

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

WEWORK COMPANIES, INC.

and

Case 32-CA-173569

TARA ZOUMER, an Individual

**COUNSEL FOR THE GENERAL COUNSEL’S BRIEF IN SUPPORT OF ITS MOTION
FOR SUMMARY JUDGMENT AND RESPONSE TO RESPONDENT’S CROSS-
MOTION FOR SUMMARY JUDGMENT**

On June 30, 2016, the Regional Director for Region 32 of the Board issued and served a Complaint and Notice of Hearing in Case 32-CA-173569. The Complaint alleges, and Respondent does not dispute, that at all material times since November 10, 2015, and continuing to date, Respondent has required its employees, as a condition of employment, to sign a “WeWork Employment Dispute Resolution Program” (the Arbitration Agreement) and an “Invention, Non-Disclosure, and Non-Solicitation Agreement” (the Non-Disclosure Agreement). The Complaint further alleges that Respondent violated Section 8(a)(1) of the Act by the maintenance of the Arbitration Agreement and the Non-Disclosure Agreement and for terminating the Charging Party for her refusal to sign these documents and/or consent to their terms. The Complaint also alleges that the Arbitration Agreement contains an unlawful confidentiality provision and that Respondent’s Non-Disclosure Agreement contains unlawful rules restricting disclosure of personnel data and prohibiting employees from making disparaging and defamatory remarks, in violation of Section 8(a)(1) of the Act.

On August 9, 2016, Counsel for the General Counsel filed a Motion to Transfer Case to the Board and Motion for Summary Judgment (the Motion). On August 9, 2016, Respondent

filed its Motion to Transfer to the Board and Motion for Summary Judgment (the Cross-Motion). On August 17, 2016, the Executive Secretary, on behalf of the National Labor Relations Board (the Board), issued an Order Transferring Proceeding to the Board and Notice to Show Cause as to why the Motion should not be granted, which inadvertently failed to acknowledge the Cross-Motion filed by Respondent on August 9, 2016. Thus, on August 29, 2016, the Board issued an Order Correcting and Supplemental Notice to Show Cause.

As set forth more fully below, Counsel for the General Counsel submits this Brief in Support of the Motion and asserts that Respondent's Cross-Motion should be denied. In its Cross-Motion, Respondent concedes that there are no bona fide issues of fact to warrant a hearing before an administrative law judge on the allegations set forth in the Complaint. However, Respondent asserts that *D.R. Horton*, 357 NLRB 2277 (2012), enf. denied in relevant part, 737 F.2d 344 (5th Cir. 2013), and its progeny, were incorrectly decided and should be overturned, and that *D.R. Horton* conflicts with the Federal Arbitration Act (FAA) and the Act. Respondent further incorrectly asserts that the rules at issue in its Arbitration Agreement and Non-Disclosure Agreement are lawful. Because Respondent's arguments are without merit, Counsel for the General Counsel urges the Board to grant the Motion and deny Respondent's Cross-Motion in its entirety.

I. Respondent's Arbitration Agreement Violates the Act Under Controlling Precedent Established by *D.R. Horton* and *Murphy Oil*.

Respondent's Arbitration Agreement violates Section 8(a)(1) of the Act because it precludes employees from engaging in class or collective legal activity, which are substantive rights protected by Section 7 of the Act. In *Murphy Oil USA, Inc.*, 361 NLRB No. 72 (2014), enf. denied in relevant part, 808 F.3d 1013 (5th Cir. 2015), the Board reaffirmed its decision in *D.R. Horton*, and found that arbitration agreements that are imposed as a condition of employment

and compel individual arbitration of workplace claims against their employer, require employees to forfeit their substantive rights to act collectively and, therefore, violate Section 8(a)(1) of the Act. See *id.*, slip op. at 2 (2014). The Board explained that while the Act “does not create a right to class certification or the equivalent. .it does create a right to *pursue* joint, class, or collective claims if and as available, without the interference of an employer-imposed restraint.” *Id.* (emphasis in original); *D.R. Horton Inc.*, *supra*; see also *Eastex Inc. v. NLRB*, 437 U.S. 556, 567-68 (1978). In *D.R. Horton*, the Board further explained that the “right to engage in collective action—including collective legal action—is the core substantive right protected by the NLRA and is the foundation on which the Act and Federal labor policy rest.” *D.R. Horton*, *supra*, at 2279-80.

In its Cross-Motion, Respondent claims that *D.R. Horton* and *Murphy Oil* were wrongly decided and relies upon various state and federal court rejections of these cases, including the recent Fifth Circuit decision, which denied enforcement of certain aspects of *D.R. Horton*. See *D.R. Horton v. NLRB*, 737 F.3d 344 (5th Cir. 2013). The Board, however, addressed and rejected these arguments in *Murphy Oil*. See *Murphy Oil*, *supra*, slip op. at 1-2. The Board has consistently reaffirmed the principles set forth in *D. R. Horton* and *Murphy Oil USA in GameStop Corp.*, 363 NLRB No. 89 (2015); *SolarCity Corporation*, 363 NLRB No. 83 (2015); *Waffle House, Inc.*, 363 NLRB No. 104 (2016); *Jack In The Box, Inc.*, 364 NLRB No. 12 (2016); *Securitas Security Services USA Inc.*, 363 NLRB No. 182 (2016). Thus, since the Supreme Court has not reversed *D.R. Horton* or *Murphy Oil*, they remain the controlling precedents.

In sum, the Board definitively held in *D.R. Horton* that an employer violates Section 8(a)(1) of the Act “by requiring employees to waive their right to collectively pursue employment-related claims in all forums, arbitral and judicial.” *D.R. Horton*, *supra*, at 2289. In

Murphy Oil, the Board expressly reaffirmed *D.R. Horton* despite the Fifth Circuit's refusal to enforce the earlier decision and reiterated that these types of agreements unlawfully infringe on employees' Section 7 rights. See *Murphy Oil*, supra, slip op. at 2.

II. *D.R. Horton and Murphy Oil are Consistent with the Policies Underlying the FAA and Other Federal Cases Favoring Arbitration and the Act.*

Contrary to Respondent's contentions in its Response, the Board's decisions in *D.R. Horton* and *Murphy Oil* do not present a conflict between the FAA, 9 U.S.C. §1, *et. seq.*, and the Act or other court cases upholding arbitration agreements. As the Board in *D.R. Horton* explained, "holding that an employer violates the NLRA by requiring employees, as a condition of employment, to waive their right to pursue collective legal redress in both judicial and arbitral forums accommodates the policies underlying both the NLRA and the FAA to the greatest extent possible." *D.R. Horton*, supra, at 2288. This is because Section 2 of the FAA provides that arbitration agreements may be invalidated in whole or in part for the same reasons any contract may be invalid, including if it is unlawful or contrary to public policy. *Id.*, at 2287. Inasmuch as the Arbitration Agreement here is inconsistent with the Act, it is not enforceable under the FAA.

In *D.R. Horton*, the Board also emphasized that finding an arbitration policy, such as the Arbitration Agreement here, unlawful does not conflict with the FAA because "the intent of the FAA was to leave substantive rights undisturbed." *D.R. Horton*, supra, at 2286. Although Respondent argues that the Arbitration Agreement does not waive substantive rights, in fact it clearly requires employees to forego substantive rights under the Act—the right to pursue employment-related claims in a collective or class action. The Board has consistently held this to be true. *Id.*; *Murphy Oil USA, Inc.*, supra, slip op. at 2. Thus, Respondent's Arbitration Agreement is unlawful not because it involves arbitration or specify particular procedures, but

rather because it prohibits employees from exercising their Section 7 rights to engage in collective legal activity in *any* forum.

Any argument that Federal District Courts have upheld class action waivers in mandatory arbitration policies is inapplicable here. The interpretation and enforcement of the substantive rights protected by the Act is accorded to the Board, not to the Federal District Courts. As such, it is the Board's decisions in *D.R. Horton* and *Murphy Oil* that are controlling in this case. See *Iowa Beef Packers, Inc.*, 144 NLRB 615, 616-617 (1963). Moreover, contrary to Respondent's claims, finding its Arbitration Agreement unlawful would not run afoul of Supreme Court decisions in *American Express Co. v. Italian Colors Restaurant*, 133 S.Ct. 2304 (2013), *CompuCredit Corp. v. Greenwood*, 132 S.Ct. 665 (2012), and *AT&T Mobility v. Concepcion*, 131 S.Ct. 1740 (2011), because those cases did not involve a waiver of rights under the NLRA or even employment agreements.

Further, adherence to *D.R. Horton* and *Murphy Oil* does not *compel* class arbitration, and Respondent is free to limit its arbitration program to individual arbitration, so long as employees remain free to exercise their Section 7 right to engage in collective legal activity in court and are not compelled to only act individually. In *D.R. Horton*, the Board held only that employers may not compel employees to waive their Section 7 rights to collectively pursue legal action of employment claims in *all* forums, arbitral and judicial. *D.R. Horton*, 357 NLRB 2277, 2288(2012), enf. denied in relevant part, 737 F.2d 344 (5th Cir. 2013). Thus, so long as employers leave open a judicial forum for class and collective claims, employees' Section 7 rights are preserved without requiring the availability of class-wide arbitration, and employers remain free to insist that *arbitral* proceedings be conducted on an individual basis. Any such policy would be entirely permissible under the FAA and would not run afoul of *American*

Express Co. or *AT&T*. Notably, while *AT&T* makes it clear that bilateral arbitration is *avored* under the FAA, neither of these decisions suggests that it is *compelled*. Thus, any claimed infringement on the FAA by protecting employees' Section 7 rights in these circumstances is entirely illusory.

Moreover, the Court's decision in *American Express* was premised on its conclusion that "[n]o contrary congressional command" required the Court to reject the waiver of class arbitration at issue there, based on its finding that the "antitrust laws do not 'evin[c] an intention to preclude a waiver of class-action procedure.'" *Id.*, 133 S.Ct. at 2309 (quoting *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614, 628 (1985)). The Court further declined to invalidate the arbitration agreement at issue in *American Express* based on the respondent's argument that it prevented the "effective vindication" of a federal statutory right. 133 S.Ct. at 2310-311, citing, *inter alia*, *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 28 (1991). Based on these findings, the Board's analysis of the Act is properly distinguished from the Court's analysis of anti-trust law. As the Board wrote in *D.R. Horton*,

The question presented in this case is *not* whether employees can effectively vindicate their statutory rights under the Fair Labor Standards Act in an arbitral forum. See *Gilmer*, *supra*. Rather, the issue here is whether the MAA's categorical prohibition of joint, class, or collective federal state or employment law claims in any forum directly violates the substantive rights vested in employees by Section 7 of the NLRA." *D.R. Horton*, *supra*, at 2285 (emphasis in original; footnote omitted).

Significantly, *American Express* did not address another basis for invalidating an arbitration agreement raised in *Gilmer*, i.e., where there is an "inherent conflict" between that arbitration and the underlying purposes of another Federal statute. See *Gilmer*, *supra* at 26 (noting that if Congress intended to preclude a waiver of a judicial forum for ADEA claims, "it will be discoverable in the text of the ADEA, its legislative history, or an 'inherent conflict'

between arbitration and the ADEA's underlying purposes"). Accordingly, in applying *Gilmer*, the Board in *D.R. Horton* found that there was an "inherent conflict between the NLRA and the MAA's waiver of the right to proceed collectively in any forum." *D.R. Horton*, supra at 2288. Therefore, *American Express* did not in any way affect the Board's holding in *D.R. Horton*, despite Respondent's claims to the contrary.

In contrast, permitting an employer to require employees to limit their legal claims to individual arbitration vitiates the right to collective action that lies at the heart of the Act. It is axiomatic that an employer cannot force employees to forego that right. It therefore follows that prohibiting employers from doing so protects the values inherent in the Act, without offending those values inherent in the FAA. Expressed another way, requiring an employer to adhere to the Act is entirely consistent with the FAA.

In *D.R. Horton*, the Board held that finding a mandatory arbitration agreement unlawful is "consistent with the well-established interpretation of the [Act] and with core principles of Federal labor policy" and "does not conflict with the letter or interfere with the policies underlying the FAA and, even if it did, that the finding represents an appropriate accommodation of the policies underlying the two statutes." *D.R. Horton*, supra, at 2284, 2288. Initially, the Board noted that: (1) under the FAA, "arbitration may substitute for a judicial forum only so long as the litigant can effectively vindicate his or her statutory rights through arbitration;" and (2) mandatory individual arbitration agreements prohibit employees from exercising their substantive statutory right to engage in collective legal action. *Id.* at 2285. Thus, the Board emphasized that "nothing in the text of the FAA suggests that an arbitration agreement that is inconsistent with the NLRA is nevertheless enforceable." *Id.* at 2288. Rather, a refusal to

enforce a mandatory arbitration agreement's class action waiver would directly further core policies underlying the Act, and is consistent with the FAA. *Id.*

Finally, as the *D.R. Horton* Board made clear, even if, contrary to the foregoing, there were an irreconcilable conflict between the Act and the FAA, the Supreme Court has held that when two federal statutes conflict, the later enacted statute, here the Act, must be understood to have impliedly repealed inconsistent provisions in the earlier enacted statute. *D.R. Horton*, 357 NLRB 2277, 2288, fn. 26 (2012), *enf. denied in relevant part*, 737 F.2d 344 (5th Cir. 2013).¹

For the reasons stated here, and for those iterated by the Board in *D.R. Horton* and reaffirmed by the Board in *Murphy Oil*, a finding that the Arbitration Agreement is unlawful under the Act does not pose a conflict with the FAA, and even if there were a direct conflict between the Act and the FAA, the terms of the Norris-LaGuardia Act and the rules of statutory interpretation strongly indicate that the FAA would have to yield. *D.R. Horton*, *supra*, at 2285.

Nor is there any merit to the assertion that *D.R. Horton* is in conflict with the Act because the Act guarantees employees' rights to "refrain from" engaging in protected activities and employees therefore have a right to resolve an individual dispute with their employer. The Board's decision in *D.R. Horton* invalidates mandatory agreements which compel employees to forgo their statutory rights to bring class or collective claims in any forum and which preclude employee access to the Board and its processes. Thus, the *D.R. Horton* ruling *protects* core rights established by the Act, it does not extinguish them.

¹ While the FAA was reenacted and codified as Title 9 of the United States Code in 1947, both the legislative history and the Supreme Court make clear that the relevant date of enactment is 1925. See, e.g., H.R. Rep. No. 80-251 (1947), reprinted in 1947 U.S.C.C.A.N. 1511 (expressly stating that the 1947 bill made "no attempt" to amend the existing law); H.R. Rep. No. 80-255 (1947) reprinted in 1947 U.S.C.C.A.N. 1515 (same); *Compucredit Corp. v. Greenwood*, 132 S.Ct. 665, 668, (2012) ("the Federal Arbitration Act (FAA), enacted in 1925"); *AT&T Mobility v. Concepcion*, 131 S.Ct. at 1745, 1751 ("[t]he FAA was enacted in 1925," "class arbitration was not even envisioned by Congress when it passed the FAA in 1925"); *Vaden v. Discover Bank*, 129 S.Ct. 1262, 1271 (2009) ("[i]n 1925, Congress enacted the FAA"). The relevant date of enactment for the NLRA is 1935.

III. Employees Would Interpret the Arbitration Agreement as Interfering With Their Access to the Board.

Respondent incorrectly asserts that the language of the Arbitration Agreement cannot reasonably be interpreted as precluding or interfering with access to the Board. When work rules and policies, such as those contained in the Arbitration Agreement, are alleged to violate Section 8(a)(1) of the Act, the Board's task is to determine how a reasonable employee would interpret the policy and whether the policy would reasonably tend to interfere with, threaten, or coerce employees in the exercise of their Section 7 rights. See *Cellular Sales of Missouri, LLC*, 362 NLRB No. 27, slip op. at 1, fn. 4 (2015); see also *Lutheran Heritage Village-Livonia*, 343 NLRB 641 (2004).

In the instant case, the Arbitration Agreement contains broad language stating that the arbitration requirement applies to all claims arising from the parties' employment relationship and arising under any federal law or rule. Respondent's carve-out language, ostensibly preserving employees' access to the Board, does not cure these fatal ambiguities. While the first section forces employees to waive their right to access federal agencies for employment claims, the latter portion does not preserve an employees' right to access the Board, instead it creates an unlawful ambiguity. See *SolarCity* 363 NLRB No. 83 (2015); *Securitas Security Services USA*, 363 NLRB No. 182 (2016). Given the conflicting provisions, employees could reasonably fear running afoul of Respondent's overall policy by turning to the Board.

Respondent's Arbitration Agreement is, at best, ambiguous and confusing as to whether employees are permitted to file charges with the Board, and, at worst, prohibit employees' exercise of these Section 7 rights by making employees believe that they are so restricted. In either case, it is evident that employees would reasonably construe that the Arbitration

Agreement requires arbitration of NLRA claims and, thus, the Arbitration Agreement discourages employees from utilizing the Board's processes. See also *U-Haul Co. of California*, 347 NLRB 375, 377-78 (2006), end. memo. 255 Fed. Appx. 527 (D.C. Cir. 2007); *P.J. Cheese, Inc.*, 362 NLRB No. 177 slip op. at 2, fn. 6 (2015); *2 Sisters Food Group*, 357 NLRB No. 168, slip op. at 2 (2011); *Hooters of Ontario Mills*, 363 NLRB No. 2, slip op. at 2 (2015).

IV. Respondent's Confidentiality Provision Is Overbroad.

There is no merit to Respondent's claim that its Arbitration Agreement's confidentiality rule should be accorded greater leeway simply because it appears in its Arbitration Agreement. Respondent concedes that the Board has consistently held that confidentiality provisions, whether or not such provisions are a part of arbitration agreements, may not be so overbroad as to infringe on employees' Section 7 rights. See *Prof. Janitorial Serv. Of Houston*, 363 NLRB No. 35 (November 24, 2015), *Jack In The Box, Inc.*, 364 NLRB No. 12 (May 24, 2016). Here, Respondent's confidentiality provision explicitly prohibits employees' from discussing the terms of any arbitration award absent a limited exception. Such terms plainly encompass wages and terms and conditions of employment. Thus, an employee would reasonably conclude that Respondent's confidentiality rule prohibits discussion of wages and terms and conditions of employment. Respondent's confidentiality provision, therefore, violates Section 8(a)(1) of the Act.

V. The Non-Disclosure Agreement's Rule Regarding "Personnel Data" Is Unlawful.

Contrary to Respondent's assertion, the Non-Disclosure Agreement's requirement that employees keep "personnel data" confidential, is not sufficiently narrow or limited by context, so as to not infringe on employees' rights to discuss wages, terms and conditions of employment.

In this regard, Respondent's reliance on *Mediaone of Greater Florida, Inc.*, 340 NLRB 277 (2003), is misplaced and misses the crux of the Board's holding. In *Mediaone*, the employer's policy requiring confidentiality of proprietary information was narrowly drawn such that an employee would reasonably conclude the disclosure restriction was limited solely to information assets and intellectual property, and not employee data. While the *Mediaone* rule referred to "employee information" the Board viewed the context as clarifying that the rule applied to private business information and not to information regarding employees' terms and conditions of employment. *Id.* Here, in contrast, Respondent's Non-Disclosure Agreement sets forth an expansive definition of "proprietary information" which explicitly states that it applies to "*all information and know-how, whether or not in writing, of a private, secret or confidential nature concerning [Respondent's] business or financial affairs.*" (Emphasis added). The rule further advises that the listed examples of "proprietary information" are set forth "by way of illustration, but not limitation" and that "proprietary information may include without limitation. personnel data." This expansive language stands in stark contract to the limited parameters set forth in the *Mediaone* rule. The Board has consistently invalidated rules which define confidential information to include employee information. See *Hyundai America Shipping Agency, Inc.*, 357 NLRB 860, 862 (2011) (finding a rule unlawful that prohibited "[a]ny unauthorized disclosure from an employee's personnel file"); *Cintas Corp.*, 344 NLRB 943, 945 (2005) enfd. 42 F.3d 463 (D.C. Cir. 2007) (unlawful rule which required confidentiality of "any information concerning the Company, its business plans, its partners (employees), new business efforts, customers, accounting and financial matters."); *IRIS U.S.A. Inc.*, 336 NLRB 1013, 1013 fn. 1, 1015, 1018 (2001) (invalidating rule stating providing that employees information is "strictly confidential" and defining "personnel records" as confidential

information); *University Medical Center*, 335 NLRB 1318 (2001); *Flamingo Hilton-Laughlin*, 330 NLRB 287, 289 (1999) (finding unlawful a code of conduct provision that prohibited employees from revealing confidential information about customers, hotel business, or “fellow employees.”); see also *Costco Wholesale Corp.*, 358 NLRB 1100 (2012); *Security Walls, LLC*, 356 NLRB 596 (2011). In the instant case, Respondent’s rule explicitly advises employees the proprietary information includes a virtually unlimited universe of information including personnel data. In this overboard context, an employee cannot reasonably discern what personnel data may or may not be disclosed without running afoul of Respondent’s policy and thus their Section 7 rights are chilled. In these circumstances, Respondent’s policy, in clear contrast to the *Mediaone* policy, fails to establish a lawful boundary between prohibiting only disclosure of intellectual property and business information, and an unlawful prohibition on disclosure of employee wages and terms and conditions of employment.

VI. The Non-Disclosure Agreement’s Prohibitions Regarding Disparaging And Defamatory Remarks Are Unlawful.

Contrary to Respondent’s assertions in its Cross-Motion, the Non-Disclosure Agreement’s non-disparagement clause is overbroad in violation of the Act. The Non-Disclosure Agreement provision at issue here prohibits employees from making defamatory and disparaging remarks. While Respondent argues that the prohibitions apply only in the context of discussions regarding Respondent’s “businesses, products, services or activities,” it strains credulity to conclude that such sweeping language adequately clarifies that the restriction does not preclude employees from engaging in lawful criticism of Respondent. See *Quicken Loans*, 361 NLRB No. 94 (2014)(finding unlawful rule prohibiting employees from publicly criticizing, ridiculing, disparaging or defaming employer); *Casino San Pablo*, 361 NLRB No. 148, slip op. at 4 (2014)(rules banning false statements will be found unlawfully overbroad unless rule

specifies that only maliciously false statements are prohibited). In these circumstances, employees would reasonably view the Non-Disclosure Agreement's non-disparagement and defamation prohibitions to ban protected criticisms of Respondent, in violation of Section 8(a)(1) of the Act.

VII. Conclusion.

For all the above reasons, Counsel for the General Counsel urges the Board to find that *D.R. Horton* and *Murphy Oil* are controlling and that Respondent's maintenance of the Arbitration Agreement and Non-Disclosure Agreement unduly interfere with employees' freedom of association generally guaranteed under the Act and with employees' rights to file and participate in collective and class litigation, whether the forum for such action be judicial or arbitral, and to pursue claims with the Board, as guaranteed under Section 7 of the Act, in violation of Section 8(a)(1) of the Act, as alleged in the Complaint. Further, Counsel for the General Counsel urges the Board to find that Respondent's rules regarding confidentiality, disclosure of personnel data, and the making of disparaging and/or defamatory remarks, infringe upon employees' Section 7 rights in violation of Section 8(a)(1) of the Act, as alleged in the Complaint.

WHEREFORE, in view of the matters set forth above, the undersigned asks that the Board grant Counsel for the General Counsel's Motion for Summary Judgment, dismiss Respondent's Cross-Motion for Summary Judgment, and find and conclude that Respondent has violated Section 8(a)(1) of the Act and that it issue a Decision and Order in conformity with the

allegations in the Complaint.

DATED AT Oakland, California, this 12th day of September 2016.

Respectfully submitted,

A handwritten signature in cursive script that reads "Angela Hollowell-Fuentes" followed by a flourish.

Angela Hollowell-Fuentes
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

WEWORK COMPANIES, INC.

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TARA ZOUMER, an Individual

Case(s) 32-CA-173569

Date: September 12, 2016

**AFFIDAVIT OF SERVICE OF COUNSEL FOR THE GENERAL COUNSEL'S BRIEF IN
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO
RESPONDENT'S CROSS-MOTION FOR SUMMARY JUDGMENT**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

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September 12, 2016

Date

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Name

Signature

