence of a franchise agreement does not equate to a finding of joint employer status and the Complaint fails to identify any provision of the franchise agreement that does so. Indeed, were the existence of a franchise agreement, without more, sufficient to establish a joint employer relationship, every franchisor in the United States would be a joint employer with its franchisees. Such a result would undeniably have no basis in the Act, any other law, or any notion of common sense.

Although ALJ Esposito noted that the Complaint includes factual allegations that “describe the unfair labor practices purportedly committed by the franchisees,” such as “identifying specific managers, supervisors, dates, times, and locations,” (Order, at 3) these

factual allegations relate only to the underlying substantive violations allegedly committed by the independent franchisees. In no way do these allegations relate to any conduct by McDonald's, nor do they support a finding of joint employer status. Said otherwise, the Complaint does not allege McDonald's had any role in any of the alleged substantive unfair labor practices. Furthermore, while ALJ Esposito and the General Counsel noted that the General Counsel is not required to include a legal theory, ironically the Complaint does only that by failing to allege any factual basis in support of a joint employer theory. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) ("Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of *fact* and law asserted" (emphasis added)). This failure deprives McDonald's of the notice it is entitled to and prevents it from meaningfully preparing its defense(s) for trial. Accordingly, the Regional Director must be ordered to furnish a bill of particulars as to each joint employer allegation, and to the extent the allegations implicate conduct by McDonald's USA employees, those as well. Absent that, McDonald's will be denied its fundamental right to due process under the U.S. Constitution.

As the Supreme Court made abundantly clear in Ashcroft v. Iqbal, 556 U.S. 662 (2009) and Bell Atlantic v. Twombly, 550 U.S. 544 (2007), in order to pass muster, pleadings have to meet a minimum standard. This Complaint fails to meet that minimum standard because it does not allege any facts underlying the joint employer allegation. Rather, it alleges only a legal conclusion and therefore is insufficient and requires a more particular statement. While McDonald's raised this in its Motion for a Bill of Particulars, Counsel for the General Counsel did not even respond to this argument. While Counsel for the General Counsel may think it appropriate to ignore Supreme Court precedent, the Board should not.

B. The Legal Backdrop of this Case Underscores How the General Counsel's Pleadings Disadvantage McDonald's

The General Counsel's pleading inadequacies are especially egregious in light of the legal backdrop of this case. As expressed in his brief to the Board in *Browning-Ferris*, the General Counsel is seeking to change the current joint employer standard such that it be substantially broadened.<sup>3</sup> See Browning Ferris Industries of California, Inc., Case No. 32-RC-109684 (filed June 26, 2014), *available at* <http://www.nlr.gov/case/32-RC-109684>. Thus, presumably, the General Counsel will argue here that factors beyond the well-established "possessed and/or exercised control over the labor relations policies" standard, e.g. Laerco Transp., 269 NLRB 324 (1984), support his claim that McDonald's is a joint employer. Absent knowing what those factors are prior to trial, McDonald's will be left to defend a claim that it is a joint employer without knowing the supporting factual allegations. Given the importance of this matter, the fact that the General Counsel is advancing a theory that seeks to upend decades of case law, combined with the lack of discovery available to a Respondent in an unfair labor practice trial, puts McDonald's in a position that defies all notions of due process and fairness. While it would be difficult enough for McDonald's to mount a defense to the GC's opaque joint employer assertion were only one other entity identified as a putative joint employer with McDonalds, here the General Counsel's vague allegations purport to apply to 61 unfair labor practice charges involving 22 unrelated employers. Succinctly stated, McDonald's cannot possibly prepare its defense(s) in this matter absent meaningful, substantive clarification of the factual underpinnings of the General Counsel's joint employer claim. Without having the particulars of the allegations against it before the trial is scheduled to begin on March 30, 2015,

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<sup>3</sup> In addition, the General Counsel's intention to do so has been gleaned from his many public statements on this subject.

McDonald's will be forced to defend itself without any idea of the factual basis upon which the General Counsel relies in alleging McDonald's is a joint employer.

**CONCLUSION**

For the foregoing reasons, McDonald's requests that its Motion for a Bill of Particulars be granted, or in the alternative those paragraphs be stricken and the Complaints dismissed as to McDonald's, and the ALJ's Order denying the Motion be reversed.

Dated: February 10, 2015

Respectfully submitted,

s/ Willis J. Goldsmith

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the State of Illinois, affirms under penalty of perjury that on February 10, 2015, he caused a true and correct copy of the Appeal from the Administrative Law Judge's Ruling Denying McDonald's USA, LLC's Motion for a Bill of Particulars or, in the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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# **EXHIBIT A**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**AJD, INC., A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases: 02-CA-093895  
02-CA-097827**

**LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases: 02-CA-093893  
02-CA-098662**

**18884 FOOD CORP., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-094224  
02-CA-098676**

**14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-094679  
02-CA-098604**

**JOHN C FOOD CORP., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-093927  
02-CA-098659**

**840 ATLANTIC AVENUE, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Case: 02-CA-097305**

**1531 FULTON STREET, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-103771  
02-CA-112282**

**McCONNER STREET HOLDING, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**      **Case: 02-CA-098009**

**McCONNER STREET HOLDING, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Case: 02-CA-103384**

**MIC-EASTCHESTER, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S, USA, LLC,  
JOINT EMPLOYERS**      **Case: 02-CA-103726**

**BRUCE C. LIMITED PARTNERSHIP, A**      **Case: 02-CA-106094**

**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS  
and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL  
UNION, CTW, CLC**

**ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT,  
AND NOTICE OF HEARING**

Pursuant to Section 102.33(c) of the Rules and Regulations of the National Labor Relations Board ("the Board") and to avoid unnecessary costs or delay, I ORDER THAT Cases 02-CA-093893, 02-CA-093895, 02-CA-093927, 02-CA-094224, 02-CA-094679, 02-CA-097305, 02-CA-097827, 02-CA-098009, 02-CA-098604, 02-CA-098659, 02-CA-098662, 02-CA-098676, 02-CA-103384, 02-CA-103726, 02-CA-103771, 02-CA-106094, and 02-CA-112282 are consolidated. These cases were filed by the Fast Food Workers' Committee ("FFWC") and Service Employees International Union, CTW, CLC ("SEIU") (collectively "Charging Parties") against McDonald's USA, LLC ("McDonald's") and the following McDonald's franchisees:

<b>CASE NUMBER</b>	<b>McDONALD'S FRANCHISEE IDENTIFIED IN CHARGE</b>
02-CA-093893	Charge against McDonald's located at 220 West 42nd Street, New York, NY, whose correct name is Lewis Foods of 42 <sup>nd</sup> Street, LLC ("Respondent McDonald's at 220 W 42nd St.")
02-CA-098662	Charge against James R Lewis d/b/a, Lewis Foods of 42nd Street, LLC, whose correct name is Lewis Foods of 42 <sup>nd</sup> Street, LLC ("Respondent McDonald's at 220 W 42nd St.")
02-CA-093895	Charge against McDonald's located at 1188 6th Avenue New York, NY 10036, whose correct name is AJD, Inc. ("Respondent McDonald's at 1188 6 <sup>th</sup> Ave.")
02-CA-097827	Charge against Elaine Diekmann d/b/a Bea & AJD, whose correct name is AJD, Inc. ("Respondent McDonald's at 1188 6 <sup>th</sup> Ave.")

02-CA-093927	Charge against McDonald's located at 280 Madison Avenue, New York, NY 10016, whose correct name is John C Food Corp. ("Respondent McDonald's at 280 Madison Ave.")
02-CA-098659	Charge against Richard R. Cisneros d/b/a John C. Food Corp., whose correct name is John C Food Corp ("Respondent McDonald's at 280 Madison Ave.")
02-CA-094224	Charge against McDonald's located at 1651 Broadway, New York, NY 10019, whose correct name is 18884 Food Corporation ("Respondent McDonald's at 1651 Broadway")
02-CA-098676	Charge against Linda Dunham d/b/a 18884 Food Corp. (or Dunham Management Corp.), whose correct name is 18884 Food Corporation ("Respondent McDonald's at 1651 Broadway")
02-CA-094679	Charge against McDonald's located at 14 East 47th Street. New York, NY 10017, whose correct name is 14 East 47 <sup>th</sup> Street, LLC ("Respondent McDonald's at 14 E. 47th St.")
02-CA-098604	Charge against Ninosca Paulino d/b/a 14 East 47th Street, LLC, whose correct name 14 East 47 <sup>th</sup> Street, LLC ("Respondent McDonald's at 14 E. 47th St.")
02-CA-097305	Charge against Atlantic Avenue, LLC, whose correct name is 840 Atlantic Ave., LLC ("Respondent McDonald's at 840 Atlantic Ave.")
02-CA-098009	Charge against Bruce Colley, whose correct name is McConner Street Holding, LLC ("Respondent McDonald's at 2142 Third Ave.")
02-CA-103384	Charge against Bruce Colley, whose correct name is McConner Street Holding, LLC ("Respondent McDonald's at 2049 Broadway")
02-CA-103726	Charge against Bruce Colley, whose correct name is Mic-Eastchester, LLC ("Respondent McDonald's at 341 5 <sup>th</sup> Ave.")
02-CA-103771	Charge against Ninosca Paulino, whose correct name is 1531 Fulton St., LLC ("Respondent McDonald's at 1531 Fulton St.)
02-CA-112282	Charge against Ninosca Paulino, whose correct name is 1531 Fulton St., LLC ("Respondent McDonald's at 1531 Fulton St.)

02-CA-106094	Charge against Bruce Colley, whose correct name is Bruce C. Limited Partnership ("Respondent McDonald's at 4259 Broadway")
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This Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, which is based on the charges in these cases, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 *et seq.* ("the Act") and Section 102.15 of the Board's Rules and Regulations. It alleges that the above-identified Respondents have violated the Act as described below:

1. The charges in these cases were filed and served as set forth in the following table:

¶	Case No.	Amended	Charging Parties	Respondents	Date Filed	Date Served
a.	02-CA-093893		FFWC	McDonald's/ McDonald's at 220 W 42nd St.	November 28, 2012	November 29, 2012
b.	02-CA-093895		FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	November 28, 2012	November 29, 2012
c.		First Amended	FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	December 4, 2012	December 12, 2012
d.	02-CA-093927		FFWC	McDonald's/ McDonald's at 280 Madison Ave.	November, 29, 2012	November, 30, 2012
e.	02-CA-094224		FFWC	McDonald's/ McDonald's at 1651 Broadway	December 4, 2012	December 5, 2012
f.	02-CA-094679		FFWC	McDonald's/ McDonald's at 14 E. 47th St.	December 11, 2012	December 12, 2012
g.	02-CA-097305		FFWC	McDonald's/ McDonald's at 840 Atlantic Ave.	January 30 2013	January 30 2013
h.		First Amended	FFWC	McDonald's/ McDonald's at 840 Atlantic Ave.	February 20, 2013	February 21, 2013
i.	02-CA-097827		FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	February 6, 2013	February 7, 2013

j.		First Amended	FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	February 20, 2013	February 20, 2013
k.		Second Amended	FFWC/ SEIU	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	April 30, 2014	April 30, 2014
l.	02-CA- 098009		FFWC	McDonald's/ McDonald's at 2142 Third Ave.	February 8, 2013	February 11, 2013
m.		First Amended	FFWC	McDonald's/ McDonald's at 2142 Third Ave.	February 20, 2013	February 21, 2013
n.		Second Amended	FFWC	McDonald's/ McDonald's at 2142 Third Ave.	June 14, 2013	June 19, 2013
o.	02-CA- 098604		FFWC	McDonald's/ McDonald's at 14 E. 47th St.	February 15, 2013	February 20, 2013
p.	02-CA- 098659		FFWC	McDonald's/ McDonald's at 280 Madison Ave.	February 15, 2013	February 20, 2013
q.	02-CA- 098662		FFWC	McDonald's/ McDonald's at 220 W 42nd St.	February 15, 2013	February 20, 2013
r.	02-CA- 098676		FFWC	McDonald's/ McDonald's at 1651 Broadway	February 15, 2013	February 20, 2013
s.	02-CA- 103384		FFWC	McDonald's/ McDonald's at 2049 Broadway	April 23, 2013	April 23, 2013
t.		First Amended	FFWC	McDonald's/ McDonald's at 2049 Broadway	June 25, 2013	July 1, 2013
u.	02-CA- 103726		FFWC	McDonald's/ McDonald's at 341 5 <sup>th</sup> Ave.	April 25, 2013	April 26, 2013
v.	02-CA- 103771		FFWC	McDonald's/ McDonald's at 1531 Fulton Street	April 26, 2013	April 26, 2013
w.	02-CA- 106094		FFWC	McDonald's/ McDonald's at 4259 Broadway	May 29, 2013	May 30, 2013
x.		First Amended	FFWC	McDonald's/ McDonald's at 4259 Broadway	July 11, 2013	July 15, 2013
y.		Second Amended	FFWC	McDonald's/ McDonald's at 4259 Broadway	September 11, 2013	September 13, 2013

z.	02-CA-112282		FFWC	McDonald's/ McDonald's at 1531 Fulton Street	August 29, 2013	August 30, 2013
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**Charging Parties**

2. (a) At all material times, the FFWC has been a labor organization within the meaning of Section 2(5) of the Act.

(b) At all material times, SEIU has been a labor organization within the meaning of Section 2(5) of the Act.

**Respondent McDonald's USA, LLC**

3. (a) At all material times, Respondent McDonald's has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

(b) Annually, Respondent McDonald's, in conducting its business operations described above in subparagraph (a),

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**Respondent McDonald's at 220 W. 42<sup>nd</sup> Street**

4. (a) At all material times, Respondent McDonald's at 220 W. 42nd St. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 220 W. 42nd Street has been a New York limited liability company with an office and place of business at 220 W. 42<sup>nd</sup> Street, New York, NY 10036.

(c) Annually, Respondent McDonald's at 220 W. 42nd Street, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 42nd St. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 220 W 42nd St.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 220 W 42nd St.; and

(c) been a joint employer of the employees of Respondent McDonald's at 220 W 42nd St.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(13) of the Act:

(i) James R. Lewis – Owner

(ii) Juan Astor – Director of Operations

(iii) John McDonnell – General Manager

(iv) Mark J. Gray – Assistant Manager

(b) supervisors of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(13) of the Act:

(v) Rosa Mejia – Shift Manager

(vi) Alecia (last name unknown (“LNU”)) – Shift Manager

7. About September 2012, Respondent McDonald's at 220 W. 42nd St., by Juan Astor, at 220 W. 42nd St., New York, NY:

(a) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union organizational activity; and

(b) promised its employees that terms and conditions of employment would improve, if the employees rejected union organizing efforts.

8. (a) About December 2012, Respondent McDonald's at 220 W. 42nd St., by James R. Lewis:

(i) ceased posting employees' work schedules; and

(ii) removed employee name tags.

(b) Respondent McDonald's at 220 W. 42<sup>nd</sup> St. took the actions identified in subparagraph (a) in response to union organizing.

9. About October 2012, Respondent McDonald's at 220 W. 42nd St, by John McDonnell, at 220 W. 42nd St., New York, NY:

(a) threatened its employees with unspecified reprisals for engaging in union activity;

(b) created an impression among its employees that their union activities were under surveillance.

10. (a) About December 2, 2012, Respondent McDonald's at 220 W. 42<sup>nd</sup> St. imposed more onerous and rigorous terms and conditions of employment on its employee Linda Archer by assigning her more arduous and less agreeable job assignments.

(b) Respondent McDonald's at 220 W. 42<sup>nd</sup> St. engaged in the conduct described above in subparagraph (a) because Linda Archer assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

11. Respondent McDonald's at 220 W. 42<sup>nd</sup> St., by the individuals named below, about the dates and at the locations opposite their names, threatened its employees with discharge if they engaged in union activity:

	<b>Agent</b>	<b>Date</b>	<b>Location</b>
(a)	Rosa	Second week of November 2012	220 W. 42 <sup>nd</sup> St., New York, NY
(b)	Mark J. Gray	November 24, 2012	220 W. 42 <sup>nd</sup> St., New York, NY

12. By the conduct described above in paragraphs 7, 8, 9, and 11, Respondents McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

13. By the conduct described above in paragraph 10, Respondent McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

14. The unfair labor practices of Respondents McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 1188 Sixth Ave.**

15. (a) At all material times, Respondent McDonald's at 1188 Sixth Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1188 Sixth Ave. has been a New York corporation with an office and place of business at 1188 Sixth Ave., New York, NY 10036.

(c) Annually, Respondent McDonald's at 1188 Sixth Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1188 Sixth Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

16. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1188 Sixth Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1188 Sixth Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 1188 Sixth Ave.

17. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 1188 Sixth Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1188 Sixth Ave. within the meaning of Section 2(13) of the Act:

(a) Elaine Diekmann – Owner

(b) Daisy Perez – General Manager

18. Respondent McDonald's at 1188 Sixth Avenue, by the individuals named below, on about the dates and at the locations listed opposite their names, interrogated employees about those employees' union activities and sympathies:

<b>Agent</b>	<b>Date</b>	<b>Location</b>
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- (a) Daisy Perez and Elaine Diekmann    Third week of November 2012    1188 Sixth Ave., New York, NY
- (b) Daisy Perez    November 20, 2012    1188 Sixth Ave., New York, NY
- (c) Daisy Perez and Elaine Diekmann    November 21, 2012    1188 Sixth Ave., New York, NY
- (d) Daisy Perez    December 2, 2012    1188 Sixth Ave., New York, NY

19. About November 21, 2012, Respondent McDonald's at 1188 Sixth Ave., by Daisy Perez, at 1188 Sixth Ave., New York, NY:

- (a) engaged in surveillance of employees to discover their union activities;
- (b) created an impression among its employees that their union activities were under surveillance; and
- (c) threatened to more strictly enforce rules regarding lateness and theft because of employees' union activities.

20. (a) On about November 21, 2012, Respondent McDonald's at 1188 Sixth Avenue suspended its employee Jose Carillo.

(b) Respondent McDonald's at 1188 6<sup>th</sup> Avenue engaged in the conduct described in subparagraph (a) because employee Jose Carillo assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in those activities.

21. By the conduct described above in paragraphs 18 and 19, Respondents McDonald's and McDonald's at 1188 Sixth Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

22. By the conduct described above in paragraph 20, Respondent McDonald's and McDonald's at 1188 Sixth Ave., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

23. The unfair labor practices of Respondents McDonald's and McDonald's at 1188 Sixth Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 280 Madison Ave.**

24. (a) At all material times, Respondent McDonald's at 280 Madison Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 280 Madison Ave. has been a New York corporation with an office and place of business at 280 Madison Ave., New York, NY 10036.

(c) Annually, Respondent McDonald's at 280 Madison Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 280 Madison Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

25. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 280 Madison Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 280 Madison Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 280 Madison Ave.

26. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 280 Madison Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 280 Madison Ave. within the meaning of Section 2(13) of the Act:

(a) Richard R. Cisneros – Owner

(b) Bruny Martinez – Director of Operations

(c) Jeannette Checo – General Manager

27. About November 30, 2012, Respondent McDonald's at 280 Madison Ave., by Richard R. Cisneros, Bruny Martinez, and Jeannette Checo, at 280 Madison Ave., New York, NY:

(a) threatened employees with discharge if they engaged in union activity;

(b) threatened to reduce employees' hours of work if they engaged in union activity;

(c) threatened employees with discharge if they engaged in union activity; and

(d) promised employees unspecified improvements in terms and conditions of employment if they rejected the FFWC as their collective bargaining representative.

28. About December 3, 2012, Respondent McDonald's at 280 Madison Ave., by Bruny Martinez and Jeannette Checo, at 280 Madison Ave., New York, NY:

(a) threatened employees with discharge if they engaged in union activity; and

(b) threatened to reduce employees' hours of work if they engaged in union activity.

29. By the conduct described above in paragraphs 27 and 28, Respondents McDonald's and McDonald's at 280 Madison Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

30. The unfair labor practices of Respondents McDonald's and McDonald's at 280 Madison Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 1651 Broadway**

31. (a) At all material times, Respondent McDonald's at 1651 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1651 Broadway has been a New York corporation with an office and place of business at 1651 Broadway, New York, NY 10019.

(c) Annually, Respondent McDonald's at 1651 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1651 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

32. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1651 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1651 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 1651 Broadway.

33. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(13) of the Act:

(i) Linda Dunham – President

(ii) Rene Perez – Supervisor

(iii) Winston Joseph – General Manager

(b) supervisors of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(13) of the Act:

(i) Arlene Raymond – Shift Manager

34. About late October or early November 2012, Respondent McDonald's at 1651 Broadway, by Arlene Raymond, at 1651 Broadway New York, NY, threatened employees with discharge if they engaged in union activity.

35. About November 29, 2012, Respondent McDonald's at 1651 Broadway, by Arlene Raymond, at 1651 Broadway New York, NY, threatened employees with discharge if they engaged in union activity.

36. About December 17, 2012, Respondent McDonald's at 1651 Broadway, by Rene Perez and Winston Joseph, at 1651 Broadway, New York, NY:

(a) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union activity; and

(b) promised employees a raise if they refrained from union activity.

37. (a) On about December 21, 2012, Respondent McDonald's at 1651 Broadway ceased posting employees' work schedules.

(b) Respondent McDonald's at 1651 Broadway took the action identified in subparagraph (a) in response to union organizing.

38. By the conduct described above in paragraphs 34 through 37, Respondents McDonald's and McDonald's at 1651 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

39. The unfair labor practices of Respondents McDonald's and McDonald's at 1651 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 14 East 47<sup>th</sup> St.**

40. (a) At all material times, Respondent McDonald's at 14 East 47<sup>th</sup> has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 14 East 47<sup>th</sup> has been a New York limited liability corporation with an office and place of business at 14 East 47<sup>th</sup> St., New York, NY 10017.

(c) Annually, Respondent McDonald's at 14 East 47<sup>th</sup>, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 14 East 47<sup>th</sup> has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

41. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 14 East 47<sup>th</sup>;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 14 East 47<sup>th</sup>; and

(c) been a joint employer of the employees of Respondent McDonald's at 14 East 47<sup>th</sup>.

42. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 14 East 47<sup>th</sup> within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 14 East 47<sup>th</sup> within the meaning of Section 2(13) of the Act:

(a) Carmen Paulino – Owner

(b) Peter Paulino – General Manager

43. On about December 1, 2012, Respondent McDonald's at 14 E. 47<sup>th</sup>, by Peter Paulino, at 14 E. 47<sup>th</sup> St., New York, NY:

(a) threatened employees with unspecified reprisals because of their union activity; and

(b) interrogated employees about their union activities.

44. By the conduct described above in paragraph 43, Respondents McDonald's and McDonald's at 14 E. 47<sup>th</sup>, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

45. The unfair labor practices of Respondents McDonald's and McDonald's at 14 E. 47<sup>th</sup> described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 840 Atlantic Ave.**

46. (a) At all material times, Respondent McDonald's at 840 Atlantic Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 840 Atlantic Ave. has been a New York limited liability corporation with an office and place of business at 840 Atlantic Ave., Brooklyn, NY 11238.

(c) Annually, Respondent McDonald's at 840 Atlantic Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 840 Atlantic Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

47. At all material times, Respondent McDonald's has:

- (a) had a franchise agreement with Respondent McDonald's at 840 Atlantic Ave.;
- (b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 840 Atlantic Ave.; and
- (c) been a joint employer of the employees of Respondent McDonald's at 840 Atlantic Ave.

48. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 840 Atlantic Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 840 Atlantic Ave. within the meaning of Section 2(13) of the Act:

- (a) Carmen Paulino – Owner
- (b) Martin Calderon – General Manager

49. Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at the McDonald's located at 840 Atlantic Avenue, Brooklyn, NY:

(a) on occasions in July, August, and mid-November 2012, threatened employees with discharge because of their union activities and support.

(b) on an unspecified date, threatened employees with unspecified reprisals because of their union activities and support.

(c) about September 2012, threatened employees with discharge because of their union activities and support.

(d) on an unspecified date, threatened employees with discharge because of their union activities and support.

50. In about July or August 2012, Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at 840 Atlantic Ave., Brooklyn, NY

- (a) interrogated employees about their union activities; and
- (b) instructed employees to refrain from engaging in union activities.

51. In about October 2012, Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at 840 Atlantic Ave., Brooklyn, NY:

(a) engaged in surveillance of employees engaged in union activities;

(b) by telling employees he was watching them, created an impression among its employees that their union activities were under surveillance by Respondent McDonald's at 840 Atlantic Ave.; and

(c) instructed employees to refrain from engaging in union activities.

52. By the conduct described above in paragraphs 49 through 51, Respondents McDonald's and McDonald's at 840 Atlantic Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

53. The unfair labor practices of Respondents McDonald's and McDonald's at 840 Atlantic Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 2142 Third Ave.**

54. (a) At all material times, Respondent McDonald's at 2142 at Third Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 2142 at Third Ave. has been a Delaware limited liability company with an office and place of business at 220 W. 42nd Street, New York, NY 10036.

(c) Annually, Respondent McDonald's at 2142 at Third Ave., in conducting its business operations described above in subparagraphs (a) and (b),

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 2142 Third Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

55. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 2142 Third Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 2142 Third Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 2142 Third Ave.

56. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2142 Third Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2142 Third Ave. within the meaning of Section 2(13) of the Act:

(a) Bruce D. Colley – Owner

(b) Mike Ortiz – Director of Operations

(c) Leilani Carr – Area Supervisor

57. About November 30, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz and Leilani Carr, in the office located in the basement of 2142 Third Avenue, New York, NY, interrogated its employees about their union activities.

58. About December 1, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz, in the office located in the basement of 2142 Third Avenue, New York, NY, interrogated its employees about their union activities.

59. About December 1, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz, at 2142 Third Avenue, New York, NY, by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union activity.

60. By the conduct described above in paragraphs 57 through 59, Respondents McDonald's and McDonald's at 2142 Third Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

61. The unfair labor practices of Respondents McDonald's and McDonald's at 2142 Third Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 2049 Broadway**

62. (a) At all material times, Respondent McDonald's at 2049 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, Respondent McDonald's at 2049 Broadway has been a Delaware limited liability corporation with an office and place of business at 2049 Broadway, New York, NY 10023.

(c) Annually, Respondent McDonald's at 2049 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 2049 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

63. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 2049 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 2049 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 2049 Broadway.

64. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2049 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2049 Broadway within the meaning of Section 2(13) of the Act:

- (a) Bruce D. Colley – Owner
- (b) Mike Ortiz – Director of Operations
- (c) Manny Vera – General Manager

65. Respondent McDonald's at 2049 Broadway, by Manny Vera, at 2049 Broadway, New York, NY:

- (a) about February 18, 2013, interrogated its employees about their union activity;
- (b) about March 2013, interrogated its employees about their union activity;
- (c) about March 2013, threatened its employees with unspecified reprisals because they engaged in union activity.

66. By the conduct described above in paragraph 65, Respondents McDonald's and McDonald's at 2049 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

67. The unfair labor practices of Respondents McDonald's and McDonald's at 2049 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 341 5<sup>th</sup> Ave.**

68. (a) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been a New York limited liability company with an office and place of business at 341 5<sup>th</sup> Ave., New York, NY 10016.

(c) Annually, Respondent McDonald's at 341 5<sup>th</sup> Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

69. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 341 5<sup>th</sup> Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 341 5<sup>th</sup> Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 341 5<sup>th</sup> Ave.

70. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 341 5<sup>th</sup> Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 341 5<sup>th</sup> Ave. within the meaning of Section 2(13) of the Act:

(a) Bruce D. Colley – Owner

(b) Mike Ortiz – Director of Operations

(c) Alicia “Vicky” Munoz – General Manager

71. About March 2013, Respondent McDonald's at 341 5<sup>th</sup> Ave., by Vicky Munoz, at 341 5<sup>th</sup> Avenue, New York, NY, told employees they were prohibited from talking with the union after working hours.

72. By the conduct described above in paragraph 71, Respondents McDonald's and McDonald's at 341 5<sup>th</sup> Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

73. The unfair labor practices of Respondents McDonald's and McDonald's at 341 5<sup>th</sup> Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 1531 Fulton St.**

74. (a) At all material times, Respondent McDonald's at 1531 Fulton St. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1531 Fulton St. has been a limited liability company with an office and place of business at 1531 Fulton Street, Brooklyn, NY 11216.

(c) Annually, Respondent McDonald's at 1531 Fulton St., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1531 Fulton St. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

75. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1531 Fulton St.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1531 Fulton St.; and

(c) been a joint employer of the employees of Respondent McDonald's at 1531 Fulton St.

76. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(13) of the Act:

- (i) Carmen Paulino - Owner
- (ii) Carlos Roldan – General Manager
- (iii) Mery G. Diaz – fill-in General Manager

(b) supervisors of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(13) of the Act:

- (i) Veronica Stuart – Shift Manager

77. Respondent McDonald's at 1531 Fulton St., by Carlos Roldan, at 1531 Fulton St., Brooklyn, NY:

- (a) about late January 2013, instructed employees to stop talking about the FFWC;
- (b) about late January 2013, instructed employees to stop talking with FFWC organizers;
- (c) about April 6, 2013, told employees they were prohibited from
  - (i) engaging in union activities; and
  - (ii) talking with coworkers about union activities.
- (d) about April 6, 2013, asked employees to sign a document acknowledging they were told, and that they understood, that they were not to engage in union activities.

(e) about early August 2013, threatened its employees with discharge because they engaged in union activities.

78. About July 30, 2013, Respondent McDonald's at 1531 Fulton St., by Mery G. Diaz, threatened its employees with discharge for engaging in Union activity.

79. About July 30, 2013, Respondent McDonald's at 1531 Fulton St., by Veronica Stuart, threatened its employees with unspecified reprisals for engaging in Union activity.

80. (a) About April 6, 2013, Respondent McDonald's at 1531 Fulton St. issued a written reprimand to its employee David Curry.

(b) Respondent McDonald's at 1531 Fulton St. engaged in the conduct described above in subparagraph (a) because David Curry assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

81. (a) About August 8, 2013, Respondent McDonald's at 1531 Fulton St. discharged its employee Tracee Nash.

(b) Respondent McDonald's at 1531 Fulton St. engaged in the conduct described above in subparagraph (a) because Tracee Nash assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

82. By the conduct described above in paragraphs 77 through 79, Respondents McDonald's and McDonald's at 1531 Fulton St., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

83. By the conduct described above in paragraphs 80 and 81, Respondent McDonald's and McDonald's at 1531 Fulton St., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

84. The unfair labor practices of Respondents McDonald's and McDonald's at 1531 Fulton St. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 4259 Broadway**

85. (a) At all material times, Respondent McDonald's at 4259 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 4259 Broadway has been a New York limited partnership with an office and place of business at 4259 Broadway, New York, NY 10033.

(c) Annually, Respondent McDonald's at 4259 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 4259 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

86. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 4259 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 4259 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 4259 Broadway.

87. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 4259 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 4259 Broadway within the meaning of Section 2(13) of the Act:

- (a) Bruce D. Colley – Owner
- (b) Mike Ortiz – Director of Operations
- (c) Dominga De Jesus – General Manager

88. About November 2012, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus, threatened its employees with restaurant closure if they selected a union as their bargaining representative.

89. About January 2013, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus:

(a) threatened its employees with reduced work hours if they selected a union as their bargaining representative; and

(b) threatened its employees with restaurant closure if they selected a union as their bargaining representative.

90. (a) About January 2013, Respondent McDonald's at 4259 Broadway ceased posting employees' work schedules.

(b) Respondent McDonald's at 4259 Broadway took the action identified in subparagraph (a) in response to union organizing.

91. About April 5, 2013, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus, told employees they were prohibited from accepting literature from union representatives.

92. By the conduct described above in paragraphs 88 through 91, Respondents McDonald's and McDonald's at 4259 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

93. The unfair labor practices of Respondents McDonald's and McDonald's at 4259 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 2, 2015 or postmarked on or before January 1, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no

answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **March 30, 2015** at the **Mary Taylor Walker Room at 26 Federal Plaza, Room 3614, New York, New York** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: New York, New York  
December 19, 2014



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Karen P. Fernbach  
Regional Director  
National Labor Relations  
Region 02  
26 Federal Plaza, Suite 3614  
New York, NY 10278-3699

Attachments

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 4**

JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
MCDONALD'S USA, LLC and MCDONALD'S  
USA, LLC, Joint Employers

and

Case 04-CA-125567  
04-CA-129783 and  
04-CA-133621

PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pennsylvania Workers Organizing Committee, a Project of the Fast Food Workers Committee, herein called the Union, has charged that Jo-Dan Madalisse LTD, LLC d/b/a McDonald's ("Jo-Dan") and McDonald's USA, LLC, ("McDonald's") herein collectively called Respondents, have been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151 *et seq.*, herein called the Act. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, **ORDERS** that these cases are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in Case 04-CA-125567 was filed by the Union on March 31, 2014, and a copy was served by first class mail on Respondents on April 1, 2014.

(b) The first amended charge in Case 04-CA-125567 was filed by the Union on May 8, 2014, and a copy was served by first class mail on Respondents on May 8, 2014.

(c) The second amended charge in Case 04-CA-125567 was filed by the Union on May 30, 2014, and a copy was served by first class mail on Respondents on June 2, 2014.

(d) The third amended charge in Case 04-CA-125567 was filed by the Union on December 5, 2014, and a copy was served by first class mail on Respondents on December 8, 2014.

(e) The charge in Case 04-CA-129783 was filed by the Union on June 2, 2014, and a copy was served by first class mail on Respondents on June 3, 2014.

(f) The charge in Case 04-CA-133621 was filed by the Union on July 29, 2014, and a copy was served by first class mail on Respondent on July 30, 2014.

2. (a) At all material times since August, 2013, Jo-Dan, a Pennsylvania corporation, has operated McDonald's franchise restaurants, including one at 3137 North Broad Street, Philadelphia, Pennsylvania, herein called the Restaurant.

(b) During the past year, Jo-Dan received gross revenues in excess of \$500,000 and purchased and received at the Restaurant goods valued in excess of \$5000 directly from points outside the Commonwealth of Pennsylvania.

(c) At all material times, Jo-Dan has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

(d) At all material times, McDonald's, a limited liability company with headquarters in Oak Brook, Illinois, has operated McDonald's restaurants at many franchise facilities throughout the United States.

(e) During the past year, in conducting its business operations described above in subparagraph (d), McDonald's received gross revenues in excess of \$500,000 and purchased and received at the Restaurant goods valued in excess of \$5000 directly from points outside the Commonwealth of Pennsylvania and the State of Illinois.

(f) At all material times, McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

(g) At all material times, McDonald's has:

(i) had a franchise agreement with Jo-Dan at the Restaurant;

(ii) possessed and/or exercised control over the labor relations policies of Jo-Dan at the Restaurant; and

(iii) been a joint employer of the employees of Jo-Dan at the Restaurant.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Jo-Dan within the meaning of Section 2(11) of the Act and agents of Jo-Dan within the meaning of Section 2(13) of the Act:

John Dawkins III	-	Franchise and Jo-Dan corporate owner
Danielle A. Dawkins	-	Franchise and Jo-Dan corporate owner
John Dawkins IV	-	Manager
Dominique Johnson	-	General Restaurant Manager

(b) At material times Tiona Edwards has held the position of Restaurant Shift Manager and has been a supervisor of Jo-Dan within the meaning of Section 2(11) of the Act and/or an agent of Jo-Dan within the meaning of Section 2(13) of the Act.

5. (a) At all material times, Jo-Dan has maintained the following written policy applicable to employees working at the Restaurant:

You are welcome to visit McDonald's from time to time. **However**, this is not your home away from home. Limit your visits to 10 minutes. **Loitering is prohibited** at any time. (Emphasis in original)

(b) At all material times, by posting "No Solicitation" signs on the Restaurant walls, Jo-Dan has maintained a rule applicable to their employees working there.

(c) Beginning in March or April 2014, for a period of a month, more exact dates being unknown to the General Counsel, Jo-Dan posted signs stating "No Solicitation" and "No Loitering" on the Restaurant walls.

(d) Jo-Dan posted and maintained the signs described above in subparagraph (c) to discourage its employees from engaging in Union activities in the Restaurant.

6. On or about March 17, 2014, Jo-Dan, by Tiona Edwards, in the Restaurant, told employees that they could not talk about the Union in the Restaurant.

7. On or about March 19, 2014, Jo-Dan, by John Dawkins IV, in the Restaurant, interrogated an employee concerning the employee's Union activities.

8. On or about March 28, 2014, Jo-Dan, by John Dawkins III and Danielle A. Dawkins, in the crew room at the Restaurant, engaged in the following conduct:

(a) by soliciting an employee's complaints and grievances, promised employees improved terms and conditions of employment if they refrained from engaging in Union activities;

(b) by telling the employee, "no third party can help you" and identifying the Union as the third party, indicated that it would be futile for employees to seek Union representation;

(c) offered to help the employee make career advances and/or receive promotions if the employee ceased supporting the Union;

(d) interrogated the employee concerning the employee's Union activities;

(e) created the impression among its employees that their Union activities were under surveillance by telling the employee that they were at a Union rally but did not see the employee there;

(f) prohibited the employee from speaking about the Union at the Restaurant;

(g) blamed the employee for costing Respondents money to combat the Union; pretended to choke the employee to dissuade the employee from seeking Union representation.

9. On or about March 28, 2014, Jo-Dan, by John Dawkins III, outside the Restaurant, interrogated an employee concerning the employee's Union activities.

10. In March or April 2014, a more precise date being unknown to the General Counsel, Jo-Dan, by Dominique Johnson, in the Restaurant: (1) told a Union organizer, in the presence of an off-duty employee, that the organizer was not permitted to solicit in the Restaurant, although Jo-Dan has permitted solicitation in the Restaurant by non-employees; and (2) instructed the off-duty employee not to sit with the organizer.

11. (a) On or about March 21, 2014, Jo-Dan discharged its employee Sean Caldwell.

(b) Jo-Dan engaged in the conduct described above in subparagraph (a) because Sean Caldwell was engaging in Union activity, and to discourage employees from engaging in Union activity.

12. By the conduct described above in paragraphs 5 through 10, Respondents have been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

13. By the conduct described above in paragraph 11, Respondents have been discriminating in regard to the hire or tenure or terms or conditions of employment of their employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

14. The unfair labor practices of Respondents described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an answer to the Consolidated Complaint. The answer must be **received by this office on or before January 2, 2015 or postmarked on or before**

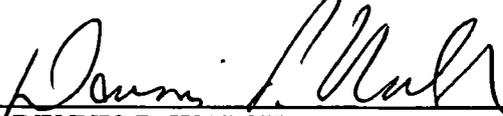
**January 1, 2015.** Respondents should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that on **March 30, 2015**, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board in a hearing room of the National Labor Relations Board, Region 2, 26 Federal Plaza, Suite 3614, New York, New York. At the hearing, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Signed at Philadelphia, Pennsylvania this 19th day of December, 2014.

  
\_\_\_\_\_  
**DENNIS P. WALSH**  
Regional Director, Fourth Region  
National Labor Relations Board

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

<b>KARAVITES RESTAURANTS 11102, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-106490</b>
<b>KARAVITES RESTAURANTS 26, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-106491</b>
<b>RMC LOOP ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-106493</b>
<b>WRIGHT MANAGEMENT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 13-CA-107668 13-CA-113837</b>
<b>V. OVIEDO, INC. , A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 13-CA-115647 13-CA-119015 13-CA-123916 13-CA-124813 13-CA-131440</b>
<b>McDONALD'S RESTAURANTS OF ILLINOIS, INC.,</b>	<b>Cases 13-CA-117083 13-CA-118691 13-CA-121759</b>
<b>LOFTON &amp; LOFTON MANAGEMENT V, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-118690</b>
<b>K. MARK ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 13-CA-123699 13-CA-129771</b>
<b>NORNAT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 13-CA-124213</b>

**KARAVITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC , A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
AS JOINT EMPLOYERS**

**Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT,  
AND NOTICE OF HEARING**

Pursuant to Section 102.33(c) of the Rules and Regulations of the National Labor Relations Board ("the Board") and to avoid unnecessary costs or delay, I ORDER THAT Cases 13-CA-106490, 13-CA-106491, 13-CA-106493, 13-CA-107668, 13-CA-113837, 13-CA-115647, 13-CA-117083, 13-CA-118690, 13-CA-118691, 13-CA-119015, 13-CA-121759, 13-CA-123699, 13-CA-123916, 13-CA-124213, 13-CA-124812, 13-CA-124813, 13-CA-129709, 13-CA-129771, 13-CA-131141, 13-CA-131143, 13-CA-131145, and 13-CA-131440 are

consolidated. These cases were filed by the Workers Organizing Committee of Chicago, (“WOCC”) against McDonald’s USA, LLC (“McDonald’s”) and the following McDonald’s franchisees:

<b>CASE NUMBER</b>	<b>MCDONALD’S FRANCHISEE IDENTIFIED IN CHARGE</b>
13-CA-106490	Charge against Karavites Restaurants 11102, LLC (“Respondent McDonald’s at 201 N. Clark St., Chicago”)
13-CA-106491	Charge against Karavites Restaurants 26, Inc., (“Respondent McDonald’s at 10 E. Chicago Ave., Chicago”)
13-CA-106493	Charge against RMC Loop Enterprises, LLC, (“Respondent McDonald’s at 23 S. Clark St., Chicago”)
13-CA-107668	Charge against Wright Management, Inc., (“Respondent McDonald’s at 600 N. Clark St., Chicago”)
13-CA-113837	Charge against Wright Management, Inc., (“Respondent McDonald’s at 600 N. Clark St., Chicago”)
13-CA-115647	Charge against V. Oviedo, Inc., (“Respondent McDonald’s at 2707 N. Milwaukee Ave., Chicago”)
13-CA-117083	Charge against McDonald’s Restaurants of Illinois, Inc., (“Respondent McDonald’s at 2005 W. Chicago Ave., Chicago”)
13-CA-118690	Charge against Lofton & Lofton Management V, Inc., (“Respondent McDonald’s at 23 N. Western Ave., Chicago”)
13-CA-118691	Charge against McDonald’s Restaurants of Illinois, Inc., (“Respondent McDonald’s at 2005 W. Chicago Ave., Chicago”)
13-CA-119015	Charge against V. Oviedo, Inc., (“Respondent McDonald’s at 2707 N. Milwaukee Ave., Chicago”)
13-CA-121759	Charge against McDonald’s Restaurants of Illinois, Inc., (“Respondent McDonald’s at 2005 W. Chicago Ave., Chicago”)
13-CA-123699	Charge against K. Mark Enterprises, LLC. (“Respondent McDonald’s 70 E. Garfield Blvd., Chicago”)
13-CA-123916	Charge against V. Oviedo, Inc., (“Respondent McDonald’s at 2707 N.

	Milwaukee Ave., Chicago”)
13-CA-124213	Charge against Nornat, Inc., (“Respondent McDonald’s at 9211 S. Commercial Ave., Chicago”)
13-CA-124812	Charge against Karavites Restaurant 5895, Inc., (“Respondent McDonald’s at 1004 W. Wilson, Chicago ”)
13-CA-124813	Charge against V. Oviedo, Inc., (“Respondent McDonald’s at 2707 N. Milwaukee Ave., Chicago”)
13-CA-129709	Charge against Taylor & Malone Management (“Respondent McDonald’s at 29 E. 87th St. Chicago”)
13-CA-129771	Charge against K. Mark Enterprises, LLC. (“Respondent McDonald’s 70 E. Garfield Blvd., Chicago”)
13-CA-131141	Charge against RMC Enterprises, LLC, (“Respondent McDonald’s at 4047 E. 106 <sup>th</sup> St., Chicago”)
13-CA-131143	Charge against Karavites Restaurant 6676, LLC (“Respondent McDonald’s at 600 N. Clark St., Chicago”)
13-CA-131145	Charge against Topaz Management, Inc., (“Respondent McDonald’s at 5220 S. Lake Park Ave., Chicago”)
13-CA-131440	Charge against V. Oviedo, Inc., (“Respondent McDonald’s at 2707 N. Milwaukee Ave., Chicago”)

This Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, which is based on the charges in these cases, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 *et seq.* (“the Act”) and Section 102.15 of the Board’s Rules and Regulations. It alleges that the above-identified Respondents have violated the Act as described below:

1. The charges in these cases were filed and served as set forth in the following table:

¶	Case No. 13-	Amended	Charging Party	Respondents	Date Filed	Date Served
a.	CA-106490	Initial	WOCC	McDonald's/ McDonald's at 201 N. Clark St., Chicago	June 4, 2013	June 5, 2013
b.	CA-106490	First	WOCC	McDonald's/ McDonald's at 201 N. Clark St., Chicago.	Sept 4, 2013	Sept 5, 2013
c.	CA-106490	Second	WOCC	McDonald's/ McDonald's at 201 N. Clark St., Chicago.	Feb 4, 2014	Feb 5, 2014
d.	CA-106491	Initial	WOCC	McDonald's/ McDonald's at 10 E. Chicago Ave., Chicago	June 4, 2013	June 5, 2013
e.	CA-106491	First	WOCC	McDonald's/ McDonald's at 10 E. Chicago Ave., Chicago	Sept 4, 2013	Sept 5, 2013
f.	CA-106491	Second	WOCC	McDonald's/ McDonald's at 10 E. Chicago Ave., Chicago	Feb 4, 2014	Feb 5, 2014
g.	CA-106493	Initial	WOCC	McDonald's/ McDonald's at 23 S. Clark St., Chicago	June 4, 2013	June 5, 2013
h.	CA-106493	First	WOCC	McDonald's/ McDonald's at 23 S. Clark St., Chicago	Sept 4, 2013	Sept 5, 2013
i.	CA-106493	Second	WOCC	McDonald's/ McDonald's at 23 S. Clark St., Chicago	Feb 4, 2014	Feb 5, 2014
j.	CA-107668	Initial	WOCC	McDonald's/ McDonald's at 600 N. Clark St., Chicago	June 20, 2013	June 21, 2013
k.	CA-107668	First	WOCC	McDonald's/ McDonald's at 600 N.	Sept 4, 2013	Sept 5, 2013

				Clark St., Chicago		
<b>l.</b>	CA-107668	Second	WOCC	McDonald's/ McDonald's at 600 N. Clark St., Chicago	Feb 4, 2014	Feb 5, 2014
<b>m.</b>	CA-113837	Initial	WOCC	McDonald's/ McDonald's at 600 N. Clark St., Chicago	Sept 20, 2013	Sept 23, 2013
<b>n.</b>	CA-113837	First	WOCC	McDonald's/ McDonald's at 600 N. Clark St., Chicago	Dec 12, 2014	Dec 17, 2014
<b>o.</b>	CA-115647	Initial	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Oct 25, 2013	Oct 25, 2013
<b>p.</b>	CA-115647	First	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Dec 11, 2013	Dec 12, 2013
<b>q.</b>	CA-115647	Second	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Jan 31, 2014	Jan 31, 2014
<b>r.</b>	CA-117083	Initial	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Nov 14, 2013	Nov 15, 2013
<b>s.</b>	CA-117083	First	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Feb 4, 2014	Feb 5, 2014
<b>t.</b>	CA-117083	Second	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Mar 31, 2104	Mar 31, 2014
<b>u.</b>	CA-118690	Initial	WOCC	McDonald's/ Respondent McDonald's at 23 N. Western Ave., Chicago	Dec 10, 2013	Dec 11, 2013

<b>v.</b>	CA-118691	Initial	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Dec 10, 2013	Dec 11, 2013
<b>w.</b>	CA-119015	Initial	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Dec 13, 2013	Dec 17, 2013
<b>x.</b>	CA-119015	First	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Jan 31, 2014	Feb 3, 2014
<b>y.</b>	CA-121759	Initial	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Feb 2, 2014	Feb 4, 2014
<b>z.</b>	CA-121759	First	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Mar 31, 2014	Mar 31, 2014
<b>aa</b>	CA-121759	Second	WOCC	McDonald's/ McDonald's at 2005 W. Chicago Ave., Chicago	Apr 29, 2014	Apr 30 2014
<b>bb</b>	CA-123699	Initial	WOCC	McDonald's/ McDonald's 70 E. Garfield Blvd., Chicago	Mar 4, 2013	Mar 5, 2014
<b>cc</b>	CA-123699	First	WOCC	McDonald's/ McDonald's 70 E. Garfield Blvd., Chicago	May 19, 2013	May 19, 2014
<b>dd</b>	CA-123916	Initial	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	Mar 6, 2014	Mar 7, 2014
<b>ee</b>	CA-123916	First	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago.	May 29, 2014	May 30, 2014

<b>ff</b>	CA-124213	Initial	WOCC	McDonald's/ McDonald's at 9211 S. Commercial Ave., Chicago	Mar 11, 2014	Mar 11, 2014
<b>gg</b>	CA-124213	First	WOCC	McDonald's/ McDonald's at 9211 S. Commercial Ave., Chicago	Apr 28, 2014	Apr 28 2014
<b>hh</b>	CA-124213	Second	WOCC	McDonald's/ McDonald's at 9211 S. Commercial Ave., Chicago	Jun 4, 2014	Jun 4, 2014
<b>ii</b>	CA-124812	Initial	WOCC	McDonald's/ McDonald's at 1004 W. Wilson, Chicago	Mar 19, 2014	Mar 20, 2014
<b>jj</b>	CA-124812	First	WOCC	McDonald's/ McDonald's at 1004 W. Wilson, Chicago	Jun 3, 2014	Jun 4, 2014
<b>kk</b>	CA-124813	Initial	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago	Mar 19, 2014	Mar 20, 2014
<b>ll</b>	CA-124813	First	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago	Jun 3, 2014	Jun 3, 2014
<b>mm</b>	CA-129709	Initial	WOCC	McDonald's/ McDonald's at 29 E. 87th St. Chicago	May 30, 2014	Jun 2, 2014
<b>nn</b>	CA-129709	First	WOCC	McDonald's/ McDonald's at 29 E. 87th St. Chicago	Jun 6, 2014	Jun 9, 2014
<b>oo</b>	CA-129709	Second	WOCC	McDonald's/ McDonald's at 29 E. 87th St. Chicago	July 18, 2014	July 21, 2014
<b>pp</b>	CA-129709	Third	WOCC	McDonald's/ McDonald's at 29 E. 87th St. Chicago	Oct 30 2014	Oct 30, 2014

<b>qq</b>	CA-129771	Initial	WOCC	McDonald's/ McDonald's 70 E. Garfield Blvd., Chicago	May 30, 2014	June 2, 2014
<b>rr</b>	CA-129771	First	WOCC	McDonald's/ McDonald's 70 E. Garfield Blvd., Chicago	Aug 29, 2014	Sept 2, 2014
<b>ss</b>	CA-131141	Initial	WOCC	McDonald's/ McDonald's at 4047 E. 106 <sup>th</sup> St., Chicago	June 19, 2014	June 19, 2014
<b>tt</b>	CA-131143	Initial	WOCC	McDonald's/ McDonald's at 600 N. Clark St., Chicago	June 19, 2014	June 20, 2014
<b>uu</b>	CA-131145	Initial	WOCC	McDonald's/ McDonald's at 5220 S. Lake Park Ave., Chicago, IL	June 19, 2014	June 20, 2014
<b>vv</b>	CA-131440	Initial	WOCC	McDonald's/ McDonald's at 2707 N. Milwaukee Ave., Chicago	Jun 24, 2014	Jun 25, 2014

**Charging Party**

2. At all material times, the WOCC has been a labor organization within the meaning of Section 2(5) of the Act.

**Respondent McDonald's USA, LLC**

3. a. At all material times, Respondent, McDonald's has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

b. Annually, Respondent McDonald's, in conducting its business operations described above in paragraph 3.a,

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

c. At all material times, Respondent McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**Respondent McDonald's at 201 N. Clark St., Chicago**

4. a. At all material times, Respondent McDonald's at 201 N. Clark St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 201 N. Clark St., Chicago has been a corporation, with an office and place of business at 201 N. Clark St., Chicago, Illinois.

c. Annually, Respondent McDonald's at 201 N. Clark St., Chicago, in conducting its business operations described above in paragraphs 4.a and 4.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 201 N. Clark St., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, Respondent McDonald's has:

a. had a franchise agreement with Respondent McDonald's at 201 N. Clark St., Chicago;

b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 201 N. Clark St., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 201 N. Clark St., Chicago.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 201 N. Clark St., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 201 N. Clark St., Chicago within the meaning of Section 2(13) of the Act:

- |    |                |                        |
|----|----------------|------------------------|
| a. | Nick Karavites | Owner/Operator         |
| b. | Isidro Herrera | Director of Operations |
| c. | Martha Garcia  | Supervisor             |
| d. | Sosimo Mendez  | Store Manager          |

7. Respondent McDonald's at 201 N. Clark St., Chicago, by Sosimo Mendez:

a. On various occasions in March and April 2013, at Respondent McDonald's at 201 N. Clark St., Chicago's facility, prohibited employees from signing anything given to them by the Union;

b. About mid April 2013, at Respondent McDonald's at 201 N. Clark St., Chicago's facility, threatened employees with termination if they engaged in union activities; and

c. About mid April 2013, at Respondent McDonald's at 201 N. Clark St., Chicago's facility, threatened to cause the arrest of employees engaging in union activity.

8. About April 25, 2013, Respondent McDonald's at 201 N. Clark St., Chicago's, by Nick Karavites:

a. Solicited employee complaints and grievances;

b. Promised its employees increased benefits and improved terms and conditions of employment if they refrained from union engaging in union activity; and

c. Promised its employees resolutions to unspecified grievances if employees refrained from engaging in union activity.

9. On about April 24, 2013, Respondent McDonald's at 201 N. Clark St., Chicago, by Martha Garcia, at Respondent McDonald's at 201 N. Clark St., Chicago's facility, by taking pictures, engaged in surveillance of employees engaged in concerted activities.

10. Since about the dates set forth below, Respondent McDonald's at 201 N. Clark St., Chicago has maintained the following rules:

a. Since about the beginning of April 2013, employees have been required to take breaks and eat at the tables in the break room area;

b. Since about the beginning of April 2013, employees have been prohibited from soliciting on the premises anywhere but in the back room of Respondent McDonald's at 201 N. Clark St., Chicago's facility;

c. Since about April 2013, Respondent McDonald's at 201 N. Clark St., Chicago, by its employee handbook, promulgated and since then has maintained that:

**4.11 Use of Company Property**

McDonald's premises, telephones, and email are not to be used for employees or others to engage in the practice of soliciting collections or donations; selling raffles, goods, or services; operating betting pools; or solicitations of any kind.

d. About April 25, 2013, Respondent McDonald's at 201 N. Clark St., Chicago, by an oral announcement, promulgated and since then has maintained that:

i. You can belong to anything or whatever you want, but outside;

ii. Employees are prohibited from communicating with union representatives while in Respondent McDonald's at 201 N. Clark St., Chicago's facility; and

iii. Employees are prohibited from soliciting and/or distributing union materials within Respondent McDonald's at 201 N. Clark St., Chicago facility.

11. Respondent McDonald's at 201 N. Clark St., Chicago:

a. About April 25, 2013, reduced the hours of work of its employees Victor Guzman and Sonia Acuña;

b. About April 25, 2013, changed the job duties of its employee Victor Guzman;

c. About April 25, 2013, reduced the hours of work of its employee Sonia Acuña by preventing Acuña from clocking in to work at her regularly scheduled time.

d. About April 25, 2013, imposed more onerous and rigorous terms and conditions of employment on its employee Sonia Acuña by assigning her more arduous and less agreeable job assignments.

e. Respondent McDonald's at 201 N. Clark St., Chicago engaged in the conduct described above in subparagraphs (a)-(d) because Victor Guzman assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

12. By the conduct described above in paragraphs 7 through 10, Respondents McDonald's at 201 N. Clark St., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

13. By the conduct described above in paragraph 11, Respondents McDonald's at 201 N. Clark St., Chicago and McDonald's, as joint employers, have been discriminating in regard to

the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

14. The unfair labor practices of Respondents McDonald's and McDonald's at 201 N. Clark St., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 10 E. Chicago Ave., Chicago**

15. a. At all material times, Respondent McDonald's at 10 E. Chicago Ave., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times Respondent McDonald's at 10 E. Chicago Ave., Chicago has been a corporation, with an office and place of business at 10 E. Chicago Ave., Chicago, Illinois.

c. Annually, Respondent McDonald's at 10 E. Chicago Ave., Chicago, in conducting its business operations described above in paragraph 15.a and 15.b.

i. derives gross revenues valued in excess of \$500,000 and

ii. purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 10 E. Chicago Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

16. At all material times, Respondent McDonald's has:

a. had a franchise agreement with Respondent McDonald's at 10 E. Chicago Ave., Chicago;

b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 10 E. Chicago Ave., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 10 E. Chicago Ave., Chicago.

17. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 10 E. Chicago Ave., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 10 E. Chicago Ave., Chicago within the meaning of Section 2(13) of the Act:

- |    |                  |                        |
|----|------------------|------------------------|
| a. | Nick Karavites   | Owner/Operator         |
| b. | Isidro Herrera   | Director of Operations |
| c. | Martha Garcia    | Supervisor             |
| d. | Arisveth Aguilar | Supervisor             |
| e. | Loretta Johnson  | Store Manager          |

18. About December 26, 2012, Respondent McDonald's at 10 E. Chicago Ave., Chicago, by Loretta Johnson, threatened employees with termination if they engaged in union activities.

19. About March 28, 2013, Respondent McDonald's at 10 E. Chicago Ave., Chicago, by Nick Karavites, at Respondent McDonald's at 10 E. Chicago Ave., Chicago's facility:

- a. Threatened employees with termination if they engaged in union activities;
- b. Interfered with employees' Section 7 rights by accusing employees of harassment because they engaged in union activity; and
- c. Interfered with employees' Section 7 rights by insisting they promise to not engage in union activity within Respondent McDonald's at 10 E. Chicago Ave., Chicago's facility.

20. About March 28, 2013, Respondent McDonald's at 10 E. Chicago Ave., Chicago, by Loretta Johnson, threatened employees with termination if they engaged in union activities.

21. About April 2013, Respondent McDonald's at 10 E. Chicago Ave., Chicago, by Nick Karavites, at Respondent McDonald's at 10 E. Chicago Ave., Chicago's facility, by soliciting employee complaints and grievances, implicitly promised to remedy those grievances.

22. About March 28, 2013, Respondent McDonald's at 10 E. Chicago Avenue by Karavites promulgated and maintained rules:

- a. prohibiting employees from soliciting inside the store; and
- b. prohibiting employees from conducting union activities during work or at

Respondent McDonald's at 10 E. Chicago Ave., Chicago's facility.

23. Since about April 2013, Respondent McDonald's at 10 E. Chicago Ave., Chicago, by its employee handbook, promulgated and maintained the following rule:

#### **4.2 Confidentiality**

As a result of your employment at McDonald's, you will acquire and have access to confidential information belonging to McDonald's of special and unique value. This includes such matter as McDonald's personnel information, suppliers, procedures, cost of merchandise, sales data, price lists, financial information, records, business plans, prospect names, business opportunities, confidential reports, customer lists and contracts, as well as any other information specific to McDonald's.

As a condition of employment, you must and hereby do agree that all such information is the exclusive property of the McDonald's, and you will not at any time disclose to anyone, except in the responsible exercise of your job, any such information whether or not it has been designated specifically as "confidential". Signing a separate confidentiality agreement further clarifying this policy at McDonald's requests is also a condition of your continued employment with McDonald's.

If you are ever unsure of your obligation under this policy it is your responsibility to consult with your store manager or supervisor for clarification.

24. Respondent McDonald's at 10 E. Chicago Ave., Chicago engaged in the following conduct:

- a. About March 2013, reduced the working hours of its employee Tyree Johnson.

b. About March 28, 2013, reduced the hours of work of its employee Tyree Johnson by preventing Tyree Johnson from clocking in to work at his regularly scheduled time.

c. Respondent McDonald's at 10 E. Chicago Ave., Chicago engaged in the conduct described above in subparagraphs (a) and (b) because Tyree Johnson assisted the Charging Party and engaged in concerted activities, and to discourage employees from engaging in these activities.

25. By the conduct described above in paragraphs 18 through 23, Respondent McDonald's at 10 E. Chicago Ave., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

26. By the conduct described above in paragraphs 24, Respondents McDonald's at 10 E. Chicago Ave., Chicago and McDonald's, as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

27. The unfair labor practices of Respondents McDonald's and Respondent McDonald's at 10 E. Chicago Ave., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 23 S. Clark St., Chicago**

28. a. At all material times, Respondent McDonald's at 23 S. Clark St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 23 S. Clark St., Chicago has been a corporation with an office and place of business at 23 S. Clark St., Chicago, Illinois.

c. Annually, Respondent McDonald's at 23 S. Clark St., Chicago, in conducting its business operations described above in paragraph 28.a and 28.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 23 S. Clark St., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

29. At all material times, Respondent McDonald's has:

- a. had a franchise agreement with Respondent McDonald's at Respondent McDonald's at 23 S. Clark St., Chicago;
- b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 23 S. Clark St., Chicago; and
- c. been a joint employer of the employees of Respondent McDonald's at 23 S. Clark St., Chicago.

30. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 23 S. Clark St., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 23 S. Clark St., Chicago within the meaning of Section 2(13) of the Act:

- a. Dave Furman                      President
- b. Maureen Zakutansky              Director of Human Resource
- c. Alex Hernandez                      Supervisor
- d. Cynthia Jenke                      Unit Manager

**31.** Respondent McDonald's at 23 S. Clark St., Chicago, by Cynthia Jenke, at Respondent McDonald's at 23 S. Clark St., Chicago's facility:

**a.** On about February 18, 2013, threatened employees with unspecified reprisal if they engaged in union activities;

**b.** On about February 18, 2013, threatened employees with termination if they engaged in union activities;

**c.** On about February 18, 2013, interfered with employees' Section 7 rights by making them promise to not engage in union activity within Respondent McDonald's at 23 S. Clark St., Chicago's facility;

**d.** On about February 21, 2013, threatened employees with termination if they engaged in union activities;

**e.** On about February 21, 2013, interfered with employees' Section 7 rights by asking them to refrain from engaging in union activity on behalf of themselves or with other employees; and

**f.** On about March 20, 2013, promised employees a wage increase if they refrained from engaging in union and other concerted activities.

**32.** Since about the dates set forth below, Respondent McDonald's at 23 S. Clark St., Chicago has maintained the following rules:

**a.** Since about February 18, 2013, employees are to keep their union business to themselves;

**b.** Since about February 18, 2013, employees are not allowed to engage in union business inside of Respondent McDonald's at 23 S. Clark St., Chicago's facility;

c. Since about February 18, 2013, employees are not allowed to organize, pass out union cards, or conduct union business inside of Respondent McDonald's at 23 S. Clark St., Chicago's facility;

d. Since about February 18, 2013, employees are not allowed solicit/talk to employees about union business inside of Respondent McDonald's at 23 S. Clark St., Chicago's facility;

e. Since about February 21, 2013, employees are prohibited from organizing or conducting other union business in Respondent McDonald's at 23 S. Clark St., Chicago's facility; and

f. Since March 20, 2013, employees are prohibited from conducting any union activity in Respondent McDonald's at 23 S. Clark St., Chicago's facility.

33. By the conduct described above in paragraphs 31 and 32, Respondents McDonald's and McDonald's at 23 S. Clark St., Chicago, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

34. The unfair labor practices of Respondents McDonald's and McDonald's at 23 S. Clark St., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 600 N. Clark St., Chicago**

35. a. At all material times, Respondent McDonald's at 600 N. Clark St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 600 N. Clark St., Chicago has been a corporation with an office and place of business at 600 N. Clark St., Chicago.

c. Annually, Respondent McDonald's at 600 N. Clark St., Chicago, in conducting its business operations described above in paragraph 35.a and 35.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 600 N. Clark St., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

36. At all material times, Respondent McDonald's has:

- a. had a franchise agreement with Respondent McDonald's at 600 N. Clark St., Chicago;
- b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 600 N. Clark St., Chicago; and
- c. been a joint employer of the employees of Respondent McDonald's at Respondent McDonald's at 600 N. Clark St., Chicago.

37. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 600 N. Clark St., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent Wright within the meaning of Section 2(13) of the Act:

- a. Francisco Quintana                      General Manager
- b. Gabriela Martinez                      Manager

38. About April 24, 2013, Respondent McDonald's at 600 N. Clark St., Chicago's employees Rosa Delgado and Ines Villalobos engaged in concerted activities with other employees for the

purposes of bringing complaints to the attention of Respondent and other mutual aid and protection, by demanding a wage increase.

**39.** About April 27, 2013, through General Manager Francesco Quintana, at Respondent McDonald's at 600 N. Clark St., Chicago's facility, threatened employees with a suspension if they engaged in concerted activities with other employees for the purposes of bringing complaints to the attention of Respondent McDonald's at 600 N. Clark St., Chicago and for other mutual aid and protection, by demanding a wage increase.

**40. a.** About April 27, 2013, Respondent McDonald's at 600 N. Clark St., Chicago disciplined Rosa Delgado and Ines Villalobos.

**b.** About September 8, 2013, Respondent McDonald's at 600 N. Clark St., Chicago, through Manager Gabriela Martinez and Francisco Quintana, denied Ines Villalobos' request to switch shifts with a fellow employee.

**c.** Respondent McDonald's at 600 N. Clark St., Chicago engaged in the conduct described above in subparagraphs (a) and (b) because the named employees engaged in the conduct described above in paragraph 38 and to discourage employees from engaging in these or other concerted activities.

**41.** By the conduct described above in paragraphs 39 and 40, Respondents McDonald's and McDonald's at 600 N. Clark St., Chicago, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

**42.** The unfair labor practices of Respondents McDonald's at 600 N. Clark St. Chicago and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago**

**43. a.** At all material times, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

**b.** At all material times, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago has been a corporation with an office and place of business at 2707 N. Milwaukee Ave., Chicago and a McDonald's franchise in the Logan Square area.

**c.** Annually, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, in conducting its business operations described above in paragraph 43.a and 43.b.

**i.** derives gross revenues valued in excess of \$500,000 and

**ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**44.** At all material times, Respondent McDonald's has:

**a.** had a franchise agreement with Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago;

**b.** possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago; and

**c.** been a joint employer of the employees of Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago.

**45.** At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2707 N. Milwaukee

Ave., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago within the meaning of Section 2(13) of the Act:

- a. Michael Ojeda                      Owner
- b. Virginia Oviedo                      Owner
- c. Araceli Ramirez                      Area Supervisor
- d. Maria Brizuela                      General Manager
- e. Moises Vaquez                      Assistant Manager
- f. Gabriela Hernandez                      Assistant Manager

46. About August 14, 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, through Owner Michael Ojeda, interfered with employees' right to engage in union or protected concerted activity by instructing employees not to engage in union or protected concerted activity during a company-sponsored outing to Great America theme park

47. From mid-September 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, by posting employee schedules, promulgated and maintained the following rule:

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48. About mid-October 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, through Assistant Manager Gabriela Hernandez, at Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago's Logan Square facility, interfered with employees' right to engage in union or protected concerted activity by instructing employees not to accept or receive materials from the WOCC.

**49.** About December 5, 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago employees, including Maria Villeda, engaged in concerted activities with other employees for the purposes of bringing complaints to the attention of Respondent McDonald's at 2707 N.

Milwaukee Ave., Chicago and other mutual aid and protection, by demanding a wage increase.

**50.** About mid-December 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, through General Manager Maria Brizuela,

**a.** interfered with employees' right to engage in union or protected activity by informing employees that engaging in protected activity would impact the number of hours Respondent Oviedo assigned to employees; and

**b.** impliedly threatened to rescind meal benefits from employees because they engaged in protect concerted activity.

**51. a.** About December 5, 2013, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago reduced employee Maria Villeda's working hours.

**b.** About January 5, 2014, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago issued a written warning to employee Maria Villeda.

**c.** Respondent engaged in the conduct described above in subparagraphs (a) and (b) because employee Maria Villeda engaged in the conduct described above in paragraph 49 and to discourage employees from engaging in these or other concerted activities.

**52.** On about January 5, 2014, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago, by issuing written warnings to employees bearing the language quoted in paragraph 47, promulgated and maintained an overly broad work rule.

**53.** By the conduct described above in paragraphs 46, 47, 48, 50, 51, and 52, Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago and McDonald's, as joint employers, have

been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

**54.** The unfair labor practices of Respondent McDonald's and Respondent McDonald's at 2707 N. Milwaukee Ave., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 2005 W. Chicago Ave., Chicago**

**55. a.** At all material times, Respondent McDonald's at 2005 W. Chicago Ave., Chicago has been a corporation engaged in the operation of quick service- restaurants in the State of Illinois, including the restaurant 2005 W. Chicago Avenue, Chicago, Illinois.

**b.** Annually, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, in conducting its business operations described above in paragraph 55a:

- i.** derives gross revenues valued in excess of \$500,000 and
- ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 2005 W. Chicago Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**56.** At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2005 W. Chicago Ave., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2005 W. Chicago Ave., Chicago within the meaning of Section 2(13) of the Act:

- a.** Violetta Rivera                      Store Manager
- b.** Jeanette Gleeson                    Department Manager

57. At material times Fabricio (LNU) has held the position shift manager and has been a supervisor of Respondent McDonald's at 2005 W. Chicago Ave., Chicago within the meaning of Section 2(11) of the Act and/or an agent of Respondent McDonald's at 2005 W. Chicago Ave., Chicago within the meaning of Section 2(13) of the Act:

58. About October 22, 2013 Respondent McDonald's at 2005 W. Chicago Ave., Chicago, by Manager Violetta Rivera, at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility,

a. interfered with employees' right to engage in union or protected concerted activity by prohibiting WOCC agents from speaking to employees, and

b. repeatedly interrogated employee about their union membership, activities, and sympathies.

59. About October 2013 through February 2014, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, through Manager Violetta Rivera and Shift Manager Fabricio at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility, repeatedly interfered with employees' right to engage in union or protected, concerted activity by prohibiting employees from taking their meal breaks in the lobby of the facility.

60. About October 24, 2013, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, through Department Manager Jeanette Gleeson, at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility, threatened employees with a reduction in working hours if they participated in concerted activities with other employees for the purposes of bringing complaints to the attention of Respondent McDonald's at 2005 W. Chicago Ave., Chicago and other mutual aid and protection.

**61.** About early November 2013, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, through Manager Violetta Rivera and Department Manager Jeanette Gleeson, at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility, repeatedly interfered with employees' right to engage in union or protected concerted activity by instructing employees to remove their union pins.

**62.** About December 5, 2013, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, through Department Manager Jeanette Gleeson, at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility, implied that it was futile for employees to engage in protected, concerted activity for the purposes of bringing complaints to the attention of Respondent and other mutual aid and protection.

**63.** About February 3, 2014, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, through Department Manager Jeanette Gleeson, at Respondent McDonald's at 2005 W. Chicago Ave., Chicago's facility:

- a.** interrogated employees concerning their union support and sympathies; and
- b.** threatened employees with reduced hours and days of work because they engaged in concerted activities with other employees for the purposes of bringing complaints to the attention of Respondent McDonald's at 2005 W. Chicago Ave., Chicago and for other mutual aid and protection.

**64.** From about June 1, 2013, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, by posting employee schedules, promulgated the following rule:

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65. By the conduct described above in paragraphs 58, 59, 60, 61, 62, 63, and 64, Respondent McDonald's at 2005 W. Chicago Ave., Chicago, has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

66. The unfair labor practices of Respondent McDonald's at 2005 W. Chicago Ave., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act

**Respondent McDonald's at 23 N. Western Ave., Chicago**

67. a. At all material times, Respondent McDonald's at 23 N. Western Ave., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 23 N. Western Ave., Chicago has been a corporation with an office and place of business at 23 N. Western Ave., Chicago, Illinois.

c. Annually, Respondent McDonald's at 23 N. Western Ave., Chicago, in conducting its business operations described above in paragraph 67.a. and 67.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 23 N. Western Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

68. At all material times, Respondent McDonald's has:

a. had a franchise agreement with Respondent McDonald's at 23 N. Western Ave., Chicago;

b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 23 N. Western Ave., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 23 N. Western Ave., Chicago.

69. At all material times, Respondent McDonald's at 23 N. Western Ave., Chicago, by posting employee schedules, promulgated the following rule:

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70. By the conduct described above in paragraph 69, Respondents McDonald's and Respondent McDonald's at 23 N. Western Ave., Chicago, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

71. The unfair labor practices of Respondents McDonald's and Respondent McDonald's at 23 N. Western Ave., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's 70 E. Garfield Blvd., Chicago**

72. a. At all material times, Respondent McDonald's at 70 E. Garfield Blvd., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 70 E. Garfield Blvd., Chicago has been a corporation with an office and place of business at Respondent McDonald's at 70 E. Garfield Blvd., Chicago.

c. Annually, Respondent McDonald's at 70 E. Garfield Blvd., Chicago, in conducting its business operations described above in paragraph 72.a and 72.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 70 E. Garfield Blvd., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

73. At all material times, Respondent McDonald's has:

- a. had a franchise agreement with Respondent McDonald's at 70 E. Garfield Blvd., Chicago;
- b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 70 E. Garfield Blvd., Chicago; and
- c. been a joint employer of the employees of Respondent McDonald's at 70 E. Garfield Blvd., Chicago.

74. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 70 E. Garfield Blvd., Chicago within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's 70 E. Garfield Blvd., Chicago within the meaning of Section 2(13) of the Act:

- a. Keith Allen Sr. Owner/Operator and President
- b. Sharon Rainey Area Supervisor

75. At all material times, Respondent McDonald's at 70 E. Garfield Blvd., Chicago, by posting employee schedules, promulgated and maintained the following rule:

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76. About July 2014, Respondent McDonald's at 70 E. Garfield Blvd., Chicago, by Sharon Rainey, at Respondent McDonald's at 70 E. Garfield Blvd., Chicago's facility, told employees not to take pictures of the schedule.

77. About December 9, 2013, Respondent McDonald's at 70 E. Garfield Blvd., Chicago, through Keith Allen Sr., at Respondent McDonald's at 70 E. Garfield Blvd., Chicago's facility:

- a. interrogated Pelhom Wiley regarding his concerted, protected activities;
- b. threatened to terminate Pelhom Wiley because he engaged in concerted, protected activities; and,
- c. solicited grievances from Pelhom Wiley and implicitly promised to remedy those grievances.

78. About December 5, 2013, Respondent McDonald's at 70 E. Garfield Blvd., Chicago's employee Pelhom Wiley engaged in concerted activities with other employees for the purposes of bringing complaints to the attention of Respondent McDonald's at 70 E. Garfield Blvd., Chicago and for other mutual aid and protection, by demanding a wage increase.

79. Respondent McDonald's at 70 E. Garfield Blvd., Chicago, at its 70 E. Garfield Blvd., Chicago's facility:

- a. About December 9, 2013, through Keith Allen Sr., issued Pelhom Wiley a final warning regarding his hat and shoes; and
- b. About January 14, 2014, through Sharon Rainey, disciplined Pelhom Wiley and ordered him to clock out and go home early.

80. Respondent McDonald's at 70 E. Garfield Blvd., Chicago engaged in the conduct described above in paragraph 79 because the named employee engaged in the conduct described

above in paragraph 78 and to discourage employees from engaging in these or other concerted activities.

**81.** By the conduct described above in paragraphs 75, 76, 77, 78, and 79, Respondents Respondents McDonald's at 70 E. Garfield Blvd., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

**82.** The unfair labor practices of Respondents McDonald's and McDonald's at 70 E. Garfield Blvd., Chicago described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 9211 S. Commercial Ave., Chicago**

**83. a.** At all material times, Respondent McDonald's at 9211 S. Commercial Ave., Chicago, has been engaged in the operation of a quick-service McDonald's restaurant.

**b.** At all material times, Respondent McDonald's at 9211 S. Commercial Ave., Chicago has been a corporation with an office and place of business at 9211 S. Commercial Ave., Chicago.

**c.** Annually, Respondent McDonald's at 9211 S. Commercial Ave., Chicago, in conducting its business operations described above in paragraph 83.a. and 83.b.

**i.** derives gross revenues valued in excess of \$500,000 and

**ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 9211 S. Commercial Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**84.** At all material times, Respondent McDonald's has:

**a.** had a franchise agreement with Respondent McDonald's at 9211 S. Commercial Ave., Chicago;

**b.** possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 9211 S. Commercial Ave., Chicago; and

**c.** been a joint employer of the employees of Respondent McDonald's at 9211 S. Commercial Ave., Chicago.

**85.** At all material times, the following individuals held the positions set forth opposite their respective names and

**a.** have been supervisors of Respondent McDonald's at 9211 S. Commercial Ave., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 9211 S. Commercial Ave., Chicago within the meaning of Section 2(13) of the Act:

**i.** Luis Rivadeneira Area Manager

**b.** have been supervisors of Respondent McDonald's at 9221 S. Commercial Ave., Chicago within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 9221 S. Commercial Ave., Chicago within the meaning of Section 2(13) of the Act:

**i.** Sujay Sanchez Shift Manager

**86.** Respondent McDonald's at 9211 S. Commercial Ave., Chicago, by Luis Rivadeneira, on about December 6, 2013, at Respondent McDonald's at 9211 S. Commercial Ave., Chicago facility, made a video recording of employees engaged in protected concerted activities.

**87.** Respondent McDonald's at 9211 S. Commercial Ave., Chicago, by Sujay Sanchez, on about December 7, 2013, at Respondent McDonald's at 9211 S. Commercial Ave., Chicago

facility, by telling employees that protesting would not do anything for them and no good would come of it informed its employees that it would be futile for them to select the Union as their bargaining representative.

**88.** By the conduct described above in paragraphs 86 and 87, Respondents McDonald's at 9211 S. Commercial Ave., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

**89.** The unfair labor practices of Respondents McDonald's at 9211 S. Commercial Avenue and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 1004 W. Wilson, Chicago**

**90. a.** At all material times, Respondent McDonald's at 1004 W. Wilson, Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

**b.** At all material times, Respondent McDonald's at 1004 W. Wilson, Chicago has been a corporation, with an office and place of business at 1004 W. Wilson, Chicago, Illinois.

**c.** Annually, Respondent McDonald's at 1004 W. Wilson, Chicago, in conducting its business operations described above in paragraphs 90.a and 90.b.

**i.** derives gross revenues valued in excess of \$500,000 and

**ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 1004 W. Wilson, Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

91. At all material times, Respondent McDonald's has:

- a. had a franchise agreement with Respondent McDonald's at 1004 W. Wilson, Chicago;
- b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1004 W. Wilson, Chicago; and
- c. been a joint employer of the employees of Respondent McDonald's at 1004 W. Wilson, Chicago.

92. At all material times, Angelo Karavites has held the position of Owner/Operator and has been a supervisor of Respondent McDonald's at 1004 W. Wilson, Chicago within the meaning of Section 2(11) of the Act and an agent of Respondent McDonald's at 1004 W. Wilson, Chicago within the meaning of Section 2(13) of the Act.

93. Since about January 2014, Respondent McDonald's at 1004 W. Wilson, Chicago, by its employee schedules, promulgated and maintained the following rule:

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94. By the conduct described above in paragraph 93, Respondents McDonald's at 1004 W. Wilson, Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

95. The unfair labor practices of Respondents McDonald's at 1004 W. Wilson, Chicago and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 29 E. 87th St. Chicago**

96. a. At all material times, Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago has been a corporation, with an office and place of business at 29 E. 87<sup>th</sup> St., Chicago, Illinois.

c. Annually, Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago, in conducting its business operations described above in paragraphs 96.a and 96.b.

i. derives gross revenues valued in excess of \$500,000 and

ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

97. At all material times, Respondent McDonald's has:

a. had a franchise agreement with Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago;

b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago.

98. a. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 29 E. 87th St. Chicago within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 29 E. 87th St. Chicago within the meaning of Section 2(13) of the Act:

- i. Derrick Taylor            Owner/Operator
- ii. Cheryl Taylor            Owner/Operator
- iii. Mike \_\_\_\_\_        Area Supervisor
- iv. Yancy Hicks             Store Manager/General Manager
- v. Lisa Johnson             Manager
- vi. Michelle Williams      Scheduler/People Department Manager

b. At all material times, Laquiesha Walton has held the position of Shift Manager and has been a supervisor of Respondent McDonald's at 29 E. 87th St. Chicago within the meaning of Section 2(11) of the Act and/or an agent of Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago within the meaning of Section 2(13) of the Act.

99. About May 27, 2014, Respondent McDonald's at 29 E. 87th St. Chicago, by Yancy Hicks, at Respondent McDonald's at 29 E. 87th St. Chicago facility, threatened employees with discipline and/or termination if they engaged in protected concerted activity.

100. Since about January 2014, Respondent McDonald's at 29 E. 87th St. Chicago, by its employee schedules, promulgated and maintained the following rule:

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101. Since about January 2014, Respondent McDonald's at 29 E. 87th St. Chicago, by its employee handbook promulgated and maintained the following rule:

[T]he following are examples of serious offenses that may result in disciplinary action, including termination: . . . c. Disclosing or making statements to any person, including press, radio, television and media representatives any information relating to the company, its business or affairs, its customers or finances or any trade secrets at any time during the continuance of your employment.

102. On about May 26, 2014, Respondent McDonald's at 29 E. 87th St. Chicago, by Laquiesha Walton, instructed employees to call management to report their anticipated participation in union and /or protected concerted demonstrations in order to avoid discipline for a no-call, no-show absence.

103. About May 27, 2014, Respondent McDonald's at 29 E. 87th St. Chicago, by Yancy Hicks, instructed employees not to post strike activity on Facebook.

104. a. About May 21, 2014, Respondent McDonald's at 29 E. 87th St. Chicago issued a no-call, no-show employee action form to its employee Irma Diaz Leal.

b. Respondent Taylor engaged in the conduct described above in subparagraph (a) because Irma Diaz Leal assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

105. By the conduct described above in paragraphs 99-103, Respondent McDonald's at 29 E. 87<sup>th</sup> St., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

106. By the conduct described above in paragraph 104, Respondents McDonald's at 29 E. 87<sup>th</sup> St., Chicago and McDonald's, as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

107. The unfair labor practices of Respondents McDonald's at 29 E. 87<sup>th</sup> St. and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago**

**108. a.** At all material times, Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

**b.** At all material times, Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago has been a corporation, with an office and place of business at 4047 E. 106<sup>th</sup> St., Chicago, Illinois.

**c.** Annually, Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago in conducting its business operations described above in paragraphs 108.a and 108.b.

**i.** derives gross revenues valued in excess of \$500,000 and

**ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**109.** At all material times, Respondent McDonald's has:

**a.** had a franchise agreement with Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago;

**b.** possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago; and

**c.** been a joint employer of the employees of Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago.

**110.** At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago within the meaning of Section 2(13) of the Act:

- a. Rodney Lubeznik                      Owner/Operator
- b. Christina Temple                      Store Manager

111. On about March 1, 2014, Respondent McDonald's at 4047 E. 106<sup>th</sup> St., Chicago, by posting employee schedules, promulgated the following rule:

© McDonald's Corporation. The material contained herein is the confidential property of McDonald's Corporation. Any use, copying, or reproduction of this material, without the prior written permission of an Officer of McDonald's is prohibited and may lead to civil and criminal prosecution.

112. By the conduct described above in paragraph 111, Respondents McDonald's at 4047 E. 106<sup>th</sup> St., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

113. The unfair labor practices of Respondents McDonald's 4047 E. 106<sup>th</sup> St., Chicago and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 600 N. Clark St., Chicago**

114. a. At all material times, Respondent McDonald's at 600 N. Clark St., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

b. At all material times, Respondent McDonald's at 600 N. Clark St., Chicago has been a corporation, with an office and place of business at 600 N. Clark St., Chicago, Illinois.

c. Annually, Respondent McDonald's at 600 N. Clark St., Chicago, in conducting its business operations described above in paragraphs 114.a and 114.b.

- i. derives gross revenues valued in excess of \$500,000 and
- ii. purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

d. At all material times, Respondent McDonald's at 600 N. Clark, Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

115. At all material times, Respondent McDonald's has:

a. had a franchise agreement with Respondent McDonald's at 600 N. Clark St., Chicago;

b. possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 600 N. Clark St., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 600 N. Clark St., Chicago.

116. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 600 N. Clark St., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 600 N. Clark St., Chicago within the meaning of Section 2(13) of the Act:

a. Nicholas Karavites Owner and Operator

b. Francisco Quintana General Manager

117. On or about early June 2014, Respondent McDonald's at 600 N. Clark St., Chicago, by posting employee schedules, promulgated the following rule:

© McDonald's Corporation. The material contained herein is the confidential property of McDonald's Corporation. Any use, copying, or reproduction of this material, without the prior written permission of an Officer of McDonald's is prohibited and may lead to civil and criminal prosecution.

118. By the conduct described above in paragraph 117, Respondents McDonald's at 600 N. Clark, St., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

**119.** The unfair labor practices of Respondents McDonald's at 600 N. Clark St. Chicago and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 5220 S. Lake Park Ave., Chicago**

**120. a.** At all material times, Respondent McDonald's at 5220 S. Lake Park Ave., Chicago has been engaged in the operation of a quick-service McDonald's restaurant.

**b.** At all material times, Respondent McDonald's at 5220 S. Lake Park Ave., Chicago has been a corporation, with an office and place of business at 5220 S. Lake Park Ave., Chicago, Illinois.

**c.** Annually, Respondent McDonald's at 5220 S. Lake Park Ave., Chicago, in conducting its business operations described above in paragraphs 120.a and 120.b.

**i.** derives gross revenues valued in excess of \$500,000 and

**ii.** purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

**d.** At all material times, Respondent McDonald's at 5220 S. Lake Park Ave., Chicago has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**121.** At all material times, Respondent McDonald's has:

**a.** had a franchise agreement with Respondent McDonald's at 5220 S. Lake Park Ave., Chicago;

**b.** possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 5220 S. Lake Park Ave., Chicago; and

c. been a joint employer of the employees of Respondent McDonald's at 5220 S. Lake Park Ave., Chicago.

122. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 5220 S. Lake Park Ave., Chicago within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 5220 S. Lake Park Ave., Chicago within the meaning of Section 2(13) of the Act:

- a. Yolanda Travis                      Owner/Operator
- b. Tamika Hill                              Scheduling Manager

123. On or about early June 2014, Respondent McDonald's at 5220 S. Lake Park Ave., Chicago, by posting employee schedules, promulgated the following rule:

© McDonald's Corporation. The material contained herein is the confidential property of McDonald's Corporation. Any use, copying, or reproduction of this material, without the prior written permission of an Officer of McDonald's is prohibited and may lead to civil and criminal prosecution.

124. By the conduct described above in paragraph 123, Respondents McDonald's at 5220 S. Lake Park Ave., Chicago and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

125. The unfair labor practices of Respondents McDonald's at 5220 S. Lake Park Ave and McDonald's described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 2, 2015, or postmarked on or before January 1, 2015.**

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no

answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **March 30, 2015**, 209 South LaSalle Street, Suite 900, Chicago, Illinois, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 19, 2014.



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Peter Sung Ohr, Regional Director  
National Labor Relations Board  
Region 13  
209 South La Salle Street, Suite 900  
Chicago, Illinois 60604-1443

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**NOTICE**

Cases 13-CA-106490; 13-CA-106491; 13-CA-106493;  
13-CA-107668; 13-CA-113837; 13-CA-115647;  
13-CA-119015; 13-CA-123916; 13-CA-124813;  
13-CA-131440; 13-CA-117083; 13-CA-118690;  
13-CA-123699; 13-CA-129771; 13-CA-124213;  
13-CA-124812; 13-CA-129709; 13-CA-131141;  
13-CA-131143; 13-CA-131145

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

McDonald's USA, LLC  
2111 McDonald's Drive  
Oak Brook, IL 60523

Cindy Jenke  
RMC Loop Enterprises  
d/b/a McDonald's  
23 S. Clark St.  
Chicago, IL 60603-2001

Lofton & Lofton Management V. Inc.  
d/b/a McDonald's/23 N Western Avenue  
23 N. Western Avenue  
Chicago, IL 60612

Wright Management, Inc.  
d/b/a Rock-N-Roll - McDonald's  
600 N. Clark St.  
Chicago, IL 60654-3615

McDonald's Restaurants of Illinois, Inc.  
d/b/a McDonald's/2005 W. Chicago Avenue  
2005 W. Chicago Avenue  
Chicago, IL 60622

McDonald's/9211 S. Commercial Ave.  
9211 S. Commercial Avenue  
Chicago, IL 60617

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Chicago, Illinois 60611-2009

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Northbrook, IL 60062-4500

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**  
**REGION 20**

**MAZT, INC. , A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, AS JOINT  
EMPLOYERS**

**and**

<b>Cases</b>	<b>20-CA-132103</b>
	<b>20-CA-135947</b>
	<b>20-CA-135979</b>
	<b>20-CA-137264</b>

**WESTERN WORKERS ORGANIZING  
COMMITTEE**

**ORDER CONSOLIDATING CASES,**

**CONSOLIDATED COMPLAINT, AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 20-CA-132103, 20-CA-135947, 20-CA-135979 and 20-CA-137264, which are based upon charges filed by Western Workers Organizing Committee, herein called WWOC or the Union, against MaZT, Inc. d/b/a McDonald's, herein called MaZT, and McDonald's USA, LLC , herein called McDonald's, collectively called Respondents, are consolidated.

This Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, which is based on the charges in these cases, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 *et seq.* (the Act) and Section 102.15 of the Board's Rules and Regulations. It alleges that the above-identified Respondents have violated the Act as described below:

1. (a) The charge in Case 20-CA-132103 was filed by the Union on July 1, 2014 and a copy was served by regular mail on Respondents on July 3, 2014.

(b) The first-amended charge in Case 20-CA-132103 was filed by the Union on July 10, 2014 and a copy was served by regular mail on Respondents on July 10, 2014.

(c) The second-amended charge in Case 20-CA-132103 was filed by the Union on September 23, 2014 and a copy was served by regular mail on Respondents on September 24, 2014.

(d) The third-amended charge in Case 20-CA-132103 was filed by the Union on December 8, 2014 and a copy was served by regular mail on Respondents on December 9, 2014.

(e) The charge in Case 20-CA-135947 was filed by the Union on September 3, 2014 and a copy was served by regular mail on Respondents on September 4, 2014.

(f) The first-amended charge in Case 20-CA-135947 was filed by the Union on December 8, 2014 and a copy was served by regular mail on Respondents on December 10, 2014.

(g) The charge in Case 20-CA-135979 was filed by the Union on September 3, 2014 and a copy was served by regular mail on Respondents on September 4, 2014.

(h) The first-amended charge in Case 20-CA-135979 was filed by the Union on December 8, 2014 and a copy was served by regular mail on Respondents on December 9, 2014.

(i) The charge in Case 20-CA-137264 was filed by the Union on September 22, 2014 and a copy was served by regular mail on Respondents on September 23, 2014.

(j) The first-amended charge in Case 20-CA-137264 was filed by the Union on December 8, 2014 and a copy was served by regular mail on Respondents on December 9, 2014.

2. (a) At all material times, Respondent MaZT, a corporation with offices and places of business in California, including a facility located at 8940 Pocket Road, Sacramento, California, herein the Restaurant, has been engaged in the operation of a quick-service McDonald's restaurant.

(b) During the twelve months preceding issuance of this complaint, in conducting its business operations described above in subparagraph 2(a), Respondent MaZT has

- (i) derived gross revenues in excess of \$500,000 and
- (ii) purchased and received at its facility products, goods, and materials valued in excess of \$5,000 directly from points outside the State of California.

(c) At all material times, Respondent MaZT has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. (a) At all material times, Respondent McDonald's has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

(b) Annually, in conducting its business operations described above in subparagraph 3(a), Respondent McDonald's has

- (i) derived gross revenues valued in excess of \$500,000 and
- (ii) purchased products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent MaZT;

(b) possessed and/or exercised control over the labor relations policies of Respondent MaZT; and

(c) been a joint employer of the employees of Respondent MaZT.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent MaZT within the meaning of Section 2(11) of the Act and agents of Respondent MaZT within the meaning of Section 2(13) of the Act:

(a)	Vicki Caldwell	--	Owner
(b)	Zack Caldwell	--	Area Supervisor
(c)	Anel Roa	--	General Manager at the Restaurant
(d)	Brandon Long	--	Assistant Manager at the Restaurant

7. (a) About May 13, 2014, Respondent MaZT, by Brandon Long, in the General Manager's office at the Restaurant, interrogated employees about their and/or other employees' union activities.

(b) About May 13, 2014, Respondent MaZT, by Brandon Long, in the General Manager's office at the Restaurant, impliedly promised employees a wage increase if they refrained from union activities.

(c) About May 16, 2014, Respondent MaZT, by Zack Caldwell, at the Restaurant, prohibited off-duty employees from accessing the Restaurant's customer area and parking lot.

(d) In around May 2014, Respondent MaZT, by Anel Roa, orally promulgated and since then has maintained a rule prohibiting employees from talking about the Union while at work while permitting employees to talk about other non-work related subjects.

(e) About late May or early June 2014, Respondent MaZT, by Brandon Long, orally promulgated and since then has maintained a rule prohibiting employees from talking about the Union while at work while permitting employees to talk about other non-work related subjects.

(f) Since at least March 22, 2014 (six months prior to the filing of the charge in Case 20-CA-137264), Respondent MaZT maintained the following policy in its Employee Action Form:

McDonald's Corporation. The material contained herein is the confidential property of McDonald's Corporation. Any use, copying or reproduction of this material, without the prior written permission of an Officer of McDonald's is prohibited and may lead to civil and criminal prosecution.

(g) Since at least March 22, 2014 (six months prior to the filing of the charge in Case 20-CA-137264), the Employee Action Form policy described above in subparagraph 7(f) has been in effect at Respondent MaZT's Restaurant and an unknown number of other restaurants operated by Respondent MaZT.

8. (a) About May 16, 2014, Respondent MaZT suspended Quanisha Dupree (Dupree).

(b) About August 15, 2014, Respondent MaZT placed Dupree on a leave of absence.

(c) About August 22, 2014, Respondent MaZT discharged Dupree.

(d) Respondent MaZT engaged in the conduct described above in subparagraphs 8(a) through 8(c) because Dupree assisted the Union and engaged in other protected activities and to discourage employees from engaging in these or other protected and/or concerted activities.

9. By the conduct described above in paragraph 7, Respondents MaZT and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

10. By the conduct described above in paragraph 8, Respondents MaZT and McDonald's, as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

11. By the conduct described above in subparagraph 8(c), Respondents MaZT and McDonald's, as joint employers, have been discriminating against employees for filing charges or giving testimony under the Act in violation of Section 8(a)(1) and (4) of the Act.

12. The unfair labor practices of Respondents described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **ANSWER REQUIREMENT**

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an answer to the Consolidated Complaint. The answer

must be **received by this office on or before January 2, 2015, or postmarked on or before January 1, 2015.** Respondents should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

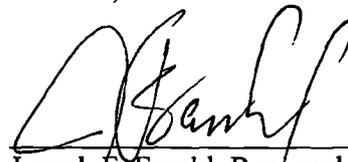
Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find.

pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT commencing at 9:00 a.m. on March 30, 2015**, at the Region 31 offices located at 11500 West Olympic Boulevard, Suite 600, Los Angeles, California, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Consolidated Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at San Francisco, this 19th day of December, 2014.



\_\_\_\_\_  
Joseph F. Frankl, Regional Director  
National Labor Relations Board, Region 20  
901 Market Street, Suite 400  
San Francisco, CA 94103

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 25

FAITH CORPORATION OF INDIANAPOLIS, A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS

and

WORKERS ORGANIZING COMMITTEE OF  
CHICAGO

Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746

ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 25-CA-114819, 25-CA-114915, 25-CA-130734, and 25-CA-130746, which are based upon charges filed by Workers Organizing Committee of Chicago, herein called the Union, against Faith Corporation of Indianapolis d/b/a McDonald's, herein called Faith, and McDonald's USA, LLC, herein called McDonald's, collectively called Respondents, are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. Section 151 *et seq.*, and Section 102.15 of the Board's Rules and Regulations. It alleges that the above-identified Respondents have violated the Act as described below:

1. (a) The charge in Case 25-CA-114819 was filed by the Union on October 4, 2013, and a copy was served on Respondent Faith by U.S. mail on October 18, 2013.

(b) The charge in Case 25-CA-114915 was filed by the Union on October 4, 2013, and a copy was served on Respondent McDonald's by U.S. mail on October 18, 2013.

(c) The charge in Case 25-CA-130734 was filed by the Union on June 13, 2014, and a copy was served on Respondent Faith by U.S. mail on June 13, 2014.

(d) The charge in Case 25-CA-130746 was filed by the Union on June 13, 2014, and a copy was served on Respondent McDonald's by U.S. mail on June 13, 2014.

2. (a) At all material times, Respondent Faith has been a corporation with an office and place of business at located at 1611 North Meridian Street, Indianapolis, Indiana, herein called the Restaurant, and has been engaged in the operation of a quick-service McDonald's restaurant.

(b) Annually, in conducting its business operations described above in subparagraph (a), Respondent Faith has

(i) derived gross revenues in excess of \$500,000 and

(ii) purchased and received at its facility products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Indiana.

(c) At all material times, Respondent Faith has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. (a) At all material times, Respondent McDonald's has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

(b) Annually, in conducting its business operations described above in subparagraph (a), Respondent McDonald's has

(i) derived gross revenues valued in excess of \$500,000 and

(ii) purchased products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent Faith;

(b) possessed and/or exercised control over the labor relations policies of Respondent Faith; and

(c) been a joint employer of the employees of Respondent Faith.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent Faith within the meaning of Section 2(11) of the Act and agents of Respondent Faith within the meaning of Section 2(13) of the Act:

(a) Reginald Jones      President

(b) Deanine Shelton      District Supervisor

6. (a) About September 29, 2013, Respondent Faith, by Reginald Jones, at the Restaurant:

(i) threatened employees with unspecified reprisals if they engaged in Union activities;

(ii) threatened employees with physical violence if they engaged in Union activities;

- (iii) disparaged employees because they engaged in union activity;
- (iv) interrogated employees concerning their union activities;
- (v) engaged in surveillance of employees' union activities; and
- (vi) intimidated employees because of their union activity.

(b) About September 30, 2013, Respondent Faith, by Reginald Jones, at the Restaurant:

- (i) threatened employees with legal action if they engaged in union activity; and
- (ii) encouraged employees to transfer to another restaurant because they engaged in union activity.

7. (a) About May 22, 2014, Respondent Faith reduced the work hours of its employee Cynthia Johnson.

b) Respondent Faith engaged in the conduct described above in subparagraph (a) because the named employee of Respondent Faith assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

8. By the conduct described above in paragraph 7, Respondents Faith and McDonald's, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

9. By the conduct described above in paragraph 7, Respondents Faith and McDonald's, as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

10. The unfair labor practices of Respondents described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### ANSWER REQUIREMENT

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must each file an answer to the consolidated complaint. The answer must be received by this office on or before January 2, 2015, or postmarked on or before January 1, 2015. Respondents should file an original and four copies of their respective answer with this office and serve a copy of the answer on each of the other parties.

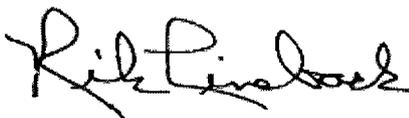
An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional

means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on March 30, 2015, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board at the offices of Region 13 located at 209 South LaSalle Street, Chicago, IL. At the hearing, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 19, 2014



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RIK LINEBACK  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 25  
575 N Pennsylvania St Ste 238  
Indianapolis, IN 46204-1520

Attachments

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 25-CA-114819

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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Macey Swanson and Allman  
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Indianapolis, IN 46204-1893

Workers Organizing Committee of Chicago  
123 W Madison St., Ste 800  
Chicago, IL 60602-4621

Reginald Jones , Employer Representative  
Faith Corporation of Indianapolis d/b/a  
McDonald's  
4755 Kingsway Dr., Ste. 103  
Indianapolis, IN 46205

Andrew W. Gruber, Attorney  
Bingham Greenebaum Doll LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, IN 46204

Gloria Santona  
McDonald's USA, LLC as Joint or Single  
Employer  
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Oak Brook, IL 60523

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Workers Organizing Committee Of Chicago  
123 Madison Street  
Chicago, IL 60602

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** **Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### **III. AFTER THE HEARING**

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31**

<b>D. BAILEY MANAGEMENT COMPANY., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases 31-CA-127447 31-CA-130085 31-CA-130090 31-CA-132489 31-CA-135529 31-CA-135590</b>
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<b>2MANGAS INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases 31-CA-129982 31-CA-134237</b>
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<b>SANDERS-CLARK &amp; CO., INC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases 31-CA-128483 31-CA-129027 31-CA-133117</b>
--	---

**and**

**LOS ANGELES ORGANIZING COMMITTEE**

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 31-CA-127447, 31-CA-128483, 31-CA-129027, 31-CA-129982, 31-CA-130085, 31-CA-130090, 31-CA-132489, 31-CA-133117, 31-CA-134237, 31-CA-135529, and 31-CA-135590, which are based on charges filed by Los Angeles Organizing Committee (“Charging Party” or “Union”), against D. Bailey Management Company. (“Bailey”), 2Mangas Inc. (“2Mangas”), Sanders-Clark & Co., Inc. (“Sanders”), and McDonald’s USA, LLC (“McDonald’s USA”), collectively referred to as “Respondents,” are consolidated.

This Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. Section 151 *et seq.* and Section 102.15 of the Board's Rules and Regulations, and alleges the Respondents have violated the Act as described below:

1. The charges in the above cases were filed by Charging Party, as set forth in the following tables, and served upon McDonald's USA and the following McDonald's franchises by U.S. mail on the dates indicated:

<b>Case No.</b>	<b>Amendment</b>	<b>Date Filed</b>	<b>Date Served on Bailey</b>	<b>Date Served on McDonald's USA</b>
31-CA-127447	N/A	April 25, 2014	April 28, 2014	October 16, 2014
31-CA-127447	First Amended	July 9, 2014	July 11, 2014	October 16, 2014
31-CA-127447	Second Amended	August 19, 2014	August 22, 2014	October 16, 2014
31-CA-130085	N/A	June 3, 2014	June 5, 2014	October 16, 2014
31-CA-130090	N/A	June 3, 2014	June 5, 2014	October 16, 2014
31-CA-132489	N/A	July 9, 2014	July 11, 2014	October 16, 2014
31-CA-135529	N/A	August 25, 2014	August 28, 2014	October 16, 2014
31-CA-135590	N/A	August 25, 2014	August 28, 2014	October 16, 2014

<b>Case No.</b>	<b>Amendment</b>	<b>Date Filed</b>	<b>Date Served on 2Mangas</b>	<b>Date Served on McDonald's USA</b>
31-CA-129982	N/A	June 2, 2014	June 4, 2014	October 16, 2014
31-CA-129982	First Amended	July 25, 2014	July 28, 2014	October 16, 2014
31-CA-134237	N/A	August 6, 2014	August 7, 2014	October 16, 2014

<b>Case No.</b>	<b>Amendment</b>	<b>Date Filed</b>	<b>Date Served on Sanders</b>	<b>Date Served on McDonald's USA</b>
31-CA-128483	N/A	May 9, 2014	May 14, 2014	October 16, 2014
31-CA-129027	N/A	May 19, 2014	May 20, 2014	October 16, 2014
31-CA-133117	N/A	July 18, 2014	July 22, 2014	October 16, 2014

### **Charging Party**

2. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

### **Respondent McDonald's USA**

3. (a) At all material times, Respondent McDonald's USA has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

(b) Annually, in conducting its business operations described above in subparagraph 3(a), Respondent McDonald's USA:

(i) derives gross revenues valued in excess of \$500,000; and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent McDonald's USA has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, Respondent McDonald's USA has:

(a) had a franchise agreement with Respondent Bailey;

(b) possessed and/or exercised control over the labor relations policies of Respondent Bailey; and

(c) been a joint employer of the employees of Respondent Bailey.

5. At all material times, Respondent McDonald's USA has:

(a) had a franchise agreement with Respondent 2Mangas;

(b) possessed and/or exercised control over the labor relations policies of Respondent 2Mangas; and

(c) been a joint employer of the employees of Respondent 2Mangas.

6. At all material times, Respondent McDonald's USA has:

(a) had a franchise agreement with Respondent Sanders;

(b) possessed and/or exercised control over the labor relations policies of Respondent Sanders; and

(c) been a joint employer of the employees of Respondent Sanders.

**Respondent Bailey**

7. (a) At all material times, Respondent Bailey has been a corporation with an office and place of business located at 1071 W. Martin Luther King Blvd., Los Angeles, California (“Bailey’s facility”), and has been engaged in the operation of a quick-service McDonald’s restaurant.

(b) Annually, in conducting its operations described above in subparagraph 7(a), Respondent Bailey has:

(i) derives gross revenues in excess of \$500,000; and

(ii) purchases and receives at its Los Angeles, California facility goods valued in excess of \$5,000 directly from points outside the State of California.

(c) At all material times, Respondent Bailey has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

8. At all material times, Mauricio Rubalcaba held the position of Shift Manager and was a supervisor of Respondent Bailey within the meaning of Section 2(11) and/or an agent of Respondent Bailey within the meaning of Section 2(13) of the Act.

9. About April 7, 2014, at Bailey’s facility, Elmer Munoz, employed by Respondent Bailey, engaged in concerted activities with other employees for the purposes of mutual aid and protection, by discussing a disciplinary incident with co-workers.

10. (a) About April 7, 2014, Respondent Bailey disciplined Elmer Munoz by terminating his shift three hours early.

(b) Respondent Bailey engaged in the conduct described above in paragraph 10(a) because employee Elmer Munoz engaged in the conduct described above in paragraph 9. and to discourage employees from engaging in these or other concerted activities.

11. About April 7, 2014, Respondent Bailey, by Mauricio Rubalcaba, in the back of Respondent Bailey’s facility, conveyed to an employee that he or she was not allowed to discuss discipline with co-workers.

12. Since at least April 4, 2014, Respondent Bailey, at Bailey’s facility, has maintained the following rules in its employee handbook:

(a) No. 8 - False statements verbal or written, misrepresentation, or fraud is prohibited.

- (b) No. 10 - Breaching confidentiality during an investigation is prohibited
- (c) No. 15 - Conduct unbecoming of an employee is prohibited.
- (d) No. 21- Solicitation by employees for funds, memberships, commitment to

outside organizations, or causes is prohibited on restaurant premises. No one may distribute literature or make solicitations in our working areas during work time or in areas open to the public at any time.

13. By the conduct described above in paragraphs 10 through 12, Respondents Bailey and McDonald's USA, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

14. The unfair labor practices of Respondents McDonald's USA and Bailey described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **Respondent 2Mangas**

15. (a) At all material times, Respondent 2Mangas has been a corporation with an office and place of business located at 4292 Crenshaw Blvd., Los Angeles, California 90008 ("2Mangas' facility"), and has been engaged in the operation of a quick-service McDonald's restaurant.

(b) Annually, in conducting its operations described above in paragraph 15(a), Respondent 2Mangas:

- (i) derives gross revenues in excess of \$500,000; and
- (ii) purchases and receives at its Los Angeles, California facility goods

valued in excess of \$5,000 directly from points outside the State of California.

(c) At all material times, Respondent 2Mangas has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

16. At all material times, Jose Rodriguez held the position of General Manager and has been a supervisor of Respondent 2Mangas within the meaning of Section 2(11) and/or an agent of Respondent 2Mangas within the meaning of Section 2(13) of the Act.

17. Respondent 2Mangas, by Jose Rodriguez:

(a) About May 12, 2014, at the back of the 2Mangas' facility, interrogated employees about their Union activities.

(b) About May 12, 2014, at the back of the 2Mangas' facility, created the impression that employees' Union activities were under surveillance.

(c) About May 17, 2014, at Rodriguez' office in the 2Mangas' facility, interrogated employees about their and other employees' union activities.

18. By the conduct described above in paragraph 17(a)-(c), Respondents 2Mangas and McDonald's USA, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

19. The unfair labor practices of Respondents McDonald's USA and 2Mangas described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent Sanders**

20. (a) At all material times, Respondent Sanders has been a corporation with an office and place of business located at 2838 Crenshaw Blvd., Los Angeles, California 90016 ("Sanders' facility"), and has been engaged in the operation of a quick-service McDonald's restaurant.

(b) Annually, in conducting its operations described above in paragraph 20(a), Respondent Sanders:

- (i) derives gross revenues in excess of \$500,000; and
- (ii) purchases and receives at its Los Angeles, California facility goods valued in excess of \$5,000 directly from points outside the State of California.

(c) At all material times, Respondent Sanders has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

21. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent Sanders within the meaning of Section 2(11) of the Act and/or agents of Respondent Sanders within the meaning of Section 2(13) of the Act:

Brian Clark	-	Owner
Feliberto Hernandez	-	Manager
Shyanne Woods	-	2 <sup>nd</sup> Assistant Manager

22. About May 15, 2014, Respondent Sanders, by Brian Clark, in the inventory room of Sanders' facility, impliedly threatened an employee with unspecified discipline.

23. About May 17, 2014, Respondent Sanders, by Feliberto Hernandez, in the break room of Sanders' facility, told employees they were not allowed to talk about the Union on company property.

24. About May 28, 2014, Respondent Sanders, by Shayanne Woods, by the freezer area of Sanders' facility, interrogated an employee about the employee's affiliation with the Union.

25. About May 28, 2014, Respondent Sanders, by Shayanne Woods, by the freezer area of Sanders' facility, threatened an employee with unspecified reprisals because of the employee's affiliation with the Union.

26. By the conduct described above in paragraphs 22 through 25, Respondents Sanders and McDonald's USA, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

27. The unfair labor practices of Respondents McDonald's USA and Sanders described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 2, 2015, or postmarked on or before January 1, 2015.**

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

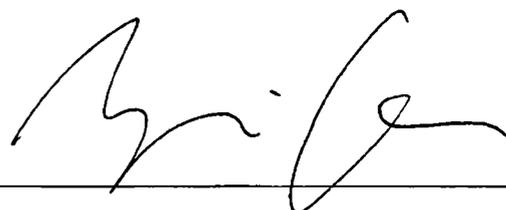
An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the

party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT on March 30, 2015, 9:30am**, at the offices of Region 31, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 19, 2014



---

Brian D. Gee, Acting Regional Director  
National Labor Relations Board, Region 31  
11500 W. Olympic Boulevard, Suite 600  
Los Angeles, CA 90064

Attachments

23. About May 17, 2014, Respondent Sanders, by Feliberto Hernandez, in the break room of Sanders' facility, told employees they were not allowed to talk about the Union on company property.

24. About May 28, 2014, Respondent Sanders, by Shayanne Woods, by the freezer area of Sanders' facility, interrogated an employee about the employee's affiliation with the Union.

25. About May 28, 2014, Respondent Sanders, by Shayanne Woods, by the freezer area of Sanders' facility, threatened an employee with unspecified reprisals because of the employee's affiliation with the Union.

26. By the conduct described above in paragraphs 22 through 25, Respondents Sanders and McDonald's USA, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

27. The unfair labor practices of Respondents McDonald's USA and Sanders described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **ANSWER REQUIREMENT**

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UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Cases 31-CA-127447, 31-CA-130085, 31-CA-130090, 31-CA-132489, 31-CA-135529,  
31-CA-135590, 31-CA-129982, 31-CA-134237, 31-CA-128483, 31-CA-129027,  
31-CA-133117

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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Northbrook, IL 60060

Mhairi L. Whitton, Attorney at Law  
Jones Day  
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San Diego, CA 92130

Donald Bailey d/b/a McDonald's &  
McDonald's USA LLC as joint employer  
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Los Angeles, CA 90037

George S. Howard Jr., Attorney at Law  
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12265 El Camino Real Ste 300  
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Terrill Pierce  
LaPointe Law, P.C.  
1200 Shermer Road, Suite 310  
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Ariane Panter, Counsel, Global Labor  
& Employment Law  
McDonald's USA, LLC  
2915 Jorie Blvd.  
Oak Brook, IL 60523

2Mangas Incorporated d/b/a McDonalds  
and McDonalds USA LLC as  
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Brian Clark  
Sanders-Clark & Co. d/b/a McDonalds &  
McDonalds USA LLC as Joint Employer  
2838 Crenshaw Blvd  
Los Angeles, CA 90016

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

### **III. AFTER THE HEARING**

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

# **EXHIBIT B**



**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**and**

**FAST FOOD WORKERS COMMITTEE AND SERVICE  
EMPLOYEES INTERNATIONAL UNION, CTW, CLC**

**McDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 2 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which she relies in alleging that McDonald's is a joint employer with its independent franchisees. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status and has consolidated claims against 11 independent corporate entities based solely on allegations that McDonald's is a joint employer, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and each independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process

pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to each and every franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraphs, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraphs of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB. No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.") The Administrative Procedure Act, the Board's Rules and Regulations, and the Board's Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) ("Persons entitled to notice of an agency hearing shall be timely informed of . . . the

matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”)

Here, paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint contain identical joint employer allegations that fail to satisfy these requirements. Each paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and asserts that McDonald’s is a joint employer with each franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” *See Flagstaff Med. Ctr., Inc.*, 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting *Laerco Transportation*, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald’s allegedly possesses and/or exercises control over the labor relations policies of its

franchisees, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or those paragraphs should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 in the above-captioned Complaint are insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Casehandling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

(1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in, and as to each franchisee named in paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint; and

(2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

s/ Willis J. Goldsmith

Willis J. Goldsmith

Doreen S. Davis

Matthew W. Lampe

Joshua M. Grossman

Sharon S. Cohen

JONES DAY

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jlinas@jonesday.com

Attorneys for McDonald's USA, LLC

## CERTIFICATE OF SERVICE

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and/or first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

Gwynne Wilcox  
Micah Wissinger  
Michael Hickson  
Vanessa Flores  
Levy Ratner, P.C.  
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Fast Food Workers Committee  
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judy.scott@seiu.org

s/Jonathan M. Linas  
\_\_\_\_\_  
An Attorney for McDonald's USA, LLC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 4**

**JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
MCDONALD'S USA, LLC and  
MCDONALD'S USA, LLC, Joint Employers**

**And**

**Case 04-CA-125567  
Case 04-CA-129783 and  
Case 04-CA-133621**

**PENNSYLVANIA WORKERS  
ORGANIZING COMMITTEE, A  
PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 4 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which he relies in alleging that McDonald's is a joint employer with its independent franchise. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and the independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of the franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide

insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to the franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraph, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraph of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.") The Administrative Procedure Act, the Board's Rules and Regulations, and the Board's Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedures Act, 5 U.S.C.

§ 554(b)(3) (“Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. See NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”)

Here, paragraph 2(g) of the Complaint contains joint employer allegations that fail to satisfy these requirements. This paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” the franchisee, and asserts that McDonald’s is a joint employer with the franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” See Flagstaff Med. Ctr., Inc., 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting Laerco Transportation, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald’s allegedly possesses and/or exercises

control over the labor relations policies of its franchisee, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or that paragraph should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraph 2(g) in the above-captioned Complaint is insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Casehandling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

- (1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in paragraph 2(g) of the Complaint; and
- (2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraph 2(g) of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

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Attorneys for McDonald's USA, LLC

**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and/or first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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An Attorney for McDonald's USA, LLC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**KARAVITES RESTAURANTS 11102, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-106490**

**KARAVITES RESTAURANTS 26, INC., A  
MCDONALD'S FRANCHISEE, AND  
MCDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-106491**

**RMC LOOP ENTERPRISES, LLC, A  
McDONALD'S FRANCHISEE, AND  
MCDONALD'S USA, LLC, JOINT EMPLOYERS** **Case 13-CA-106493**

**WRIGHT MANAGEMENT, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Cases 13-CA-107668  
13-CA-113837**

**V. OVIEDO, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Cases 13-CA-115647  
13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS,  
INC.,** **Cases 13-CA-117083  
13-CA-118691  
13-CA-121759**

**LOFTON & LOFTON MANAGEMENT V, INC.,  
A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS** **Case 13-CA-118690**

**K. MARK ENTERPRISES, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS** **Cases 13-CA-123699  
13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS** **Case 13-CA-124213**

**KARAVITES RESTAURANT 5895, INC., A  
MCDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
AS JOINT EMPLOYERS**

**Case 13-CA-131145**

**And**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 13 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which he relies in alleging that McDonald's is a joint employer with its independent franchisees. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status and has consolidated claims against 15 independent corporate entities based solely on allegations that McDonald's is a joint employer, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a

franchise agreement between McDonald's and each independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to each and every franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraphs, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraphs of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also SFTC, LLC d/b/a Santa Fe Tortilla Company*, 360 NLRB No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is,

after all, a simple matter to prepare or amend a complaint that does so.”). The Administrative Procedure Act, the Board’s Rules and Regulations, and the Board’s Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) (“Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”)

Here, paragraphs 5, 16, 29, 36, 44, 68, 73, 84, 91, 97, 109, 115, and 121 of the Complaint contain identical joint employer allegations that fail to satisfy these requirements. Each paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and asserts that McDonald’s is a joint employer with each franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” *See* Flagstaff Med. Ctr.,

Inc., 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting Laerco Transportation, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald's allegedly possesses and/or exercises control over the labor relations policies of its franchisees, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or those paragraphs should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraphs 5, 16, 29, 36, 44, 68, 73, 84, 91, 97, 109, 115, and 121 in the above-captioned Complaint are insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Casehandling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

(1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in, and as to each franchisee named in, paragraphs 5, 16, 29, 36, 44, 68, 73, 84, 91, 97, 109, 115, and 121 of the Complaint; and

(2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraphs 5, 16, 29, 36, 44, 68, 73, 84, 91,

97, 109, 115, and 121 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

s/Willis J. Goldsmith

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Attorneys for McDonald's USA, LLC

**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and/or first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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s/Jonathan M. Linas  
An Attorney for McDonald's USA, LLC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 20**

**MAZT, INC. , A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, AS JOINT  
EMPLOYERS**

**Cases: 20-CA-132103  
20-CA-135947  
20-CA-135979  
20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING  
COMMITTEE**

**MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 20 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which he relies in alleging that McDonald's is a joint employer with its independent franchisees. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and the independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of the franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving

McDonald's of its fundamental right to due process pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to the franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraph, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraph of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB. No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so."). The Administrative Procedure Act, the Board's Rules and Regulations, and the Board's Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) ("Persons entitled to notice of an agency hearing shall be timely informed of . . . the

matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”).

Here, paragraph 4 of the Complaint contains joint employer allegations that fail to satisfy these requirements. The paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” the franchisee, and asserts that McDonald’s is a joint employer with the franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” *See Flagstaff Med. Ctr., Inc.*, 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting *Laerco Transportation*, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald’s allegedly possesses and/or exercises control over the labor relations policies of its franchisee, much less identify the

labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or that paragraph should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraph 4 in the above-captioned Complaint is insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Case Handling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

(1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in, and as to the franchisee named in paragraph 4 of the Complaint; and

(2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraph 4 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

***[Signature page immediately follows]***

Dated: December 29, 2014

Respectfully submitted,

/s/ Willis Goldsmith

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Attorneys for McDonald's USA, LLC

**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties of record by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following address designated for this purpose:

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Dated: December 29, 2014

/s/ Jonathan M. Linas  
An Attorney for McDonald's USA, LLC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 25**

**FAITH CORPORATION OF INDIANAPOLIS, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 25 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which he relies in alleging that McDonald's is a joint employer with its independent franchisee. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and the independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of the franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process pursuant to the Fifth Amendment to the U.S.

Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to the franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraph, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraph of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.") The Administrative Procedure Act, the Board's Rules and Regulations, and the Board's Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) ("Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of *fact and law* asserted"); NLRB Rules and Regulations, Rule 102.15 ("The complaint

shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed"); NLRB Casehandling Manual § 10268.1 (The Complaint "sets forth . . . the facts relating to the alleged violations by the respondent(s)"). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should "[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.")

Here, paragraph 4 of the Complaint contains joint employer allegations that fail to satisfy these requirements. The paragraph refers to the existence of a franchise agreement, states that McDonald's "possessed and/or exercised control over the labor relations policies of" the franchisee, and asserts that McDonald's is a joint employer with the franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. "The test for joint-employer status is whether two entities 'share or codetermine those matters governing the essential terms and conditions of employment.'" *See* Flagstaff Med. Ctr., Inc., 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting Laerco Transportation, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald's allegedly possesses and/or exercises control over the labor relations policies of its franchisees, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or that paragraph should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraph 4 in the above-captioned Complaint is insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Casehandling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

- (1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in paragraph 4 of the Complaint; and
- (2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraph 4 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

s/ Willis J. Goldsmith

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Attorneys for McDonald's USA, LLC

## CERTIFICATE OF SERVICE

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following address designated for this purpose:

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s/Jonathan M. Linas  
An Attorney for McDonald's USA, LLC

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31**

<b>D. BAILEY MANAGEMENT COMPANY, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases</b>	<b>31-CA-127447 31-CA-130085 31-CA-130090 31-CA-132489 31-CA-135529 31-CA-135590</b>
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<b>2MANGAS INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases</b>	<b>31-CA-129982 31-CA-134237</b>
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<b>SANDERS-CLARK &amp; CO., INC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC AS JOINT EMPLOYERS</b>	<b>Cases</b>	<b>31-CA-128483 31-CA-129027 31-CA-133117</b>
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**and**

**LOS ANGELES ORGANIZING COMMITTEE**

**MCDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Acting Regional Director of Region 31 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which he relies in alleging that McDonald's is a joint employer with its independent franchisees. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status and

has consolidated claims against four independent corporate entities based solely on allegations that McDonald's is a joint employer, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and each independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Acting Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Acting Regional Director must first specify with particularity the underlying factual basis as to each and every franchisee.

If the Acting Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraphs, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraphs of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360

NLRB. No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, “[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.”). The Administrative Procedure Act, the Board’s Rules and Regulations, and the Board’s Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) (“Persons entitled to notice of an agency hearing shall be timely informed of . . . the matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”).

Here, paragraphs 4, 5, and 6 of the Complaint contain identical joint employer allegations that fail to satisfy these requirements. Each paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and asserts that McDonald’s is a joint employer with each franchisee. These allegations are plainly insufficient to establish a joint employer relationship

under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” See Flagstaff Med. Ctr., Inc., 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting Laerco Transportation, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald’s allegedly possesses and/or exercises control over the labor relations policies of its franchisees, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald’s with notice of the charges against it or identify a particular standard of conduct that McDonald’s engaged in to make it a joint employer. Accordingly, McDonald’s cannot defend itself against these claims. Thus, the Acting Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or those paragraphs should be stricken and the Complaint should be dismissed as to McDonald’s.

**WHEREFORE**, having demonstrated that paragraphs 4, 5, and 6 in the above-captioned Complaint are insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board’s Rules and Regulations, the Board’s Case Handling Manual, and the Board’s Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald’s, McDonald’s respectfully requests that:

(1) The Acting Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in, and as to each franchisee named in

paragraphs 4, 5, and 6 of the Complaint; and

(2) Upon the Acting Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraphs 4, 5, and 6 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

/s/ Willis J. Goldsmith

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Attorneys for McDonald's USA, LLC

**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties of record by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following address designated for this purpose:

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Dated: December 29, 2014

/s/ Jonathan M. Linas \_\_\_\_\_  
An Attorney for McDonald's USA, LLC

# **EXHIBIT C**

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

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-098009</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A</b>	<b>Case 02-CA-106094</b>

**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL  
UNION, CTW, CLC**

**and**

**JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
MCDONALD'S USA, LLC and MCDONALD'S  
USA, LLC, Joint Employers**

**Cases 04-CA-125567  
04-CA-129783  
04-CA-133621**

**and**

**PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**and**

**KARA VITES RESTAURANTS 11102, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106490**

**KARAVITES RESTAURANTS 26, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106491**

**RMC LOOP ENTERPRISES, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106493**

**WRIGHT MANAGEMENT, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Cases 13-CA-107668  
13-CA-113837**

**V. OVIEDO, INC. , A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Cases 13-CA-115647  
13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS, INC.,** Cases 13-CA-117083  
13-CA-118691  
13-CA-121759

**LOFTON & LOFTON MANAGEMENT V, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Case 13-CA-118690

**K. MARK ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Cases 13-CA-123699  
13-CA-129771

**NORNAT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Case 13-CA-124213

**KARA VITES RESTAURANT 5895, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS** Case 13-CA-124812

**TAYLOR & MALONE MANAGEMENT, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS** Case 13-CA-129709

**RMC ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Case 13-CA-131141

**KARA VITES RESTAURANT 6676, LLC , A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Case 13-CA-131143

**TOPAZ MANAGEMENT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS** Case 13-CA-131145

**and**

**WORKERS ORGANIZING COMMITTEE OF CHICAGO**

**and**

**MAZT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, AS JOINT EMPLOYERS** Cases 20-CA-132103  
20-CA-135947  
20-CA-135979

20-CA-137264

and

**WESTERN WORKERS ORGANIZING  
COMMITTEE**

and

**FAITH CORPORATION OF INDIANAPOLIS, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746**

and

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

and

**D. BAILEY MANAGEMENT COMPANY., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC  
AS JOINT EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

and

**LOS ANGELES ORGANIZING COMMITTEE**

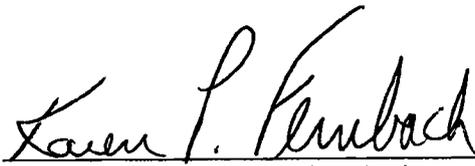
### **ORDER CONSOLIDATING CASES**

The Service Employees International Union, CTW, CLC, the Fast Food Workers Committee, the Pennsylvania Workers Organizing Committee, the Workers Organizing

Committee of Chicago, the Western Workers Organizing Committee, and the Los Angeles Organizing Committee have alleged that the above-named Respondents have been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. sec. 151 et. seq., herein called the Act. On December 19, 2014, the Regional Directors in the aforementioned regions issued Complaints or Consolidated Complaints and Notices of Hearing based on the above-captioned charges, and on January 5, 2015, the General Counsel transferred the above-listed cases from Regions 4, 13, 20, 25, and 31 to the Regional Director for Region 2.

Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, ORDERS that those transferred cases and the Region 2 cases are consolidated for hearing before an Administrative Law Judge scheduled to commence on March 30, 2015.

Dated at New York, New York  
this 6th day of January 2015



Karen P. Fernbach, Regional Director  
National Labor Relations Board, Region 2  
26 Federal Plaza, Room 3614  
New York, New York 10278-0104

# **EXHIBIT D**

**FACSIMILE COVER SHEET**

**National Labor Relations Board  
Division of Administrative Law Judges  
120 West 45<sup>th</sup> Street  
New York, New York 10036**

**To:** **Geoffrey Dunham, Esq.  
Robert Brody, Esq.  
Doreen Davis, Esq., Willis Goldsmith, Esq. & Sharon Cohen, Esq.  
Gwynne Wilcox, Esq. and Micah Wissinger, Esq.**

**Organization:** **NLRB – Region 2  
Brody and Associates  
Jones Day  
Levy Ratner**

**Fax Number:** **212-264-2450  
203-965-0569  
212-755-7306  
212-627-8182**

**From:** **NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
Joel P. Biblowitz, Associate Chief Administrative Law Judge**

**Phone:** **212-944-2941**

**Fax:** **212-944-4904**

**Date:** **01/07/15**

**Pages:** **6 (including cover sheet)**

**Comments:** **Re: McDonald's  
Case No. 02-CA-93895 et al**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42ND STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-098009</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A</b>	<b>Case 02-CA-106094</b>

**McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS**

**and**

**FAST FOOD WORKERS COMMITTEE AND SERVICE EMPLOYEES INTERNATIONAL UNION, CTW, CLC**

**and**

**JO-DAN MADALISSE LTD, LLC d/b/a MCDONALD'S, A FRANCHISEE OF MCDONALD'S USA, LLC and MCDONALD'S USA, LLC, Joint Employers**

**Cases 04-CA-125567  
04-CA-129783  
04-CA-133621**

**and**

**PENNSYLVANIA WORKERS ORGANIZING COMMITTEE, A PROJECT OF THE FAST FOOD WORKERS COMMITTEE**

**and**

**KARA VITES RESTAURANTS 11102, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106490**

**KARAVITES RESTAURANTS 26, INC., A .McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106491**

**RMC LOOP ENTERPRISES, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106493**

**WRIGHT MANAGEMENT, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Cases 13-CA-107668  
13-CA-113837**

**V. OVIEDO, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Cases 13-CA-115647  
13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS, INC.,**

**Cases 13-CA-117083  
13-CA-118691  
13-CA-121759**

**LOFTON & LOFTON MANAGEMENT V, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-118690**

**K. MARK ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Cases 13-CA-123699  
13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**

**Case 13-CA-124213**

**KARA VITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Case 13-CA-131141**

**KARA VITES RESTAURANT 6676, LLC , A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**and**

**MAZT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, AS JOINT  
EMPLOYERS**

**Cases 20-CA-132103  
20-CA-135947  
20-CA-135979**

**20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING  
COMMITTEE**

**and**

**FAITH CORPORATION OF INDIANAPOLIS, A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**and**

**D. BAILEY MANAGEMENT COMPANY., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**ZMANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

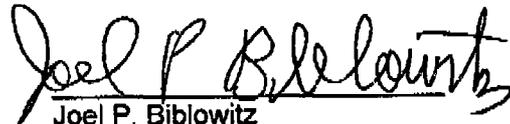
**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

**and**

**LOS ANGELES ORGANIZING COMMITTEE**

**ORDER ASSIGNING TRIAL JUDGE**

**IT IS HEREBY ORDERED** that Administrative Law Judge Lauren Esposito is assigned to preside at this hearing for all purposes, including pre-trial rulings and scheduling.



Joel P. Biblowitz  
Associate Chief  
Administrative Law

# **EXHIBIT E**

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

**AJD, INC., A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases 02-CA-093895  
02-CA-097827**

**LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases 02-CA-093893  
02-CA-098662**

**18884 FOOD CORP., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases 02-CA-094224  
02-CA-098676**

**14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases 02-CA-094679  
02-CA-098604**

**JOHN C FOOD CORP., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases 02-CA-093927  
02-CA-098659**

**840 ATLANTIC AVENUE, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Case 02-CA-097305**

**1531 FULTON STREET, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases 02-CA-103771  
02-CA-112282**

**McCONNER STREET HOLDING, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**      **Case 02-CA-098009**

**McCONNER STREET HOLDING, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Case 02-CA-103384**

**MIC-EASTCHESTER, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S, USA, LLC,  
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**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**and**

**FAST FOOD WORKERS COMMITTEE AND  
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UNION, CTW, CLC**

**and**

**JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
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McDONALD'S FRANCHISEE, AND  
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McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

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FRANCHISEE, AND McDONALD'S USA, LLC,  
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31-CA-134237**

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EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

**and**

**LOS ANGELES ORGANIZING COMMITTEE**

**GENERAL COUNSEL’S OPPOSITION TO RESPONDENT McDONALD’S USA,  
LLC’S MOTION FOR A BILL OF PARTICULARS OR TO STRIKE THE JOINT  
EMPLOYER ALLEGATIONS AND DISMISS THE COMPLAINT**

On December 19, 2014, the Directors of Regions 2, 4, 13, 20, 25 and 31 issued complaints and notices of hearings setting forth allegations that the above-captioned Respondents violated Sections 8(a)(1) and (3) of the Act. A copy of the Region 2 complaint (“Complaint”) is attached as Exhibit A. On December 29, 2014, Respondent McDonald’s USA, LLC (“McDonald’s”) filed motions in Regions 2, 4, 13, 20, 25 and 31 seeking a bill of particulars or, alternatively, for dismissal of the joint employer allegations in the complaints in those regions. A copy of the motion filed in Region 2 (“Motion”) is attached as Exhibit B. On January 5, 2015, the General Counsel transferred the above-captioned cases to the Director of Region 2. On January 6, 2015, the Director of Region 2 issued an order consolidating the above-captioned cases. The General Counsel responds to the motions filed by McDonald’s in Regions 2, 4, 13, 20, 25 and 31 by filing this single Opposition to McDonald’s motion filed in Region 2.<sup>1</sup>

A bill of particulars is justified only when the complaint is so vague that the party charged is unable to respond to the General Counsel’s case. *North American Rockwell Corp. v. NLRB*, 389 F.2d 866, 871 (10th Cir. 1968); *American Newspaper Pub. Ass’n v. NLRB*, 193 F.2d 782 (7th Cir. 1952), *affd.* 345 U.S. 100 (1953).<sup>2</sup> The Complaint alleges the existence of a franchising relationship between McDonald’s and various other entities—thereby complying

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<sup>1</sup> Because motions filed by McDonald’s in Regions 2, 4, 13, 20, 25, and 31 raise the same substantive arguments against the General Counsel’s complaint allegations, the General Counsel, by opposing McDonald’s Region 2 motion responds and opposes McDonald’s motions filed in Regions 2, 4, 13, 20, 25 and 31.

<sup>2</sup> McDonald’s attempts to impose a more stringent standard by selectively quoting *Soule Glass and Glazing Co v. NLRB*, 652 F.2d 1055, 1074 (1st Cir. 1981), which in turn quotes *J.C. Penney Co. v. NLRB*, 384 F.2d 479 (10th Cir. 1967), a case in which the court refused to enforce “a finding which was neither charged in the complaint nor litigated at the hearing,” *id.* at 482. The full quote is “Failure to clearly define the issues and advise an employer charged with a violation of the law of the specific complaint he must meet *and provide a full hearing upon the issue presented* is, of course, to deny procedural due process of law.” *Id.* at 483. The inapplicability of both the holding and the quotation to the current situation should be plain.

with the suggestion of Section 300.5(b) of the National Labor Relations Board Pleadings Manual section (cited by McDonald's at Motion, p. 4 as Section 300.3(b)) to include a description of the business—and asserts that McDonald's "possesse[s] and/or exercise[s] control over the labor relations policies of" the other named entities, i.e., its franchises.<sup>3</sup> This is sufficient notice to satisfy due process concerns. See e.g., *Pergament United Sales, Inc. v. NLRB*, 920 F.2d 130, 135 (2d Cir. 1990)(In evaluating whether Respondent was afforded sufficient notice to satisfy due process, the court observed that "[n]otice does not mean a complaint necessarily must state the legal theory upon which the General Counsel intends to proceed."); *Swift & Co. v. NLRB*, 106 F.2d 87, 91 (10th Cir. 1939); *Bakery Wagon Drivers v. NLRB*, 321 F.2d 353, 356 (D.C. Cir. 1963)(Board complaints need not conform to the technicalities of common law pleading: "[i]t is sufficient if respondent 'understood the issue and was afforded full opportunity to justify its actions'" (citing *NLRB. v. Mackay Radio & Tel. Co.*, 304 U.S. 333, 350 (1938)). Moreover, because no one is in a better position to know what facts support or undermine that allegation than McDonald's itself, McDonald's is fully able to respond to that allegation. Thus, no bill of particulars is justified and the motion must be denied.

Similarly, the complaint meets the requirements of Section 102.15 of the Board's Rules and Regulations, which provides in relevant part: "The complaint shall contain... a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed." Every act alleged by the Complaint to constitute an unfair labor practice, viz., paragraphs 7–11, 18–20, 27–27, 34–37, 43, 49–51, 57–

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<sup>3</sup> The General Counsel maintains he has satisfied his pleading obligations; however, to the extent McDonald's argues the Complaint does not comply with the Board's Casehandling or Pleading Manuals, the General Counsel notes the Manuals contain guidelines, not requirements. *Benjamin H. Realty Corp.*, 361 NLRB No. 103, n.1. (2014).

59, 65, 71, 77–81, and 88–91, identifies the approximate dates and places of those acts along with the identities of the actors.

McDonald's fails to cite any authority in support of its claim that the Complaint violates McDonald's Fifth Amendment rights, Motion at 5. McDonald's also fails to address the well-established import of the section of the Administrative Procedures Act upon which it relies, viz., 5 U.S.C. § 554(b)(3). As numerous courts have held, the requirements of that statute are met when the party is apprised of the issues in controversy and not misled. See e.g., *Intercontinental Industries, Inc. v. American Stock Exchange*, 452 F.2d 935, 941 (5<sup>th</sup> Cir. 1971), cert. denied 409 U.S. 842 (1972); *Long v. Board of Governors of the Federal Reserve System*, 117 F.3d 1145, 1158 (10<sup>th</sup> Cir. 1997); *L.G. Balfour Co. v. FT*, 442 F.2d 1, 19 (7<sup>th</sup> Cir. 1971); *Boston Carrier, Inc. v. ICC*, 746 F.2d 1555, 1560 (D.C. Cir. 1984); *Golden Grain Macaroni Co. v. FTC*, 472 F.2d 882, 885 (9<sup>th</sup> Cir. 1972) (“[T]he purpose of the [Administrative Procedure] Act is satisfied, and there is no due-process violation, if the party proceeded against understood the issue and was afforded full opportunity to justify its conduct”; internal quotation marks omitted), cert. denied 412 U.S. 918 (1973). Because McDonald's has been informed that the General Counsel seeks to impose liability upon it for conduct committed by certain of its franchises by virtue of its status as a joint employer of employees of those franchises, McDonald's has been given plain notice of the issue in controversy.

Finally, Respondent's argument for a bill of particulars, which appears to be grounded on the false premise that there is no precedent for the joint employer allegations, misses the point. Respondent, like the General Counsel is free to argue its theory of joint employer liability, without expressing those theories in its pleadings. The question posed by a Motion for a Bill of Particulars is still whether the complaint is so vague that McDonald's is unable to respond to the

Complaint.<sup>4</sup> For the reasons already discussed, McDonald's fails that test. For this and the other reasons cited above, McDonald's motion should be denied in its entirety.

Dated: New York, New York  
January 14, 2014

/s/ Jamie Rucker

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Jamie Rucker, Counsel for the General Counsel

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<sup>4</sup> The fact that McDonald's has filed an answer suggests that the complaint was not so deficient as to preclude an effective response, McDonald's statement that by filing an answer it has not waived its right to a bill of particulars notwithstanding (See e.g. McDonald's Answer par. 5(c)). The issue is not one of waiver, but whether as a factual matter McDonald's has sufficient notice of the allegations in the complaint to respond.

# EXHIBIT A

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**AJD, INC., A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases: 02-CA-093895  
02-CA-097827**

**LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Cases: 02-CA-093893  
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FRANCHISEE, AND McDONALD'S USA, LLC,  
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FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-094679  
02-CA-098604**

**JOHN C FOOD CORP., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases: 02-CA-093927  
02-CA-098659**

**840 ATLANTIC AVENUE, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Case: 02-CA-097305**

**1531 FULTON STREET, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
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McDONALD'S FRANCHISEE, AND  
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McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**      **Case: 02-CA-103384**

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FRANCHISEE, AND McDONALD'S, USA, LLC,  
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**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS  
and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL  
UNION, CTW, CLC**

**ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT,  
AND NOTICE OF HEARING**

Pursuant to Section 102.33(c) of the Rules and Regulations of the National Labor Relations Board ("the Board") and to avoid unnecessary costs or delay, I ORDER THAT Cases 02-CA-093893, 02-CA-093895, 02-CA-093927, 02-CA-094224, 02-CA-094679, 02-CA-097305, 02-CA-097827, 02-CA-098009, 02-CA-098604, 02-CA-098659, 02-CA-098662, 02-CA-098676, 02-CA-103384, 02-CA-103726, 02-CA-103771, 02-CA-106094, and 02-CA-112282 are consolidated. These cases were filed by the Fast Food Workers' Committee ("FFWC") and Service Employees International Union, CTW, CLC ("SEIU") (collectively "Charging Parties") against McDonald's USA, LLC ("McDonald's") and the following McDonald's franchisees:

<b>CASE NUMBER</b>	<b>MCDONALD'S FRANCISEE IDENTIFIED IN CHARGE</b>
02-CA-093893	Charge against McDonald's located at 220 West 42nd Street, New York, NY, whose correct name is Lewis Foods of 42 <sup>nd</sup> Street, LLC ("Respondent McDonald's at 220 W 42nd St.")
02-CA-098662	Charge against James R Lewis d/b/a, Lewis Foods of 42nd Street, LLC, whose correct name is Lewis Foods of 42 <sup>nd</sup> Street, LLC ("Respondent McDonald's at 220 W 42nd St.")
02-CA-093895	Charge against McDonald's located at 1188 6th Avenue New York, NY 10036, whose correct name is AJD, Inc. ("Respondent McDonald's at 1188 6 <sup>th</sup> Ave.")
02-CA-097827	Charge against Elaine Diekmann d/b/a Bea & AJD, whose correct name is AJD, Inc. ("Respondent McDonald's at 1188 6 <sup>th</sup> Ave.")

02-CA-093927	Charge against McDonald's located at 280 Madison Avenue, New York, NY 10016, whose correct name is John C Food Corp. ("Respondent McDonald's at 280 Madison Ave.")
02-CA-098659	Charge against Richard R. Cisneros d/b/a John C. Food Corp., whose correct name is John C Food Corp ("Respondent McDonald's at 280 Madison Ave.")
02-CA-094224	Charge against McDonald's located at 1651 Broadway, New York, NY 10019, whose correct name is 18884 Food Corporation ("Respondent McDonald's at 1651 Broadway")
02-CA-098676	Charge against Linda Dunham d/b/a 18884 Food Corp. (or Dunham Management Corp.), whose correct name is 18884 Food Corporation ("Respondent McDonald's at 1651 Broadway")
02-CA-094679	Charge against McDonald's located at 14 East 47th Street. New York, NY 10017, whose correct name is 14 East 47 <sup>th</sup> Street, LLC ("Respondent McDonald's at 14 E. 47th St.")
02-CA-098604	Charge against Ninosca Paulino d/b/a 14 East 47th Street, LLC, whose correct name 14 East 47 <sup>th</sup> Street, LLC ("Respondent McDonald's at 14 E. 47th St.")
02-CA-097305	Charge against Atlantic Avenue, LLC, whose correct name is 840 Atlantic Ave., LLC ("Respondent McDonald's at 840 Atlantic Ave.")
02-CA-098009	Charge against Bruce Colley, whose correct name is McConner Street Holding, LLC ("Respondent McDonald's at 2142 Third Ave.")
02-CA-103384	Charge against Bruce Colley, whose correct name is McConner Street Holding, LLC ("Respondent McDonald's at 2049 Broadway")
02-CA-103726	Charge against Bruce Colley, whose correct name is Mic-Eastchester, LLC ("Respondent McDonald's at 341 5 <sup>th</sup> Ave.")
02-CA-103771	Charge against Ninosca Paulino, whose correct name is 1531 Fulton St., LLC ("Respondent McDonald's at 1531 Fulton St.)
02-CA-112282	Charge against Ninosca Paulino, whose correct name is 1531 Fulton St., LLC ("Respondent McDonald's at 1531 Fulton St.)

02-CA-106094	Charge against Bruce Colley, whose correct name is Bruce C. Limited Partnership ("Respondent McDonald's at 4259 Broadway")
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This Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, which is based on the charges in these cases, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 *et seq.* ("the Act") and Section 102.15 of the Board's Rules and Regulations. It alleges that the above-identified Respondents have violated the Act as described below:

1. The charges in these cases were filed and served as set forth in the following table:

¶	Case No.	Amended	Charging Parties	Respondents	Date Filed	Date Served
a.	02-CA-093893		FFWC	McDonald's/ McDonald's at 220 W 42nd St.	November 28, 2012	November 29, 2012
b.	02-CA-093895		FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	November 28, 2012	November 29, 2012
c.		First Amended	FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	December 4, 2012	December 12, 2012
d.	02-CA-093927		FFWC	McDonald's/ McDonald's at 280 Madison Ave.	November, 29, 2012	November, 30, 2012
e.	02-CA-094224		FFWC	McDonald's/ McDonald's at 1651 Broadway	December 4, 2012	December 5, 2012
f.	02-CA-094679		FFWC	McDonald's/ McDonald's at 14 E. 47th St.	December 11, 2012	December 12, 2012
g.	02-CA-097305		FFWC	McDonald's/ McDonald's at 840 Atlantic Ave.	January 30 2013	January 30 2013
h.		First Amended	FFWC	McDonald's/ McDonald's at 840 Atlantic Ave.	February 20, 2013	February 21, 2013
i.	02-CA-097827		FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	February 6, 2013	February 7, 2013

j.		First Amended	FFWC	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	February 20, 2013	February 20, 2013
k.		Second Amended	FFWC/ SEIU	McDonald's/ McDonald's at 1188 6 <sup>th</sup> Ave.	April 30, 2014	April 30, 2014
l.	02-CA- 098009		FFWC	McDonald's/ McDonald's at 2142 Third Ave.	February 8, 2013	February 11, 2013
m.		First Amended	FFWC	McDonald's/ McDonald's at 2142 Third Ave.	February 20, 2013	February 21, 2013
n.		Second Amended	FFWC	McDonald's/ McDonald's at 2142 Third Ave.	June 14, 2013	June 19, 2013
o.	02-CA- 098604		FFWC	McDonald's/ McDonald's at 14 E. 47th St.	February 15, 2013	February 20, 2013
p.	02-CA- 098659		FFWC	McDonald's/ McDonald's at 280 Madison Ave.	February 15, 2013	February 20, 2013
q.	02-CA- 098662		FFWC	McDonald's/ McDonald's at 220 W 42nd St.	February 15, 2013	February 20, 2013
r.	02-CA- 098676		FFWC	McDonald's/ McDonald's at 1651 Broadway	February 15, 2013	February 20, 2013
s.	02-CA- 103384		FFWC	McDonald's/ McDonald's at 2049 Broadway	April 23, 2013	April 23, 2013
t.		First Amended	FFWC	McDonald's/ McDonald's at 2049 Broadway	June 25, 2013	July 1, 2013
u.	02-CA- 103726		FFWC	McDonald's/ McDonald's at 341 5 <sup>th</sup> Ave.	April 25, 2013	April 26, 2013
v.	02-CA- 103771		FFWC	McDonald's/ McDonald's at 1531 Fulton Street	April 26, 2013	April 26, 2013
w.	02-CA- 106094		FFWC	McDonald's/ McDonald's at 4259 Broadway	May 29, 2013	May 30, 2013
x.		First Amended	FFWC	McDonald's/ McDonald's at 4259 Broadway	July 11, 2013	July 15, 2013
y.		Second Amended	FFWC	McDonald's/ McDonald's at 4259 Broadway	September 11, 2013	September 13, 2013

z.	02-CA-112282		FFWC	McDonald's/ McDonald's at 1531 Fulton Street	August 29, 2013	August 30, 2013
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**Charging Parties**

2. (a) At all material times, the FFWC has been a labor organization within the meaning of Section 2(5) of the Act.

(b) At all material times, SEIU has been a labor organization within the meaning of Section 2(5) of the Act.

**Respondent McDonald's USA, LLC**

3. (a) At all material times, Respondent McDonald's has been a Delaware limited liability company with an office and place of business in Oak Brook, Illinois, and various restaurant and franchise locations throughout the United States, and has been engaged in the operation and franchising of quick-service restaurants.

(b) Annually, Respondent McDonald's, in conducting its business operations described above in subparagraph (a),

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent McDonald's has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**Respondent McDonald's at 220 W. 42<sup>nd</sup> Street**

4. (a) At all material times, Respondent McDonald's at 220 W. 42nd St. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 220 W. 42nd Street has been a New York limited liability company with an office and place of business at 220 W. 42<sup>nd</sup> Street, New York, NY 10036.

(c) Annually, Respondent McDonald's at 220 W. 42nd Street, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 42nd St. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 220 W 42nd St.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 220 W 42nd St.; and

(c) been a joint employer of the employees of Respondent McDonald's at 220 W 42nd St.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(13) of the Act:

(i) James R. Lewis – Owner

(ii) Juan Astor – Director of Operations

(iii) John McDonnell – General Manager

(iv) Mark J. Gray – Assistant Manager

(b) supervisors of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 220 W 42nd St. within the meaning of Section 2(13) of the Act:

(v) Rosa Mejia – Shift Manager

(vi) Alecia (last name unknown (“LNU”)) – Shift Manager

7. About September 2012, Respondent McDonald's at 220 W. 42nd St., by Juan Astor, at 220 W. 42nd St., New York, NY:

(a) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union organizational activity; and

(b) promised its employees that terms and conditions of employment would improve, if the employees rejected union organizing efforts.

8. (a) About December 2012, Respondent McDonald's at 220 W. 42nd St., by James R. Lewis:

(i) ceased posting employees' work schedules; and

(ii) removed employee name tags.

(b) Respondent McDonald's at 220 W. 42<sup>nd</sup> St. took the actions identified in subparagraph (a) in response to union organizing.

9. About October 2012, Respondent McDonald's at 220 W. 42nd St, by John McDonnell, at 220 W. 42nd St., New York, NY:

(a) threatened its employees with unspecified reprisals for engaging in union activity;

(b) created an impression among its employees that their union activities were under surveillance.

10. (a) About December 2, 2012, Respondent McDonald's at 220 W. 42<sup>nd</sup> St. imposed more onerous and rigorous terms and conditions of employment on its employee Linda Archer by assigning her more arduous and less agreeable job assignments.

(b) Respondent McDonald's at 220 W. 42<sup>nd</sup> St. engaged in the conduct described above in subparagraph (a) because Linda Archer assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

11. Respondent McDonald's at 220 W. 42<sup>nd</sup> St., by the individuals named below, about the dates and at the locations opposite their names, threatened its employees with discharge if they engaged in union activity:

	<b>Agent</b>	<b>Date</b>	<b>Location</b>
(a)	Rosa	Second week of November 2012	220 W. 42 <sup>nd</sup> St., New York, NY
(b)	Mark J. Gray	November 24, 2012	220 W. 42 <sup>nd</sup> St., New York, NY

12. By the conduct described above in paragraphs 7, 8, 9, and 11, Respondents McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

13. By the conduct described above in paragraph 10, Respondent McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

14. The unfair labor practices of Respondents McDonald's and McDonald's at 220 W. 42<sup>nd</sup> St. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 1188 Sixth Ave.**

15. (a) At all material times, Respondent McDonald's at 1188 Sixth Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1188 Sixth Ave. has been a New York corporation with an office and place of business at 1188 Sixth Ave., New York, NY 10036.

(c) Annually, Respondent McDonald's at 1188 Sixth Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1188 Sixth Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

16. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1188 Sixth Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1188 Sixth Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 1188 Sixth Ave.

17. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 1188 Sixth Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1188 Sixth Ave. within the meaning of Section 2(13) of the Act:

(a) Elaine Diekmann – Owner

(b) Daisy Perez – General Manager

18. Respondent McDonald's at 1188 Sixth Avenue, by the individuals named below, on about the dates and at the locations listed opposite their names, interrogated employees about those employees' union activities and sympathies:

<b>Agent</b>	<b>Date</b>	<b>Location</b>
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- |     |                                 |                             |                               |
|-----|---------------------------------|-----------------------------|-------------------------------|
| (a) | Daisy Perez and Elaine Diekmann | Third week of November 2012 | 1188 Sixth Ave., New York, NY |
| (b) | Daisy Perez                     | November 20, 2012           | 1188 Sixth Ave., New York, NY |
| (c) | Daisy Perez and Elaine Diekmann | November 21, 2012           | 1188 Sixth Ave., New York, NY |
| (d) | Daisy Perez                     | December 2, 2012            | 1188 Sixth Ave., New York, NY |

19. About November 21, 2012, Respondent McDonald's at 1188 Sixth Ave., by Daisy Perez, at 1188 Sixth Ave., New York, NY:

- (a) engaged in surveillance of employees to discover their union activities;
- (b) created an impression among its employees that their union activities were under surveillance; and
- (c) threatened to more strictly enforce rules regarding lateness and theft because of employees' union activities.

20. (a) On about November 21, 2012, Respondent McDonald's at 1188 Sixth Avenue suspended its employee Jose Carillo.

(b) Respondent McDonald's at 1188 6<sup>th</sup> Avenue engaged in the conduct described in subparagraph (a) because employee Jose Carillo assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in those activities.

21. By the conduct described above in paragraphs 18 and 19, Respondents McDonald's and McDonald's at 1188 Sixth Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

22. By the conduct described above in paragraph 20, Respondent McDonald's and McDonald's at 1188 Sixth Ave., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

23. The unfair labor practices of Respondents McDonald's and McDonald's at 1188 Sixth Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 280 Madison Ave.**

24. (a) At all material times, Respondent McDonald's at 280 Madison Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 280 Madison Ave. has been a New York corporation with an office and place of business at 280 Madison Ave., New York, NY 10036.

(c) Annually, Respondent McDonald's at 280 Madison Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 280 Madison Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

25. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 280 Madison Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 280 Madison Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 280 Madison Ave.

26. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 280 Madison Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 280 Madison Ave. within the meaning of Section 2(13) of the Act:

(a) Richard R. Cisneros – Owner

(b) Bruny Martinez – Director of Operations

(c) Jeannette Checo – General Manager

27. About November 30, 2012, Respondent McDonald's at 280 Madison Ave., by Richard R. Cisneros, Bruny Martinez, and Jeannette Checo, at 280 Madison Ave., New York, NY:

(a) threatened employees with discharge if they engaged in union activity;

(b) threatened to reduce employees' hours of work if they engaged in union activity;

(c) threatened employees with discharge if they engaged in union activity; and

(d) promised employees unspecified improvements in terms and conditions of employment if they rejected the FFWC as their collective bargaining representative.

28. About December 3, 2012, Respondent McDonald's at 280 Madison Ave., by Bruny Martinez and Jeannette Checo, at 280 Madison Ave., New York, NY:

(a) threatened employees with discharge if they engaged in union activity; and

(b) threatened to reduce employees' hours of work if they engaged in union activity.

29. By the conduct described above in paragraphs 27 and 28, Respondents McDonald's and McDonald's at 280 Madison Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

30. The unfair labor practices of Respondents McDonald's and McDonald's at 280 Madison Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 1651 Broadway**

31. (a) At all material times, Respondent McDonald's at 1651 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1651 Broadway has been a New York corporation with an office and place of business at 1651 Broadway, New York, NY 10019.

(c) Annually, Respondent McDonald's at 1651 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1651 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

32. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1651 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1651 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 1651 Broadway.

33. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(13) of the Act:

(i) Linda Dunham – President

(ii) Rene Perez – Supervisor

(iii) Winston Joseph – General Manager

(b) supervisors of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 1651 Broadway within the meaning of Section 2(13) of the Act:

(i) Arlene Raymond – Shift Manager

34. About late October or early November 2012, Respondent McDonald's at 1651 Broadway, by Arlene Raymond, at 1651 Broadway New York, NY, threatened employees with discharge if they engaged in union activity.

35. About November 29, 2012, Respondent McDonald's at 1651 Broadway, by Arlene Raymond, at 1651 Broadway New York, NY, threatened employees with discharge if they engaged in union activity.

36. About December 17, 2012, Respondent McDonald's at 1651 Broadway, by Rene Perez and Winston Joseph, at 1651 Broadway, New York, NY:

(a) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union activity; and

(b) promised employees a raise if they refrained from union activity.

37. (a) On about December 21, 2012, Respondent McDonald's at 1651 Broadway ceased posting employees' work schedules.

(b) Respondent McDonald's at 1651 Broadway took the action identified in subparagraph (a) in response to union organizing.

38. By the conduct described above in paragraphs 34 through 37, Respondents McDonald's and McDonald's at 1651 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

39. The unfair labor practices of Respondents McDonald's and McDonald's at 1651 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 14 East 47<sup>th</sup> St.**

40. (a) At all material times, Respondent McDonald's at 14 East 47<sup>th</sup> has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 14 East 47<sup>th</sup> has been a New York limited liability corporation with an office and place of business at 14 East 47<sup>th</sup> St., New York, NY 10017.

(c) Annually, Respondent McDonald's at 14 East 47<sup>th</sup>, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 14 East 47<sup>th</sup> has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

41. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 14 East 47<sup>th</sup>;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 14 East 47<sup>th</sup>; and

(c) been a joint employer of the employees of Respondent McDonald's at 14 East 47<sup>th</sup>.

42. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 14 East 47<sup>th</sup> within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 14 East 47<sup>th</sup> within the meaning of Section 2(13) of the Act:

(a) Carmen Paulino – Owner

(b) Peter Paulino – General Manager

43. On about December 1, 2012, Respondent McDonald's at 14 E. 47<sup>th</sup>, by Peter Paulino, at 14 E. 47<sup>th</sup> St., New York, NY:

(a) threatened employees with unspecified reprisals because of their union activity; and

(b) interrogated employees about their union activities.

44. By the conduct described above in paragraph 43, Respondents McDonald's and McDonald's at 14 E. 47<sup>th</sup>, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

45. The unfair labor practices of Respondents McDonald's and McDonald's at 14 E. 47<sup>th</sup> described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**Respondent McDonald's at 840 Atlantic Ave.**

46. (a) At all material times, Respondent McDonald's at 840 Atlantic Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 840 Atlantic Ave. has been a New York limited liability corporation with an office and place of business at 840 Atlantic Ave., Brooklyn, NY 11238.

(c) Annually, Respondent McDonald's at 840 Atlantic Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 840 Atlantic Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

47. At all material times, Respondent McDonald's has:

- (a) had a franchise agreement with Respondent McDonald's at 840 Atlantic Ave.;
- (b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 840 Atlantic Ave.; and
- (c) been a joint employer of the employees of Respondent McDonald's at 840 Atlantic Ave.

48. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 840 Atlantic Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 840 Atlantic Ave. within the meaning of Section 2(13) of the Act:

- (a) Carmen Paulino – Owner
- (b) Martin Calderon – General Manager

49. Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at the McDonald's located at 840 Atlantic Avenue, Brooklyn, NY:

(a) on occasions in July, August, and mid-November 2012, threatened employees with discharge because of their union activities and support.

(b) on an unspecified date, threatened employees with unspecified reprisals because of their union activities and support.

(c) about September 2012, threatened employees with discharge because of their union activities and support.

(d) on an unspecified date, threatened employees with discharge because of their union activities and support.

50. In about July or August 2012, Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at 840 Atlantic Ave., Brooklyn, NY

- (a) interrogated employees about their union activities; and
- (b) instructed employees to refrain from engaging in union activities.

51. In about October 2012, Respondent McDonald's at 840 Atlantic Ave., by Martin Calderon, at 840 Atlantic Ave., Brooklyn, NY:

(a) engaged in surveillance of employees engaged in union activities;

(b) by telling employees he was watching them, created an impression among its employees that their union activities were under surveillance by Respondent McDonald's at 840 Atlantic Ave.; and

(c) instructed employees to refrain from engaging in union activities.

52. By the conduct described above in paragraphs 49 through 51, Respondents McDonald's and McDonald's at 840 Atlantic Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

53. The unfair labor practices of Respondents McDonald's and McDonald's at 840 Atlantic Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 2142 Third Ave.**

54. (a) At all material times, Respondent McDonald's at 2142 at Third Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 2142 at Third Ave. has been a Delaware limited liability company with an office and place of business at 220 W. 42nd Street, New York, NY 10036.

(c) Annually, Respondent McDonald's at 2142 at Third Ave., in conducting its business operations described above in subparagraphs (a) and (b),

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 2142 Third Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

55. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 2142 Third Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 2142 Third Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 2142 Third Ave.

56. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2142 Third Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2142 Third Ave. within the meaning of Section 2(13) of the Act:

(a) Bruce D. Colley – Owner

(b) Mike Ortiz – Director of Operations

(c) Leilani Carr – Area Supervisor

57. About November 30, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz and Leilani Carr, in the office located in the basement of 2142 Third Avenue, New York, NY, interrogated its employees about their union activities.

58. About December 1, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz, in the office located in the basement of 2142 Third Avenue, New York, NY, interrogated its employees about their union activities.

59. About December 1, 2012, Respondent McDonald's at 2142 Third Ave., by Mike Ortiz, at 2142 Third Avenue, New York, NY, by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union activity.

60. By the conduct described above in paragraphs 57 through 59, Respondents McDonald's and McDonald's at 2142 Third Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

61. The unfair labor practices of Respondents McDonald's and McDonald's at 2142 Third Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 2049 Broadway**

62. (a) At all material times, Respondent McDonald's at 2049 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, Respondent McDonald's at 2049 Broadway has been a Delaware limited liability corporation with an office and place of business at 2049 Broadway, New York, NY 10023.

(c) Annually, Respondent McDonald's at 2049 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000

directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 2049 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

63. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 2049 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 2049 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 2049 Broadway.

64. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 2049 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 2049 Broadway within the meaning of Section 2(13) of the Act:

- (a) Bruce D. Colley – Owner
- (b) Mike Ortiz – Director of Operations
- (c) Manny Vera – General Manager

65. Respondent McDonald's at 2049 Broadway, by Manny Vera, at 2049 Broadway, New York, NY:

- (a) about February 18, 2013, interrogated its employees about their union activity;
- (b) about March 2013, interrogated its employees about their union activity;
- (c) about March 2013, threatened its employees with unspecified reprisals because they engaged in union activity.

66. By the conduct described above in paragraph 65, Respondents McDonald's and McDonald's at 2049 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

67. The unfair labor practices of Respondents McDonald's and McDonald's at 2049 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 341 5<sup>th</sup> Ave.**

68. (a) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been a New York limited liability company with an office and place of business at 341 5<sup>th</sup> Ave., New York, NY 10016.

(c) Annually, Respondent McDonald's at 341 5<sup>th</sup> Ave., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 341 5<sup>th</sup> Ave. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

69. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 341 5<sup>th</sup> Ave.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 341 5<sup>th</sup> Ave.; and

(c) been a joint employer of the employees of Respondent McDonald's at 341 5<sup>th</sup> Ave.

70. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 341 5<sup>th</sup> Ave. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 341 5<sup>th</sup> Ave. within the meaning of Section 2(13) of the Act:

(a) Bruce D. Colley – Owner

(b) Mike Ortiz – Director of Operations

(c) Alicia “Vicky” Munoz – General Manager

71. About March 2013, Respondent McDonald's at 341 5<sup>th</sup> Ave., by Vicky Munoz, at 341 5<sup>th</sup> Avenue, New York, NY, told employees they were prohibited from talking with the union after working hours.

72. By the conduct described above in paragraph 71, Respondents McDonald's and McDonald's at 341 5<sup>th</sup> Ave., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

73. The unfair labor practices of Respondents McDonald's and McDonald's at 341 5<sup>th</sup> Ave. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 1531 Fulton St.**

74. (a) At all material times, Respondent McDonald's at 1531 Fulton St. has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 1531 Fulton St. has been a limited liability company with an office and place of business at 1531 Fulton Street, Brooklyn, NY 11216.

(c) Annually, Respondent McDonald's at 1531 Fulton St., in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 1531 Fulton St. has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

75. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 1531 Fulton St.;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 1531 Fulton St.; and

(c) been a joint employer of the employees of Respondent McDonald's at 1531 Fulton St.

76. At all material times, the following individuals held the positions set forth opposite their respective names and have been:

(a) supervisors of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(13) of the Act:

- (i) Carmen Paulino - Owner
- (ii) Carlos Roldan – General Manager
- (iii) Mery G. Diaz – fill-in General Manager

(b) supervisors of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(11) of the Act and/or agents of Respondent McDonald's at 1531 Fulton St. within the meaning of Section 2(13) of the Act:

- (i) Veronica Stuart – Shift Manager

77. Respondent McDonald's at 1531 Fulton St., by Carlos Roldan, at 1531 Fulton St., Brooklyn, NY:

- (a) about late January 2013, instructed employees to stop talking about the FFWC;
- (b) about late January 2013, instructed employees to stop talking with FFWC organizers;
- (c) about April 6, 2013, told employees they were prohibited from
  - (i) engaging in union activities; and
  - (ii) talking with coworkers about union activities.
- (d) about April 6, 2013, asked employees to sign a document acknowledging they were told, and that they understood, that they were not to engage in union activities.

(e) about early August 2013, threatened its employees with discharge because they engaged in union activities.

78. About July 30, 2013, Respondent McDonald's at 1531 Fulton St., by Mery G. Diaz, threatened its employees with discharge for engaging in Union activity.

79. About July 30, 2013, Respondent McDonald's at 1531 Fulton St., by Veronica Stuart, threatened its employees with unspecified reprisals for engaging in Union activity.

80. (a) About April 6, 2013, Respondent McDonald's at 1531 Fulton St. issued a written reprimand to its employee David Curry.

(b) Respondent McDonald's at 1531 Fulton St. engaged in the conduct described above in subparagraph (a) because David Curry assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

81. (a) About August 8, 2013, Respondent McDonald's at 1531 Fulton St. discharged its employee Tracee Nash.

(b) Respondent McDonald's at 1531 Fulton St. engaged in the conduct described above in subparagraph (a) because Tracee Nash assisted the FFWC and engaged in concerted activities, and to discourage employees from engaging in these activities.

82. By the conduct described above in paragraphs 77 through 79, Respondents McDonald's and McDonald's at 1531 Fulton St., as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

83. By the conduct described above in paragraphs 80 and 81, Respondent McDonald's and McDonald's at 1531 Fulton St., as joint employers, have been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

84. The unfair labor practices of Respondents McDonald's and McDonald's at 1531 Fulton St. described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**McDonald's at 4259 Broadway**

85. (a) At all material times, Respondent McDonald's at 4259 Broadway has been engaged in the operation of a quick-service McDonald's restaurant.

(b) At all material times, McDonald's at 4259 Broadway has been a New York limited partnership with an office and place of business at 4259 Broadway, New York, NY 10033.

(c) Annually, Respondent McDonald's at 4259 Broadway, in conducting its business operations described above in subparagraphs (a) and (b)

(i) derives gross revenues valued in excess of \$500,000 and

(ii) purchases products, goods, and materials valued in excess of \$5,000 directly from points outside the State of New York.

(d) At all material times, Respondent McDonald's at 4259 Broadway has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

86. At all material times, Respondent McDonald's has:

(a) had a franchise agreement with Respondent McDonald's at 4259 Broadway;

(b) possessed and/or exercised control over the labor relations policies of Respondent McDonald's at 4259 Broadway; and

(c) been a joint employer of the employees of Respondent McDonald's at 4259 Broadway.

87. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent McDonald's at 4259 Broadway within the meaning of Section 2(11) of the Act and agents of Respondent McDonald's at 4259 Broadway within the meaning of Section 2(13) of the Act:

- (a) Bruce D. Colley – Owner
- (b) Mike Ortiz – Director of Operations
- (c) Dominga De Jesus – General Manager

88. About November 2012, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus, threatened its employees with restaurant closure if they selected a union as their bargaining representative.

89. About January 2013, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus:

(a) threatened its employees with reduced work hours if they selected a union as their bargaining representative; and

(b) threatened its employees with restaurant closure if they selected a union as their bargaining representative.

90. (a) About January 2013, Respondent McDonald's at 4259 Broadway ceased posting employees' work schedules.

(b) Respondent McDonald's at 4259 Broadway took the action identified in subparagraph (a) in response to union organizing.

91. About April 5, 2013, Respondent McDonald's at 4259 Broadway, by Dominga De Jesus, told employees they were prohibited from accepting literature from union representatives.

92. By the conduct described above in paragraphs 88 through 91, Respondents McDonald's and McDonald's at 4259 Broadway, as joint employers, have been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

93. The unfair labor practices of Respondents McDonald's and McDonald's at 4259 Broadway described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 2, 2015 or postmarked on or before January 1, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no

answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **March 30, 2015** at the **Mary Taylor Walker Room at 26 Federal Plaza, Room 3614, New York, New York** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: New York, New York  
December 19, 2014



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Karen P. Fernbach  
Regional Director  
National Labor Relations  
Region 02  
26 Federal Plaza, Suite 3614  
New York, NY 10278-3699

Attachments

# EXHIBIT B



**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**and**

**FAST FOOD WORKERS COMMITTEE AND SERVICE  
EMPLOYEES INTERNATIONAL UNION, CTW, CLC**

**McDONALD'S USA, LLC'S MOTION FOR A BILL OF PARTICULARS OR, IN THE  
ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND  
DISMISS THE COMPLAINT**

Pursuant to Section 102.24 of the National Labor Relations Board's ("Board") Rules and Regulations, Respondent McDonald's USA, LLC ("McDonald's"), by and through its undersigned counsel, hereby moves for an order requiring the Regional Director of Region 2 to specify with particularity in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing ("Complaint") the factual basis upon which she relies in alleging that McDonald's is a joint employer with its independent franchisees. In a case with far-reaching consequences for McDonald's and franchisors throughout the country, and in which the General Counsel seeks to change the legal standard for determining joint employer status and has consolidated claims against 11 independent corporate entities based solely on allegations that McDonald's is a joint employer, the Complaint contains only three vague, conclusory allegations regarding McDonald's joint employer status. Namely, the Complaint alleges (1) the existence of a franchise agreement between McDonald's and each independent franchisee, (2) a conclusory assertion that McDonald's "possessed and/or exercised control over the labor relations policies" of each franchisee, and (3) a legal conclusion that McDonald's is a joint employer. The Regional Director's bare-bones allegations provide insufficient notice to McDonald's of the basis for the alleged joint employer status, depriving McDonald's of its fundamental right to due process

pursuant to the Fifth Amendment to the U.S. Constitution. In order for McDonald's to have a full and fair opportunity to defend itself against these unprecedented allegations, the Regional Director must first specify with particularity the underlying factual basis as to each and every franchisee.

If the Regional Director does not describe with particularity the basis for the allegations in the below-identified paragraphs, as mandated by the Administrative Procedure Act, Section 102.15 of the Board's Rules and Regulations, Paragraph 10266 of the Board's Casehandling Manual, and Section 300.3 of the NLRB Pleadings Manual-Complaint Forms, then McDonald's moves that such paragraphs of the Complaint be stricken and the Complaint against McDonald's be dismissed for failure to state a claim.

#### THE JOINT EMPLOYER ALLEGATIONS

To satisfy due process, the General Counsel is obligated "to clearly define the issues and advise an employer charged with a violation . . . of the specific complaint he must meet . . . [and the failure to do so] is . . . to deny procedural due process of law." Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). *See also* SFTC, LLC d/b/a Santa Fe Tortilla Company, 360 NLRB. No. 130 at 2 n. 9 & 10 n. 6 (June 13, 2014) (affirming ALJ decision to dismiss allegations on due process grounds, in which ALJ explained, "[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.") The Administrative Procedure Act, the Board's Rules and Regulations, and the Board's Casehandling Manual demand that the Complaint notify the Respondent of the facts and law at issue so the Respondent has a full and fair opportunity to prepare a defense. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3) ("Persons entitled to notice of an agency hearing shall be timely informed of . . . the

matters of *fact and law* asserted”); NLRB Rules and Regulations, Rule 102.15 (“The complaint shall contain . . . a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent’s agents or other representatives by whom committed”); NLRB Casehandling Manual § 10268.1 (The Complaint “sets forth . . . the facts relating to the alleged violations by the respondent(s)”). And the NLRB Pleadings Manual-Complaint Forms also encourages descriptive pleading for joint employer allegations. *See* NLRB Pleadings Manual § 300.3(b) (suggesting drafter of a complaint containing a joint employer allegation should “[i]nset [a] description of [the] business venture. For example, Employer A utilizes the referral services of Employer B when hiring employees for its facility located at \_\_\_\_\_.”)

Here, paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint contain identical joint employer allegations that fail to satisfy these requirements. Each paragraph refers to the existence of a franchise agreement, states that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and asserts that McDonald’s is a joint employer with each franchisee. These allegations are plainly insufficient to establish a joint employer relationship under the legal standard for determining joint employer status. “The test for joint-employer status is whether two entities ‘share or codetermine those matters governing the essential terms and conditions of employment.’” *See Flagstaff Med. Ctr., Inc.*, 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011) (quoting *Laerco Transportation*, 269 NLRB 324, 325 (1984)). The mere existence of a franchise agreement does not weigh in favor of a finding of joint employer status. Nor does the Complaint point to any provision of the franchise agreement that does so. Finally, the Complaint does not identify with any particularity how McDonald’s allegedly possesses and/or exercises control over the labor relations policies of its

franchisees, much less identify the labor relations policies at issue.

These paltry allegations do not provide McDonald's with notice of the charges against it or identify a particular standard of conduct that McDonald's engaged in to make it a joint employer. Accordingly, McDonald's cannot defend itself against these claims. Thus, the Regional Director should be ordered to provide the particulars of the seminal joint employer allegation, or those paragraphs should be stricken and the Complaint should be dismissed as to McDonald's.

**WHEREFORE**, having demonstrated that paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 in the above-captioned Complaint are insufficient pursuant to the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act, the Board's Rules and Regulations, the Board's Casehandling Manual, and the Board's Pleading Manual-Complaint Forms by virtue of failing to specify the factual basis for the joint employer allegations against McDonald's, McDonald's respectfully requests that:

(1) The Regional Director be ordered promptly to provide the specifics and particulars of those joint employer allegations contained in, and as to each franchisee named in paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint; and

(2) Upon the Regional Director's failure or inability to provide such specific and particular information to support the allegations in paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86 of the Complaint, those allegations be stricken and the Complaint be dismissed as to McDonald's.

Dated: December 29, 2014

Respectfully submitted,

s/ Willis J. Goldsmith

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Attorneys for McDonald's USA, LLC

**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the States of Illinois and Missouri, affirms under penalty of perjury, that, on December 29, 2014, he caused a true and correct copy of McDonald's USA, LLC's Motion for A Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint, to be served upon counsel for the parties by e-mail (where indicated) and/or first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**  
**REGION 2**

**MCDONALD'S USA, LLC, *ET AL.***

**02-CA-093893 et al.**

**And**

**FAST FOOD WORKERS COMMITTEE AND SERVICE EMPLOYEES  
INTERNATIONAL UNION, CTW, CLC**

**AFFIDAVIT OF SERVICE OF:**

**GENERAL COUNSEL'S OPPOSITION TO RESPONDENT MCDONALD'S USA,  
LLC'S MOTION FOR A BILL OF PARTICULARS OR TO STRIKE THE JOINT  
EMPLOYER ALLEGATIONS AND DISMISS THE COMPLAINT**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on January 14, 2015 I served the above-entitled document(s) upon counsel for the parties by electronic mail at the following addresses:

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Subscribed and sworn before me this 14<sup>th</sup>  
day of January 2015

/s/ Sara Strozier

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Sara Strozier

# **EXHIBIT F**

**FACSIMILE COVER SHEET**

**National Labor Relations Board  
Division of Administrative Law Judges  
120 West 45<sup>th</sup> Street  
New York, New York 10036  
phone 212-944-2941, fax 212-944-4904**

**From:** Lauren Esposito, Administrative Law Judge  
**Date:** 01/22/15  
**Pages:** 8 (including 2 cover sheets)  
**Comments:** Re: McDonald's  
Case No. 02-CA-93895 et al

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**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42ND STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-098009</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-106094</b>

**and**

**FAST FOOD WORKERS COMMITTEE AND**

**SERVICE EMPLOYEES INTERNATIONAL  
UNION, CTW, CLC****and****JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
MCDONALD'S USA, LLC and MCDONALD'S  
USA, LLC, Joint Employers****Cases 04-CA-125567  
04-CA-129783  
04-CA-133621****and****PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE****and****KARAVITES RESTAURANTS 11102, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS****Case 13-CA-106490****KARAVITES RESTAURANTS 26, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS****Case 13-CA-106491****RMC LOOP ENTERPRISES, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS****Case 13-CA-106493****WRIGHT MANAGEMENT, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS****Cases 13-CA-107668  
13-CA-113837****V. OVIEDO, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS****Cases 13-CA-115647  
13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440****McDONALD'S RESTAURANTS OF ILLINOIS,  
INC.,****Cases 13-CA-117083  
13-CA-118691  
13-CA-121759****LOFTON & LOFTON MANAGEMENT V, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS****Case 13-CA-118690****K. MARK ENTERPRISES, LLC, A McDONALD'S****Cases 13-CA-123699**

**FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS** **Case 13-CA-124213**

**KARAVITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS** **Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**and**

**MAZT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, AS JOINT  
EMPLOYERS** **Cases 20-CA-132103  
20-CA-135947  
20-CA-135979  
20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING COMMITTEE**

**and**

**FAITH CORPORATION OF INDIANAPOLIS,  
A McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS** **Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF CHICAGO**

and

**D. BAILEY MANAGEMENT COMPANY., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC  
AS JOINT EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC  
AS JOINT EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

and

**LOS ANGELES ORGANIZING COMMITTEE**

**ORDER DENYING RESPONDENT McDONALD'S USA, LLC'S  
MOTION FOR A BILL OF PARTICULARS**

The Consolidated Complaint and Notice of Hearing in this matter, comprised of complaints issued by the Regional Directors for Regions 2, 4, 13, 20, 25, and 31, alleges that McDonald's USA, LLC ("McDonald's") and various of its franchisees, as joint employers, violated Sections 8(a)(1) and (3) of the Act. On December 29, 2014, McDonald's filed Motions for a Bill of Particulars contending that the allegations of joint employer status contained in the Region 2, 4, 13, 20, 25, and 31 complaints lacked sufficient particularity. McDonald's sought an order requiring that the Regional Directors provide "the particulars" of the joint employer allegation, or an order striking the joint employer allegations and dismissing the complaints with respect to McDonald's.

An Order consolidating the Region 2, 4, 13, 20, 25, and 31 complaints issued on January 6, 2015; these complaints will thus be collectively referred to as the "Consolidated Complaint" herein. On January 14, 2014, Counsel for the General Counsel filed an Opposition addressing all of the Motions for a Bill of Particulars filed by McDonald's in connection with the Consolidated Complaint. Because the Motions are identical in terms of the arguments made and the issues raised, and the cases have now been consolidated, this Order will address all Motions for a Bill of Particulars in the cases which are now a part of the Consolidated Complaint.

Section 102.15 of the Board's Rules and Regulations requires that a complaint contain "a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed." It is well-settled that a complaint under the Board's standards need not have the particularity of an indictment or a pleading filed under the Federal Rules of Civil Procedure. For many years, the Board and the courts have adhered to the principle, "All that is required of a valid complaint before the Board is a plain statement of the facts claimed to constitute an unfair labor practice." *North American Rockwell Corp. v. NLRB*, 389 F.2d 866, 871 (10<sup>th</sup> Cir. 1968); see also *Artesia Ready Mix Concrete, Inc.*, 339 NLRB 1224, 1226 (2003). Therefore, a bill of particulars is warranted "only when the complaint is so vague that the party charged is unable to meet the General Counsel's case."<sup>1</sup> *North American Rockwell Corp.*, 389 F.2d at 871; *Mid-West Paper Products Co.*, 223 NLRB 1367, 1376 (1976), *enf.d.*, 580 F.2d 240 (6th Cir. 1978). So long as Respondent is informed of "the nature of the violations charged, the manner by which Respondent had engaged in unfair labor practices, and the approximate times and places at which such acts had been committed," the pleading is adequate. *Walsh-Lumpkin Wholesale Drug Co.*, 129 NLRB 294, 295 (1960); see also *Dal-Tex Optical Company*, 130 NLRB 1313, 1314, n. 1 (1961). In addition, General Counsel is not required to "describe in the complaint the legal theory relied on" in order to establish a violation. *Cofire Paving Corp.*, 359 NLRB No. 10, at p. 6, fn. 20 (2012), citing *Davis Supermarkets, Inc. v. NLRB*, 2 F.3d 1162, 1169 (D.C. Cir. 1993) and *Pergament United Sales, Inc. v. NLRB*, 920 F.2d 130, 135 (2d Cir. 1990).

The Administrative Procedure Act, also cited by McDonald's, involves a similarly broad standard. Section 554(b)(3) of the APA states that individuals entitled to notification must receive notice of "the time, place and nature" of the hearing, the "legal authority and jurisdiction" for the proceeding, and "the matters of fact and law asserted." Reviewing courts interpreting these requirements have held that "[a]s long as a party to an administrative proceeding is reasonably apprised of the issues in controversy, and is not misled, the notice is sufficient." *Long v. Board of Governors of the Federal Reserve System*, 117 F.3d 1145, 1158 (10<sup>th</sup> Cir. 1997), quoting *Savina Home Industries, Inc. v. Secretary of Labor*, 594 F.2d 1358, 1365 (10th Cir. 1979).

The Consolidated Complaint's allegations with respect to joint employer status satisfy these general standards. The Board will find two separate entities joint employers of a single group of employees where the evidence establishes that they "share or codetermine those

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<sup>1</sup> The language used by McDonald's to formulate a standard which it contends applies here is culled from cases where the violations at issue were never alleged in the complaint at any time, and were not articulated or litigated by the parties during the hearing. *Santa Fe Tortilla Co.*, 360 NLRB No. 130, at p. 2, fn. 9, and at p. 10, fn. 6 (2014) (ALJ properly refused to consider unalleged Section 8(a)(1) contentions "given the General Counsel's failure to amend the complaint or give notice in some other form during the hearing"); *Soule Glass and Glazing Co. v. NLRB*, 652 F.2d 1055, 1074, 1078, 1083, fn. 17, 1100-1102 (1<sup>st</sup> Cir. 1981); see also *J.C. Penny Co. v. NLRB*, 384 F.2d 479, 482, 483 (10<sup>th</sup> Cir. 1967).

matters governing the essential terms and conditions of employment," or "meaningfully affect[]" employment issues such as hiring, firing, discipline, supervision and direction of work. *CNN America, Inc.*, 361 NLRB No. 47, at p. 3 (2014), quoting *TLI, Inc.*, 271 NLRB 798 (1984) and *Laerco Transportation*, 269 NLRB 324, 325 (1984). The Board and the courts have also considered additional factors germane to the employees' employment in making a finding of joint employer status, such as the prerogative to determine the number of available jobs and set wage rates and total overtime hours, and involvement in the collective bargaining process. See *CNN America, Inc.*, 361 NLRB No. 47, at p. 3, fn. 7, citing *D&F Industries*, 339 NLRB 618, 640 (2003), *Clinton's Ditch Co-Op Co. v. NLRB*, 778 F.2d 132, 138-139 (2d Cir. 1985), and *Aldworth Co.*, 338 NLRB 137, 139-141 (2002). The Consolidated Complaint alleges that at all material times, McDonald's has had a franchise agreement with the individual franchisees, has "possessed and/or exercised control over the labor relations policies" pertinent to the employees, and has "been a joint employer of the employees" at the various franchisees' locations. The Consolidated Complaint's allegations then describe the unfair labor practices purportedly committed by the franchisees, identifying specific managers, supervisors, dates, times, and locations. In that the Consolidated Complaint articulates a basis for the imposition of liability on McDonald's and a factual ground for a finding of joint employer status, it complies with the broad standards for pleading discussed above.

For all of the foregoing reasons, McDonald's Motion for a Bill of Particulars is denied.

Dated: New York, New York  
January 22, 2015

  
Lauren Esposito  
Administrative Law Judge

# **EXHIBIT G**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
ADMINISTRATIVE LAW JUDGE LAUREN ESPOSITO**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-098809</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A</b>	<b>Case: 02-CA-106094</b>

**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYER**

**and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL UNION,  
CTW, CLC**

**And**

**JO-DAN MADALISSE LTD, LLC d/b/a MCDONALD'S, Cases 04-CA-125567  
A FRANCHISEE OF MCDONALD'S USA, LLC and 04-CA-129783  
MCDONALD'S USA, LLC Joint Employers 04-CA-133621**

**And**

**PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**And**

**KARAVITES RESTAURANTS 11102, LLC, A Case 13-CA-106490  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**KARAVITES RESTAURANTS 26, INC., A Case 13-CA-106491  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**RMC LOOP ENTERPRISES, LLC, A McDONALD'S Case 13-CA-106493  
FRANCHISEE, AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**

**WRIGHT MANAGEMENT, INC., A McDONALD'S Cases 13-CA-107668  
FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT 13-CA-113837  
EMPLOYERS**

**V. OVIEDO, INC., A McDONALD'S FRANCHISEE, Cases 13-CA-115647  
AND McDONALD'S USA, LLC, JOINT EMPLOYERS 13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS, INC. Cases 13-CA-117083  
13-CA-118691**

13-CA-121759  
**LOFTON & LOFTON MANAGEMENT V, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**      **Case 13-CA-118690**

**K. MARK ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Cases 13-CA-123699  
13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**      **Case 13-CA-124213**

**KARAVITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**      **Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**      **Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**      **Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC,  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**      **Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**      **Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

**MAZT, INC., A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, AS JOINT EMPLOYERS**      **Cases 20-CA-132103  
20-CA-135947  
20-CA-135979  
20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING COMMITTEE**

**FAITH CORPORATION OF INDIANAPOLIS, A**      **Cases 25-CA-114819**

**McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

**D. BAILEY MANAGEMENT COMPANY, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC AS  
JOINT EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

**And**

**LOS ANGELES ORGANIZING COMMITTEE**

**MCDONALD’S USA, LLC’S REPLY IN SUPPORT OF ITS MOTION FOR A BILL OF PARTICULARS OR, IN THE ALTERNATIVE, MOTION TO STRIKE JOINT EMPLOYER ALLEGATIONS AND DISMISS THE COMPLAINT**

The General Counsel’s Opposition fails to address the crucial point of McDonald’s USA, LLC’s (“McDonald’s”) Motion. More specifically, the Complaint<sup>1</sup> includes no factual basis supporting the conclusory legal allegations that McDonald’s is a joint employer of the restaurant employees of the named independent franchisees. Instead, the General Counsel focuses on the adequacy of the factual allegations regarding the purported unfair labor practices of these independent franchisees at the various restaurants (Opposition at 5-7), and insists that the General Counsel is not required to express legal theories in the Complaint (Opposition at 7-8). These non-responsive arguments only underscore McDonald’s argument that the Complaint, as drafted, fails to include sufficient factual allegations regarding the purported joint employer status to enable McDonald’s a fair opportunity to answer and prepare evidence for its defense at trial.

As set forth in McDonald’s Motion, the only allegations in the Complaint regarding joint employer status refer to the existence of a franchise agreement with each franchisee, a conclusory statement that McDonald’s “possessed and/or exercised control over the labor relations policies of” each franchisee, and a blanket legal assertion that McDonald’s is therefore a joint employer with each named independent franchisee. (Motion at 2-5; Complaint ¶¶ 5, 16,

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<sup>1</sup> On January 6, 2015, the Regional Director of Region 2 issued an order further consolidating for trial the unfair labor practice cases identified in the above case caption, which cases arose in Regions 2, 4, 13, 20, 25, and 31. Accordingly, Counsel for the General Counsel’s Opposition to McDonald’s Motion filed in Region 2 stated that its Opposition addressed also the arguments made in support of McDonald’s other pending motions for a bill of particulars filed in Regions 4, 13, 20, 25, and 31. With this Reply, McDonald’s follows the same convention, and urges the Administrative Law Judge (“ALJ”) to grant McDonald’s Motion with respect to each of the Complaints currently consolidated before the ALJ. Further, while this Reply specifically refers to the Complaint and McDonald’s Motion filed in Region 2, the arguments herein apply equally to support McDonald’s other pending Motions for Bills of Particular filed in connection with the Complaints issued in Regions 4, 13, 20, 25, and 31.

25, 32, 41, 47, 55, 63, 69, 75, 86.)<sup>2</sup> There is no factual assertion for the proposition that McDonald's allegedly "possessed and/or exercised control over the labor relations policies" of independent franchisees sufficient to make it a joint employer for purposes of the National Labor Relations Act ("NLRA" or the "Act"). The Complaint does not point to any provision of the franchise agreement, or any way in which McDonald's allegedly exercised control over labor relations of its independent franchisees. While Counsel for the General Counsel argues that he need not "express[]" legal theories in pleadings (Opposition at 7-8), the above-referenced paragraphs do only that - they fail to allege any factual basis whatsoever on the legal theory asserted against McDonald's.

As McDonald's stated in its Motion, these vague allegations are insufficient under the rules and regulations applicable to administrative complaints under the Act. *See* Administrative Procedure Act, 5 U.S.C. § 554(b)(3); NLRB Rules and Regulations, Rule 102.15; NLRB Casehandling Manual § 10268.1; NLRB Pleadings Manual § 300.3(b). They are also plainly inadequate under applicable Board and federal case law. *See* Flagstaff Med. Ctr., Inc., 357 NLRB No. 65, 2011 WL 4498271, at \*11 (Aug. 26, 2011); Soule Glass Co. v. NLRB, 652 F.2d 1055, 1074 (1st Cir. 1981). Further, because the Complaint does not include facts giving rise to plausible entitlement to relief, but rather states mere conclusory assertions concerning McDonald's purported status as a joint employer, it is insufficient. *See* Ashcroft v. Iqbal, 556 662 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007).

The General Counsel's pleading failings are particularly egregious given the legal backdrop of this case. The General Counsel's position – as expressed in his brief to the Board in

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<sup>2</sup> As noted *supra*, these arguments as to the Region 2 Complaint apply equally to the Complaints filed in Region 4 (¶ 2(g)), Region 13 (¶¶ 5, 16, 29, 36, 44, 68, 73, 84, 91, 97, 109, 115, and 121), Region 20 (¶ 4), Region 25 (¶ 4), and Region 31 (¶¶ 4, 5, and 6).

*Browning-Ferris* – is that the Board’s joint employer standard should be substantially broadened. See Browning Ferris Industries of California, Inc., Case No. 32-RC-109684 (filed June 26, 2014), available at <http://www.nlr.gov/case/32-RC-109684>. Thus, presumably, the General Counsel will argue here that factors beyond the well-established “possessed and/or exercised control over the labor relations policies” standard, e.g. Laerco Transportation, 269 NLRB 324 (1984), support his claim that McDonald’s is a joint employer with its independent franchisees. Absent knowing what those factors are in advance of trial, McDonald’s will be faced with defending a claim that it is a joint employer without knowing the factual allegations supporting the General Counsel’s position. Given both the undeniable importance of this matter and the limited discovery available to a respondent in an unfair labor practice trial, putting McDonald’s in such a position is inconsistent with any notion of due process or fundamental fairness.

For the above reasons, as well as those explained in its opening Motion, McDonald’s respectfully requests that the ALJ order the Regional Director<sup>3</sup> to promptly provide Respondents with the specifics and particulars of the joint employer allegations contained in the Complaint as to each franchisee named in Paragraphs 5, 16, 25, 32, 41, 47, 55, 63, 69, 75 and 86.<sup>4</sup> If the Regional Director fails to do so, those allegations should be stricken and the Complaint dismissed as to McDonald’s. Further, McDonald’s requests that the ALJ schedule oral argument, or other appropriate conference with all parties, as soon as possible on this Motion, as well as on McDonald’s pending Motion to Sever that was filed on January 15, 2015.

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<sup>3</sup> The Regional Director of Region 2, as the coordinating Region for the now-consolidated complaints in Regions 2, 4, 13, 20, 25, and 31.

<sup>4</sup> As well as the relevant paragraphs in the complaints filed in Regions 4, 13, 20, 25, and 31. (*See supra.*)

Dated: January 22, 2015

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the State of Illinois, affirms under penalty of perjury that on January 22, 2015, he caused a true and correct copy of McDonald's USA, LLC's Reply in Support of Its Motion for a Bill of Particulars or, In the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint to be served upon counsel for the parties by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
ADMINISTRATIVE LAW JUDGE LAUREN ESPOSITO**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42<sup>ND</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases: 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-098809</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case: 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A</b>	<b>Case: 02-CA-106094</b>

**McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYER**

**and**

**FAST FOOD WORKERS COMMITTEE AND  
SERVICE EMPLOYEES INTERNATIONAL UNION,  
CTW, CLC**

**And**

**JO-DAN MADALISSE LTD, LLC d/b/a MCDONALD'S, Cases 04-CA-125567  
A FRANCHISEE OF MCDONALD'S USA, LLC and 04-CA-129783  
MCDONALD'S USA, LLC Joint Employers 04-CA-133621**

**And**

**PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**And**

**KARAVITES RESTAURANTS 11102, LLC, A Case 13-CA-106490  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**KARAVITES RESTAURANTS 26, INC., A Case 13-CA-106491  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS**

**RMC LOOP ENTERPRISES, LLC, A McDONALD'S Case 13-CA-106493  
FRANCHISEE, AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS**

**WRIGHT MANAGEMENT, INC., A McDONALD'S Cases 13-CA-107668  
FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT 13-CA-113837  
EMPLOYERS**

**V. OVIEDO, INC., A McDONALD'S FRANCHISEE, Cases 13-CA-115647  
AND McDONALD'S USA, LLC, JOINT EMPLOYERS 13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS, INC. Cases 13-CA-117083  
13-CA-118691**

**LOFTON & LOFTON MANAGEMENT V, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS** **13-CA-121759**  
**Case 13-CA-118690**

**K. MARK ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Cases 13-CA-123699**  
**13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS** **Case 13-CA-124213**

**KARAVITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS** **Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND McDONALD'S,  
USA, LLC, JOINT EMPLOYERS** **Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC,  
McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS** **Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS** **Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

**MAZT, INC., A McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, AS JOINT EMPLOYERS** **Cases 20-CA-132103**  
**20-CA-135947**  
**20-CA-135979**  
**20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING COMMITTEE**

**FAITH CORPORATION OF INDIANAPOLIS, A** **Cases 25-CA-114819**

**McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS**

**25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**And**

**D. BAILEY MANAGEMENT COMPANY, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT  
EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC AS  
JOINT EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

**And**

**LOS ANGELES ORGANIZING COMMITTEE**

**MCDONALD'S USA, LLC'S MOTION FOR RECONSIDERATION**

McDonald's USA, LLC ("McDonald's") filed its Motion for a Bill of Particulars or, in the Alternative, Motion to Strike Joint Employer Allegations and Dismiss the Complaint (the "Motion") on December 29, 2014. Counsel for the General Counsel filed an Opposition to the Motion on January 14, 2015. McDonald's counsel filed its Reply on January 22, 2015, and then received a facsimile copy of the Administrative Law Judge's ("ALJ") Order denying the Motion. The Order was initially received in Jones Day's New York office as a garbled transmission containing only a fax cover sheet. At approximately the same time as McDonald's counsel at Jones Day in New York was attempting to track down the complete fax, McDonald's counsel at

Jones Day in Chicago was electronically filing McDonald's Reply to Counsel for the General Counsel's Opposition.

Accordingly, it appears the ALJ issued the Order denying McDonald's Motion without any opportunity to review and consider McDonald's Reply. McDonald's therefore respectfully requests that the ALJ reconsider McDonald's Motion in light of the arguments presented in its Reply.

Additionally, while the ALJ denied the Motion, she relied upon the joint employer standard of finding two separate entities joint employers where they "share or codetermine those matters governing the essential terms and conditions of employment" or "meaningfully affect[]" employment issues such as hiring, firing, discipline, supervision and direction of work", *citing* CNN America, Inc. 361 NLRB No. 47, at p. 3 (2014) (quoting TLI, Inc., 271 NLRB 798 (1984) and Laerco Transportation, 269 NLRB 324, 325 (1984)). The complaint alleges neither of those things and therefore does not state facts sufficient to constitute an unfair labor practice by McDonald's (North American Rockwell Corp. v. NLRB, 389 F.2d 866, 871 (10th Cir 1968)) and falls short of being a valid complaint.

Dated: January 26, 2015

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney admitted to practice before the Courts of the State of Illinois, affirms under penalty of perjury that on January 26, 2015, he caused a true and correct copy of McDonald's USA, LLC's Motion for Reconsideration to be served upon counsel for the parties by e-mail (where indicated) and first-class mail in a postage-prepaid, properly addressed envelope at the following addresses designated for this purpose:

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# **EXHIBIT I**

**FACSIMILE COVER SHEET**

**National Labor Relations Board  
Division of Administrative Law Judges  
120 West 45<sup>th</sup> Street  
New York, New York 10036  
phone 212-944-2941, fax 212-944-4904**

**From: Lauren Esposito, Administrative Law Judge**

**Date: 01/28/15**

**Pages: 7 (including 2 cover sheets)**

**Comments: Re: McDonald's  
Case No. 02-CA-93895 et al**

**JDO on Motion for Reconsideration**

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**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

<b>AJD, INC., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093895 02-CA-097827</b>
<b>LEWIS FOODS OF 42ND STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093893 02-CA-098662</b>
<b>18884 FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094224 02-CA-098676</b>
<b>14 EAST 47<sup>TH</sup> STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-094679 02-CA-098604</b>
<b>JOHN C FOOD CORP., A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-093927 02-CA-098659</b>
<b>840 ATLANTIC AVENUE, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-097305</b>
<b>1531 FULTON STREET, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Cases 02-CA-103771 02-CA-112282</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-098009</b>
<b>McCONNER STREET HOLDING, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103384</b>
<b>MIC-EASTCHESTER, LLC, A McDONALD'S FRANCHISEE, AND McDONALD'S, USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-103726</b>
<b>BRUCE C. LIMITED PARTNERSHIP, A McDONALD'S FRANCHISEE, AND McDONALD'S USA, LLC, JOINT EMPLOYERS</b>	<b>Case 02-CA-106094</b>

**and**

**FAST FOOD WORKERS COMMITTEE AND**

**SERVICE EMPLOYEES INTERNATIONAL  
UNION, CTW, CLC**

**and**

**JO-DAN MADALISSE LTD, LLC d/b/a  
MCDONALD'S, A FRANCHISEE OF  
MCDONALD'S USA, LLC and MCDONALD'S  
USA, LLC, Joint Employers**

**Cases 04-CA-125567  
04-CA-129783  
04-CA-133621**

**and**

**PENNSYLVANIA WORKERS ORGANIZING  
COMMITTEE, A PROJECT OF THE FAST FOOD  
WORKERS COMMITTEE**

**and**

**KARAVITES RESTAURANTS 11102, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106490**

**KARAVITES RESTAURANTS 26, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106491**

**RMC LOOP ENTERPRISES, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-106493**

**WRIGHT MANAGEMENT, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS**

**Cases 13-CA-107668  
13-CA-113837**

**V. OVIEDO, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS**

**Cases 13-CA-115647  
13-CA-119015  
13-CA-123916  
13-CA-124813  
13-CA-131440**

**McDONALD'S RESTAURANTS OF ILLINOIS,  
INC.,**

**Cases 13-CA-117083  
13-CA-118691  
13-CA-121759**

**LOFTON & LOFTON MANAGEMENT V, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS**

**Case 13-CA-118690**

**K. MARK ENTERPRISES, LLC, A McDONALD'S**

**Cases 13-CA-123699**

**FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **13-CA-129771**

**NORNAT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, JOINT  
EMPLOYERS** **Case 13-CA-124213**

**KARAVITES RESTAURANT 5895, INC., A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-124812**

**TAYLOR & MALONE MANAGEMENT, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S, USA, LLC, JOINT EMPLOYERS** **Case 13-CA-129709**

**RMC ENTERPRISES, LLC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Case 13-CA-131141**

**KARAVITES RESTAURANT 6676, LLC, A  
McDONALD'S FRANCHISEE, AND  
McDONALD'S USA, LLC, JOINT EMPLOYERS** **Case 13-CA-131143**

**TOPAZ MANAGEMENT, INC., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC,  
JOINT EMPLOYERS** **Case 13-CA-131145**

**and**

**WORKERS ORGANIZING COMMITTEE OF  
CHICAGO**

**and**

**MAZT, INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC, AS JOINT  
EMPLOYERS** **Cases 20-CA-132103  
20-CA-135947  
20-CA-135979  
20-CA-137264**

**and**

**WESTERN WORKERS ORGANIZING COMMITTEE**

**and**

**FAITH CORPORATION OF INDIANAPOLIS,  
A McDONALD'S FRANCHISEE, AND McDONALD'S  
USA, LLC, JOINT EMPLOYERS** **Cases 25-CA-114819  
25-CA-114915  
25-CA-130734  
25-CA-130746**

**and**

**WORKERS ORGANIZING COMMITTEE OF CHICAGO**

and

**D. BAILEY MANAGEMENT COMPANY., A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC  
AS JOINT EMPLOYERS**

**Cases 31-CA-127447  
31-CA-130085  
31-CA-130090  
31-CA-132489  
31-CA-135529  
31-CA-135590**

**2MANGAS INC., A McDONALD'S FRANCHISEE,  
AND McDONALD'S USA, LLC AS JOINT EMPLOYERS**

**Cases 31-CA-129982  
31-CA-134237**

**SANDERS-CLARK & CO., INC, A McDONALD'S  
FRANCHISEE, AND McDONALD'S USA, LLC  
AS JOINT EMPLOYERS**

**Cases 31-CA-128483  
31-CA-129027  
31-CA-133117**

and

**LOS ANGELES ORGANIZING COMMITTEE**

**ORDER DENYING RESPONDENT McDONALD'S  
MOTION FOR RECONSIDERATION**

On December 29, 2014, Respondent McDonald's USA, LLC ("McDonald's") filed Motions for a Bill of Particulars in the cases, then unconsolidated, which comprise the above matter. The cases were then consolidated by Order dated January 6, 2015. On January 14, 2015, Counsel for the General Counsel ("General Counsel") filed an Opposition, and on January 22, 2015,<sup>1</sup> I issued an Order denying the Motion.

On January 26, McDonald's filed a Motion for Reconsideration of the January 22 Order denying its Motions for a Bill of Particulars, on the grounds that I had not received McDonald's Reply to General Counsel's Opposition at the time that the Order issued. Counsel for McDonald's contends that it did not receive a complete copy of the January 22 Order until it had already filed its Reply.

The NLRB Rules and Regulations do not provide for the filing of reply papers in connection with a motion for a bill of particulars, and McDonald's neither requested nor received permission to file a Reply. According to information available from the fax machine at the Division of Judges, New York Branch Office, counsel for McDonald's in both New York and Chicago received the January 22 Order Denying the Motions for a Bill of Particulars, in its entirety, by 4:11 p.m., EST, on that day. Although the telephone number for the New York Branch Office appeared on the first page of the fax transmitting the Order, no one contacted the New York Branch Office to state that the Order was incomplete or otherwise indicate that the Order had not been received. McDonald's Reply was then filed at 6:59 p.m., EST, that day.

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<sup>1</sup> All subsequent dates are in 2015 unless otherwise indicated.

Based upon the foregoing, McDonald's Motion for Reconsideration of the January 22 Order denying its Motions for a Bill of Particulars is denied.

Dated: New York, New York  
January 28, 2015

  
Lauren Esposito  
Administrative Law Judge