

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

<b>INGREDION, INC. d/b/a PENFORD</b>	)	
<b>PRODUCTS CO.,</b>	)	
	)	
<b>Respondent,</b>	)	
	)	
<b>and</b>	)	<b>Case Nos. 18-CA-160654</b>
	)	<b>18-CA-170682</b>
<b>BCTGM Local 100G, affiliated with</b>	)	
<b>BAKERY, CONFECTIONARY,</b>	)	
<b>TOBACCO WORKERS, AND GRAIN</b>	)	
<b>MILLERS INTERNATIONAL UNION,</b>	)	
<b>AFL-CIO</b>	)	
	)	
<b>Charging Party.</b>	)	

**RESPONDENT’S EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE’S DECISION**

Ingredion Incorporated d/b/a Penford Products Co. ("Respondent"), by counsel, hereby submits its exceptions to certain findings of fact and conclusions of law of the Honorable Mark Carissimi, Administrative Law Judge ("ALJ"), in the above-entitled matter. These exceptions are filed pursuant to § 102.46(a) of the National Labor Relations Board's Rules and Regulations. The Respondent excepts as follows:

1. To the ALJ’s finding of fact or conclusion of law to discredit all testimony in contradiction to his factual findings. JD 3, fn. 5.<sup>1</sup> The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr.<sup>2</sup> 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

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<sup>1</sup> The ALJ's decision is cited as "JD" followed by citation to the page(s) and line(s) to which the exception is taken.

<sup>2</sup> The transcript in the instant proceeding is cited as "Tr." followed by the page number(s).

2. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony of the General Counsel's witnesses that contradicts the Respondent's testimony and evidence is unreliable and should not be credited. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

3. To the ALJ's inferential finding of fact or conclusion of law that Respondent did not object to the second amendment to the Complaint issued April 16, 2016, as untimely under Section 10(b). JD 1, ll. 10-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

4. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent raised untimeliness as an affirmative defense when answering the second amendment to the Complaint issued April 16, 2016. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 12.

5. To the ALJ's conclusion of law that the Complaint allegations in the second amendment to the Complaint issued April 16, 2016, were timely under Section 10(b). JD 2, ll. 18-19. The basis for this exception is that the record does not so show, and the law does not so hold. GC 1(u).

6. To the ALJ's failure to conclude as a matter of law that the Complaint allegations in the second amendment to the Complaint issued April 16, 2016, were untimely under Section 10(b). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The Regional Director lacked authority to issue complaint on the allegations regarding Vislisel, Swails, and Bumba. Those allegations were first made on April 16, 2016,

more than six (6) months from their allegedly unlawful statements, which were alleged to have occurred in July, August, and September, 2015. GC 1(u).

7. To the ALJ's failure to find as fact that the original Complaint presented the case as, at its heart, a bargaining case. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

8. To the ALJ's failure to find as fact and conclude as a matter of law that the April 16, 2016 amendment, for the first time, added 8(a)(1) allegations that were never alleged to be direct dealing and, thus, stood alone, at a much greater distance from the bargaining table. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

9. To the ALJ's failure to find as fact and conclude as a matter of law that the record ultimately did not show that the alleged statements of Swails and Bumba were connected to the bargaining as alleged. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

10. To the ALJ's failure to find as fact and conclude as a matter of law that the April 16, 2016 amendment added independent 8(a)(1) allegations that alleged new conversations by supervisors who had not been named in previous charges or complaints, in which the supervisors were alleged to have made unlawful comments unlike any comments alleged previously. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC 1(a); 1(c); 1(u).

11. To the ALJ's failure to conclude as a matter of law that the record shows that allegations were not closely related to timely-filed allegations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC 1(a); 1(c); 1(u).

12. To the ALJ's failure to find as fact that the Respondent was forced to prepare new defenses to the April 16 allegations many months after they allegedly first took place, and to prepare witnesses who had never been confronted with the allegations against them. JD 1-63. The basis for this exception is that the record so shows. GC 1(a); 1(c); 1(u).

13. To the ALJ's failure to conclude as a matter of law that the raising of allegations at such a late stage in the case – in this case, the Saturday before the record opened the following Monday – is precisely what 10(b) seeks to avoid. JD 1-63. The basis for this exception is that the record so shows, and the law so holds.

14. To the ALJ's failure to find as fact and conclude as a matter of law that the theory of undermining and denigrating the Union was a brand new theory largely relying on the untimely filed allegations against Swails and Bumba. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC 1(u).

15. To the ALJ's failure to find as fact and conclude as a matter of law that the allegation of undermining and denigrating the Union forced the Respondent to prepare a new defense to the new theory that was wholly distinct from its earlier defenses against surface bargaining allegations, which it had already disclosed in its position statements to the Region and in its previous Answers. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exhs. 6(b); (c); GC Exh. 1(g), (o).

16. To the ALJ's failure to conclude as a matter of law that the Complaint allegation that Respondent undermined and denigrated the Union was untimely under Section 10(b). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The allegations were not closely related to timely filed allegations. GC 1(a); 1(c); 1(u).

17. To the ALJ's failure to conclude as a matter of law that a version of the parties' collective bargaining agreement, commonly called the "Red Book," has been in effect at the Cedar Rapids plant since at least 1948, was last substantively bargained in 2004, and that since then the parties have negotiated a series of extensions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 554, 557 (Eby); Tr. 74 (Rausch); Jt. 16 at 9593, 9675-85.

18. To the ALJ's failure to find as fact that in 2004, the last time the parties substantively bargained the terms of the Red Book, the Union went on a strike that lasted at least eleven (11) weeks. JD 1-63. The basis for this exception is that the record so shows. Tr. 856 (Kluetz); Tr. 74 (Rausch); Tr. 353 (Shannon); Tr. 557 (Eby).

19. To the ALJ's finding of fact that both Jethro Head and Christopher Eby were the Union's chief negotiators. JD 4, ll. 13-15. The basis for this exception is that the record does not so show. Tr. 391, 403, 556-57 (Eby); Jt. 29.

20. To the ALJ's failure to find as fact that Jethro Head was the lead negotiator for the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 391, 403, 556-57 (Eby); Jt. Exh. 29.

21. To the ALJ's failure to find as fact that never did the Respondent tell the Union that it was no longer going to recognize the Union as the employees' collective bargaining representative or that it was not going to continue to honor the Red Book for the rest of its duration. JD 1-63. The basis for this exception is that the record so shows. Tr. 934 (Meadows).

22. To the ALJ's failure to find as fact that the Respondent continued to hold Labor Relations meetings after it purchased the Cedar Rapids plant. JD 1-63. The basis for this

exception is that the record so shows. Tr. 934-35 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); GC Exh. 13, 40; R. Exh. 12.

23. To the ALJ's failure to find as fact that the Respondent continued to hold InfoShares after it purchased the Cedar Rapids facility. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 63.

24. To the ALJ's failure to find as fact that manlifts were rotating belts with platforms that ran through holes in the plant floors, from the ground floor to the top, as high as seven (7) to eight (8) stories. JD 1-63. The basis for this exception is that the record so shows. Tr. 86-87 (Fuchs); Tr. 857 (Kluetz).

25. To the ALJ's failure to find as fact that manlifts were a type of elevator, but they had no protective cage and were incredibly unsafe. JD 1-63. The basis for this exception is that the record so shows. Tr. 352 (Shannon); Tr. 86 (Fuchs); Tr. 168, 172 (Drahos).

26. To the ALJ's failure to find as fact that Penford had shut down several manlifts in the past because they were very old and unsafe. JD 1-63. The basis for this exception is that the record so shows. Tr. 172 (Drahos); Tr. 352 (Shannon); Tr. 869 (Kluetz); Tr. 941 (Meadows).

27. To the ALJ's failure to find as fact that the Respondent reviewed the Red Book and understood that it had the management right to shut down the manlifts, and, with that understanding, shut them down. JD 1-63. The basis for this exception is that the record so shows. Tr. 943 (Meadows); Jt. Exh. 16, Preamble at 9593.

28. To the ALJ's failure to find as fact that Plant management and the Union maintained open communication both before and after the Respondent purchased the plant and

discussed the shutting down of the manlifts. JD 1-63. The basis for this exception is that the record so shows. Tr. 858-59 (Kluetz); GC Exh. 11, 13, and 40; R. Exh. 12; Tr. 559 (Eby).

29. To the ALJ's failure to find as fact and conclude as a matter of law that during the April,<sup>3</sup> May, and June Labor Relations meetings the Respondent, upon the request of the Union, engaged in effects bargaining over the shutdown of the manlifts. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 40; R. Exh. 12; Tr. 858 (Kluetz).

30. To the ALJ's failure to find as fact that upon purchasing the plant, the Respondent took immediate action regarding the Cedar Rapids facility's manlifts. JD 1-63. The basis for this exception is that the record so shows. Tr. 943 (Meadows); Tr. 172 (Shannon); Tr. 857 (Kluetz).

31. To the ALJ's finding of fact that during the April 6, 2015 meeting between Local Union Officers, Meadows, and plant leadership, Meadows waived his hand and said "bye bye" when Drahos brought the deductible amounts in the current insurance and when the subject of the pension plan came up. JD 6, ll. 21-24. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

32. To the ALJ's failure to find as fact that when Meadows saw the conversation about medical insurance becoming more detailed than he was prepared for, he interrupted Drahos as she discussed such details by raising and waving his hand at her as a signal to stop. JD 1-63. The basis for this exception is that the record so shows. Tr. 941-42 (Meadows); Tr. 228 and 351 (Shannon); GC Exh. 55.

33. To the ALJ's conclusion of law that the testimony of Eby and Shannon was likely to be particularly reliable because they were currently employed by the Respondent.

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<sup>3</sup> All dates refer to 2015 unless otherwise noted.

JD 6, ll. 8-18. The basis for this exception is that the record does not so show, and the law does not so hold. The cases cited by the Judge are distinguishable because Eby and Shannon were not merely employees, they were former union officers who had an interest in defending the record of their administration. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

34. To the ALJ's finding of fact or conclusion of law to credit the testimony of Eby and Shannon to the extent it conflicted with that of Meadows regarding the April 6 meeting. JD 6, ll. 8-10. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

35. To the ALJ's finding of fact or conclusion of law that the testimony of Eby and Shannon is corroborated in many respects by the notes prepared after the meeting. JD 6, ll. 18-19. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 229 (Shannon); Tr. 401 (Eby); GC Exh. 55.

36. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon went home on April 6 and drafted notes about the meeting with Meadows, but no such notes were entered into the record. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 230, 352 (Shannon).

37. To the ALJ's failure to find as fact that Maas and Wilford specifically did not recall Meadows saying "hire back whomever I want." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 352 (Shannon); GC Exh. 55.

38. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon's testimony that "if we went out on strike, he knew the steps he would have – could take up and to getting rid of all the current work force and hiring back who he wanted" and

Eby's testimony that Meadows "proceeded to tell us that he had been through a lot of these negotiations, he knows how it works, and, 'eventually, I can replace you'" should not be credited because their testimony is inconsistent with each other because the record shows that other Union leaders present for that meeting specifically *did not* recall any such statement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 229 (Shannon); Tr. 401 (Eby); GC Exh. 55.

39. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon and Eby did not accurately recall the facts of the April 6 meeting. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 225, 227, 350, 351 (Shannon); Tr. 399 (Eby); Tr. 939-40 (Meadows); Tr. 861 (Kluetz); GC Exh. 55.

40. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon's testimony conflicted with that of Eby, and both versions of testimony conflicted with the Union's notes. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Shannon testified that as Drahos discussed insurance and pension Meadows waved "bye bye." Eby testified that Meadows actually *said* "bye bye" while Drahos discussed insurance, but not that Meadows waved "bye bye" during discussion of pension. Although GC Exh. 55 has notes about pension, it makes no reference to Meadows waving "bye bye" about that matter. Tr. 228 (Shannon); Tr. 401 (Eby); Tr. 351 (Shannon).

41. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon and Eby's testimony regarding the April 6 meeting was unreliable. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 227, 228 (Shannon); 229-30, 350, 351-52, 399, 401, 565-69, 586-88 (Eby); GC Exh. 55.

42. To the ALJ's finding of fact to discredit the testimony of Meadows regarding the April 6 meeting to the extent it conflicted with the testimony of Eby and Shannon. JD 6, ll. 8, 9. The basis for this exception is that the record shows, by a clear preponderance of all evidence, that Meadows' testimony regarding this meeting was reliable. Tr. 939, 940, 942 (Meadows); Tr. 861 (Kluetz); GC Exh. 55.

43. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference against the testimony of Shannon and Eby regarding the April 6 meeting. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The General Counsel did not present testimony from Mass or Wilford. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

44. To the ALJ's failure to find as fact that other officials of Respondent had visited the Cedar Rapids plant before Meadows, including the project manager for the plant's integration with the Respondent, Catherine Zimmerman, and Senior VP of Operational Excellence/Sustainability Robert Stefansic. JD 1-63. The basis for this exception is that the record so shows. Tr. 770 (Froehlich); R. Exh. 63 at 10156.

45. To the ALJ's failure to find as fact that Meadows always visits newly-purchased facilities, and when he does, he always greets employees directly. JD 1-63. The basis for this exception is that the record so shows. Tr. 987-88 (Meadows).

46. To the ALJ's finding of fact that during the April 6 meeting, Meadows stated that there was going to be radical changes in the contract and that they both have options, but the union would not like its option as it could strike but eventually he could replace the employees. JD 6, ll. 31-35. The basis for this exception is that the record does not so show. Tr. 942 (Meadows).

47. To the ALJ's failure to find as fact that at no point during the April 6 meeting did Meadows threaten that the Respondent would replace employees if the union failed to give the Respondent concessions. JD 1-63. The basis for this exception is that the record so shows. Tr. 942 (Meadows).

48. To the ALJ's failure to find as fact that during the April 6 meeting, Meadows never connected any statement regarding replacing employees if the union failed to give Respondent the concessions it was seeking, as alleged in ¶ 5(a) of the Complaint. JD 1-63. The basis for this exception is that the record so shows. Even by Shannon and Eby's testimony, Meadows never connected any such statement to the union's failure to give the Respondent concessions, and the record clearly shows that at no point in time did Meadows threaten that the Respondent would replace employees if the union failed to give the Respondent concessions. Tr. 229 (Shannon); 401 (Eby); 942 (Meadows).

49. To the ALJ's failure to conclude as a matter of law that there is no violation in employer statements to employees that if a union's demands are not met, the strike is the only weapon, in which case strikers could lose their jobs as the employer had the right to replace them. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

50. To the ALJ's failure to conclude as a matter of law that a statement that "if employees went on strike, they would be permanently replaced" is protected by 8(c). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

51. To the ALJ's failure to conclude as a matter of law that even if Meadows had made a statement on April 6 similar to those attributed to him by Shannon and Eby, it would

have been protected by 8(c). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

52. To the ALJ's failure to conclude as a matter of law that ambiguities in the statement alleged by ¶ 5(a) of the Complaint should be resolved in the Respondent's favor.

JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Any such statements were made in an atmosphere free from threat of retaliation. Tr. 229 (Shannon); 401 (Eby); 942 (Meadows).

53. To the ALJ's failure to find as fact that part of the motivation for Meadows' April 6 was that he wanted to see where the river had breached the plant in a recent flood. JD 1-63. The basis for this exception is that the record so shows. Tr. 943-944 (Meadows).

54. To the ALJ's failure to find as fact that about fifty (50) employees were working in the plant at the time of Meadows' tour, and Meadows met about ten (10) of these employees, but there was no preplanning about which employees Meadows would meet. JD 1-63. The basis for this exception is that the record so shows. Tr. 944 (Meadows); Tr. 823-24 (Wood); Tr. 863-64 (Kluetz).

55. To the ALJ's failure to find as fact that during Meadows' tour, Meadows spoke to both salaried and hourly employees, including a Union official. JD 1-63. The basis for this exception is that the record so shows. Tr. 945 (Meadows); Tr. 824-25 (Wood); Tr. 865 (Kluetz).

56. To the ALJ's failure to find as fact that during Meadows' tour, never did Meadows call any employees into an office to talk to them. JD 1-63. The basis for this

exception is that the record so shows. Tr. 944 (Meadows); Tr. 863 (Kluetz); Tr. 824 (Wood); Tr. 43 (Bishop).

57. To the ALJ's finding of fact that during Meadows' April 6 tour of the plant he asked employees what they wanted to see in a contract and then engaged in a substantive discussion of whether what employees were seeking was something that the Respondent was going to consider. JD 9, ll. 34-37. The basis for this exception is that the record does not so show. Tr. 109-110, 945-46 (Meadows); Tr. 865, 867 (Kluetz); Tr. 825-26 (Wood).

58. To the ALJ's failure to find as fact that during his April 6 tour Meadows asked only about such things as how long employees had been working at the plant and what hobbies and other outside interests they had, Meadows did not bring up any substantive topics, and Meadows responded to the employees' inquiries in general terms as much as possible. JD 1-63. The basis for this exception is that the record so shows. Tr. 109-110, 945-46 (Meadows); Tr. 865, 867 (Kluetz); Tr. 825-26 (Wood).

59. To the ALJ's finding of fact that on April 6 in the Control Room, Meadows introduced himself and said that he had been with the Respondent for approximately 15 years and that he would be negotiating the contract for the Respondent. JD 7, ll. 21-22. The basis for this exception is that the record does not so show. Tr. 825 (Wood); 866 (Kluetz).

60. To the ALJ's failure to find as fact that Wood and Kluetz introduced Meadows as Human Resources Director for the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 825 (Wood); 866 (Kluetz).

61. To the ALJ's finding of fact that before Jeff Kuddes entered the Control Room on April 6, Meadows told Rausch that gap insurance would be something that they would

be looking into. JD 7, ll. 25-26. The basis for this exception is that the record does not so show. Tr. 864-65 (Kluetz); 84 (Fuchs); 58 (Rausch); 945 (Meadows).

62. To the ALJ's failure to find as fact that before Kuddes entered the room, those present only made small talk, including employees asking what products the Respondent made in other plants compared to what they made in the Cedar Rapids plant. JD 1-63. The basis for this exception is that the record so shows. Tr. 864-65 (Kluetz); 84 (Fuchs); 58 (Rausch); 945 (Meadows).

63. To the ALJ's finding of fact that when Kuddes and another maintenance man entered the Control Room on April 6, Meadows introduced himself to the newly hired employees. JD 7, ll. 29-30. The basis for this exception is that the record does not so show. Tr. 674 (Kuddes); 866 (Kluetz).

64. To the ALJ's failure to find as fact that Kuddes initiated the conversation by saying "Oh, you are Ken Meadows. I want to talk to you." JD 1-63. The basis for this exception is that the record so shows. Tr. 674 (Kuddes); 866 (Kluetz).

65. To the ALJ's failure to find as fact that Kuddes introduced the substance of the conversation with Meadows by asking if he would have a job after August 1, and that Meadows responded that that was not an issue. JD 1-63. The basis for this exception is that the record so shows. Tr. 671-72 (Kuddes).

66. To the ALJ's finding of fact that Meadows asked Kuddes what kind of a percentage he was thinking about getting, and Kuddes replied 3 to 3.5%, and that Meadows replied "no, it would probably be more like 2 to 2.5%." JD 7, ll. 30-33. The basis for this exception is that the record does not so show. Tr. 672 (Kuddes); 58, 74 (Rausch); 867 (Kluetz).

67. To the ALJ's failure to find as fact that although Kuddes brought up his desire for a pay raise, Meadows said only that the Respondent was going to be looking into area wage standards. JD 1-63. The basis for this exception is that the record so shows. Tr. 672 (Kuddes); 58, 74 (Rausch); 867 (Kluetz).

68. To the ALJ's failure to find as fact that Kuddes brought up detailed vacation proposals. JD 1-63. The basis for this exception is that the record so shows. Kuddes suggested giving employees two weeks of vacation to help retrain them, noted that the Respondent was losing employees because of what other companies were offering, brought up that seven employees got only five days of vacation for a workweek, and told Meadows that employees should get their vacation back. Tr. 672-73 (Kuddes); 59, 75, 79 (Rausch); 84-85 (Fuchs); 826 (Wood); 867 (Kluetz).

69. To the ALJ's finding of fact that Meadows told Kuddes that the maintenance department was understaffed and that the Respondent should be hiring more people, so some employees would not have to work so many days, and indicated that he believed that the third shift was a dangerous shift to be working, and brought up the issue of the shift rotation schedule. JD 7, ll. 34-37. The basis for this exception is that the record does not so show. Tr. 826 (Wood); 59 (Rausch).

70. To the ALJ's failure to find as fact that when Kuddes brought up vacation, Meadows responded by saying only that it sounded like the Respondent needed to hire more employees. JD 1-63. The basis for this exception is that the record so shows. Tr. 826 (Wood); 59 (Rausch).

71. To the ALJ's finding of fact that in the Ethanol Control Room, Meadows mentioned that he did not think that the employees' present insurance plan was that good and

would be under a Cadillac tax. JD 7, ll. 38-40. The basis for this exception is that the record does not so show. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

72. To the ALJ's failure to find as fact that when Rausch brought up health insurance, Meadows responded by mentioning the new Cadillac tax without explaining the substance of his thoughts on that tax. JD 1-63. The basis for this exception is that the record so shows. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

73. To the ALJ's finding of fact that in the Ethanol Control Room, Meadows mentioned that pensions were a thing of the past and would probably be going away. JD 7, ll. 40-41. The basis for this exception is that the record does not so show. Tr. 57-58, 75 (Rausch); 827 (Wood); 946 (Meadows).

74. To the ALJ's failure to find as fact that Meadows' conversation with Rausch related to retirement concerns gap insurance, a topic that Rausch raised, and about which Meadows replied only that Rausch did not look old enough to retire and said that it would be something that the Respondent would be looking into. JD 1-63. The basis for this exception is that the record so shows. Tr. 57-58, 75 (Rausch); 827 (Wood); 946 (Meadows).

75. To the ALJ's finding of fact that in the Control Room, Meadows said that he would be back in May with a plan from negotiations. JD 7, l. 41. The basis for this exception is that the record does not so show. Tr. 109-10 (Meadows); Tr. 827-28 (Wood); 867-68 (Kluetz); 946 (Meadows).

76. To the ALJ's failure to find as fact that aside from Rausch, none of the other witnesses for the General Counsel or the Respondent testified about any comment about being back with a plan, that Meadows responded to employees in general terms as much as possible, and that Meadows said nothing about the Respondent seeking concessions in

bargaining and never promised employees anything. JD 1-63. The basis for this exception is that the record so shows. Tr. 109-10 (Meadows); Tr. 827-28 (Wood); 867-68 (Kluetz); 946 (Meadows).

77. To the ALJ's finding of fact that April 6 was the first time anyone in management had spoken to Rausch about upcoming negotiations. JD 7, ll. 44-45. The basis for this exception is that the record does not so show. Tr. 44 (Bishop); 72 (Rausch); 768-69 (Froehlich); R. Exh. 63; GC Exh. 11.

78. To the ALJ's failure to find as fact that for at least 10 years, the Respondent has held InfoShares where management and employees discussed timely relevant issues. JD 1-63. The basis for this exception is that the record so shows. Tr. 44 (Bishop); 72 (Rausch); 768-69 (Froehlich); R. Exh. 63; GC Exh. 11.

79. To the ALJ's failure to find as fact that contract negotiations were among the issues previously discussed with employees at InfoShares. JD 1-63. The basis for this exception is that the record so shows. Tr. 44 (Bishop); 72 (Rausch); 768-69 (Froehlich); R. Exh. 63; GC Exh. 11.

80. To the ALJ's failure to find as fact that the parties held monthly Labor Relations meetings to "deal with any issues going on in the plant," where they discussed grievances and rules or policies proposed by the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 392-93 (Eby); Tr. 153-54 (Drahos).

81. To the ALJ's failure to find as fact that management has discussions with shop floor employees on a daily basis. JD 1-63. The basis for this exception is that the record so shows. Tr. 44 (Bishop); 72 (Rausch); 768 (Froehlich).

82. To the ALJ's failure to find as fact that the Respondent holds regular safety meetings. JD 1-63. The basis for this exception is that the record so shows. Tr. 44 (Bishop); 674 (Kuddes); 741 (King).

83. To the ALJ's failure to find as fact that the Respondent posts information for employees on bulletin boards around the site. JD 1-63. The basis for this exception is that the record so shows. Tr. 768 (Froehlich).

84. To the ALJ's finding of fact that Meadows asked what employees were looking for in a contract. JD 8, ll. 5-6. The basis for this exception is that the record does not so show. Tr. 109-110, 945-46 (Meadows); Tr. 865, 867 (Kluetz); Tr. 825-26 (Wood).

85. To the ALJ's failure to find as fact that during his tour Meadows asked only about such things as how long employees had been working at the plant and what hobbies and other outside interests they had, Meadows did not bring up any substantive topics, and Meadows responded to the employees' inquiries in general terms as much as possible. JD 1-63. The basis for this exception is that the record so shows. Tr. 109-110, 945-46 (Meadows); Tr. 865, 867 (Kluetz); Tr. 825-26 (Wood).

86. To the ALJ's finding of fact that when the subject of wages came up, Meadows replied that a wage increase would be more like 2 to 2.5 percent. JD 8, ll. 6-8. The basis for this exception is that the record does not so show. Tr. 672 (Kuddes); 58, 74 (Rausch); 867 (Kluetz).

87. To the ALJ's finding of fact that Meadows said that pensions would be gone. JD 8, l. 8. The basis for this exception is that the record does not so show. Tr. 57-58, 75 (Rausch); 827 (Wood); 946 (Meadows).

88. To the ALJ's finding of fact that Meadows said that the current insurance would be gone and that employees would have to have "their" insurance. JD 8, ll. 8-9. The basis for this exception is that the record does not so show. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

89. To the ALJ's finding of fact that Meadows brought up a "Cadillac tax" on the existing insurance that would be charged to the Respondent. JD 8, ll. 9-11. The basis for this exception is that the record does not so show. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

90. To the ALJ's failure to find as fact that when Meadows mentioned the new Cadillac tax he did not say that it would be charged to the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

91. To the ALJ's finding of fact that Meadows said that more employees would be hired. JD 8, ll. 12. The basis for this exception is that the record does not so show. Tr. 826 (Wood); 59 (Rausch); Tr. 672-73 (Kuddes).

92. To the ALJ's failure to find as fact that regarding hiring, Meadows said only that it sounded like the Respondent needed to hire more employees, and only after Kuddes suggested that the Respondent give new employees two (2) weeks of vacation to help retain them, noting that the Respondent was losing employees because of what other companies were offering. JD 1-63. The basis for this exception is that the record so shows. Tr. 826 (Wood); 59 (Rausch); Tr. 672-73 (Kuddes).

93. To the ALJ's finding of fact that Meadows said that third shift work was dangerous to do all the time, and brought up the concept of rotating shifts. JD 8, ll. 12-14. The basis for this exception is that the record does not so show. Tr. 826 (Wood); 59 (Rausch).

94. To the ALJ's finding of fact that as Kuddes entered the control room, Kluetz told Meadows "There's two of your six-day a week employees," to which Meadows said

that he did not like that schedule and that it was too many hours of work. JD 8, ll. 21. The basis for this exception is that the record does not so show. Tr. 826 (Wood); 58-59 (Rausch); 864-65 (Kluetz); 84 (Fuchs); 58 (Rausch); 945 (Meadows).

95. To the ALJ's failure to find as fact that Meadows did not say that any shift was too many hours of work, instead saying only that it sounded like the Respondent needed to hire more employees. JD 1-63. The basis for this exception is that the record so shows. Tr. 826 (Wood); 58-59 (Rausch); 864-65 (Kluetz); 84 (Fuchs); 58 (Rausch); 945 (Meadows).

96. To the ALJ's finding of fact that after Rausch and Fuchs had finished their conversation, Wood asked Kuddes if he had questions for Meadows. JD 8, ll. 23-24. The basis for this exception is that the record does not so show. Tr. 866 (Kluetz).

97. To the ALJ's finding of fact that when Kuddes asked Meadows if he was going to have a job after August 1, Meadows assured him that he was as Meadows had a preference for in-house maintenance. JD 8, ll. 24-26. The basis for this exception is that the record does not so show. Tr. 671-72 (Kuddes).

98. To the ALJ's failure to find as fact that when Kuddes asked Meadows if he was going to have a job after August 1, Meadows responded only that that was not an issue. JD 1-63. The basis for this exception is that the record so shows. Tr. 671-72 (Kuddes).

99. To the ALJ's finding of fact that when Kuddes brought up the pay raises because the pay was frozen Meadows said that he was going to be looking into that area. JD 8, ll. 26-28. The basis for this exception is that the record does not so show. Tr. 672 (Kuddes); 58, 74 (Rausch); 867 (Kluetz).

100. To the ALJ's finding of fact that when Meadows approached Bruce Bishop, Woods stated that Meadows was the negotiator for the Respondent. JD 8, ll. 34-35. The basis for this exception is that the record does not so show. Tr. 825 (Wood); 866 (Kluetz).

101. To the ALJ's finding of fact that Meadows replied to Bishop by asking what he would like to see in a contract. JD 8, ll. 37-38. The basis for this exception is that the record does not so show. Tr. 34 (Bishop).

102. To the ALJ's failure to find as fact that Meadows did not give a substantive response to Bishop and that it was Bishop who then asked Meadows for a "big raise and a \$5.00 raise to his pension multiplier." JD 1-63. The basis for this exception is that the record so shows. Tr. 34 (Bishop).

103. To the ALJ's finding of fact that Meadows told Bishop that he thought he was not going to see a big raise and a \$5.00 raise to his pension multiplier and further asked Bishop "seriously, what would you like to see." JD 8, ll. 38-40. The basis for this exception is that the record does not so show. Tr. 34 (Bishop); 867 (Kluetz).

104. To the ALJ's failure to find as fact that after Bishop brought up the topics of a raise and a raise to the pension multiplier, Bishop further stated that he was close to retirement, and Meadows responded only by asking if he was retiring soon. JD 1-63. The basis for this exception is that the record so shows. Tr. 34 (Bishop); 867 (Kluetz).

105. To the ALJ's finding of fact that Meadows told Bishop that they really did not need any gap insurance unless he was sharing that he was going to be retiring soon. JD 8, ll. 42-44. The basis for this exception is that the record does not so show. Tr. 34-35, 43 (Bishop).

106. To the ALJ's failure to find as fact that after Meadows asked Bishop if he was retiring soon, Bishop said that he had a lot of work to do and asked Meadows, Kluetz, and Woods to move along, and they did. JD 1-63. The basis for this exception is that the record so shows. Tr. 34-35, 43 (Bishop).

107. To the ALJ's finding of fact or conclusion of law that to credit the testimony of Rausch, Fuchs, Kuddes, and Bishop over that of Meadows, Kluetz, and Wood. JD 9, ll. 20-32. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 33-34, 43 (Bishop); 38, 46, 54, 57, 58, 60, 61-62, 74 (Rausch); 81, 84-88 (Fuchs); 109-10, 945 (Meadows); 668, 671-73 (Kuddes); 826 (Wood); 864-67 (Kluetz).

108. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony of Meadows, Kluetz, and Wood was reliable, while the testimony of Rausch, Fuchs, Kuddes, and Bishop was not. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 33-34, 43 (Bishop); 38, 46, 54, 57, 58, 60, 61-62, 74 (Rausch); 81, 84-88 (Fuchs); 109-10, 945 (Meadows); 668, 671-73 (Kuddes); 826 (Wood); 864-67 (Kluetz).

109. To the ALJ's failure to find as fact that Wood and Kluetz routinely gave tours at the facility. JD 1-63. The basis for this exception is that the record so shows. Tr. 822 (Wood); 861 (Kluetz).

110. To the ALJ's failure to find as fact that employees had seen visitors being toured around the plant many times before and had spoken with those visitors. JD 1-63. The basis for this exception is that the record so shows. Tr. 33, 43 (Bishop); 76 (Rausch).

111. To the ALJ's failure to find as fact that the employees were all in their normal work areas during Meadows' April 6 tour. JD 1-63. The basis for this exception is that the record so shows. Tr. 825 (Wood).

112. To the ALJ's failure to find as fact that Kluetz took the tour along his general tour route. JD 1-63. The basis for this exception is that the record so shows. Tr. 861-63.

113. To the ALJ's failure to find as fact that Meadows' tour did not target bargaining unit employees or even employee-populated areas of the plant. JD 1-63. The basis for this exception is that the record so shows. Tr. 109, 944-45 (Meadows); 823-25 (Wood); 863-65 (Kluetz).

114. To the ALJ's conclusion of law that on April 6, 2015, the Respondent, through Meadows, engaged in direct dealing with employees in violation of Section 8(a)(5) and (1) of the National Labor Relations Act ("Act") as alleged in ¶ 13(a) of the Complaint. JD 10, 11, 19-21. The basis for this exception is that the record does not so show, and the law does not so hold.

115. To the ALJ's failure to find as fact that employees, but never Meadows, brought up things that they wanted in the plant and things that were important to them in the upcoming contract. JD 1-63. The basis for this exception is that the record so shows. Tr. 34-35, 43 (Bishop); 57-59, 74-75, 79 (Rausch); 84-85 (Fuchs); 110, 945-46 (Meadows); 671-73 (Kuddes); 826 (Wood); 867 (Kluetz).

116. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows responded to the employees' inquiries in general terms as much as possible and never promised employees anything or made any kinds of threats to employees. The basis for this

exception is that the record so shows, and the law so holds. Tr. 109-10, 946 (Meadows); 827-28 (Wood); 868 (Kluetz).

117. To the ALJ's failure to find as fact that Meadows took no notes during the tour. JD 1-63. The basis for this exception is that the record so shows. Tr. 947 (Meadows).

118. To the ALJ's failure to find as fact that the Respondent did not provide bargaining unit employees with anything as a result of their conversations with Meadows during his plant tour. JD 1-63. The basis for this exception is that the record so shows. Tr. 828 (Wood); 868 (Kluetz).

119. To the ALJ's failure to find as fact that Meadows told the employees that the topics they brought up were topics that they had to discuss with their union. JD 1-63. The basis for this exception is that the record so shows. Tr. 827 (Wood); 867 (Kluetz); 946 (Meadows).

120. To the ALJ's finding of fact or conclusion of law that the Union was excluded from Meadows' conversations with employees on April 6. JD 10, ll. 5-6. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1- 29; R. Exhs. 1-89; GC Exhs. 1-98.

121. To the ALJ's finding of fact or conclusion of law that on April 6 Meadows told the employee members of the union committee that there would be radical changes in the existing contract. JD 10, ll. 12-14. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 942 (Meadows).

122. To the ALJ's conclusion of law that Respondent was seeking to ascertain employee opinion prior to the commencement of bargaining and questioned employees for the purpose of changing conditions of employment and undercutting the eventual end bargaining.

JD 10, ll. 7-9, 14-16. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

123. To the ALJ's failure to conclude as a matter of law that Meadows' conversations with employees did not constitute direct dealing and did not violate either Sections 8(a)(1) or 8(a)(5) of the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

124. To the ALJ's failure to conclude as a matter of law that supervisor asking employee if she had any problems or questions does not violate the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

125. To the ALJ's failure to conclude as a matter of law that managers' conversations with employees in which they listened to employee concerns and responded to questions do not violate the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

126. To the ALJ's failure to conclude as a matter of law that asking if employees have any questions and, if so, to write them down and give them to the employer, does not violate the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

127. To the ALJ's failure to conclude as a matter of law that if management has conversations with employees to find out what employees want, but does not agree to give employees the changes they requested, there is no violation of the Act because management did not promise to address employees' concerns or try to erode the union's position as employees'

bargaining agent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

128. To the ALJ's failure to conclude as a matter of law that there is no violation of the Act where employer asks employees if they have "any questions," "if there was something wrong," and "whether the employees wanted to talk about it." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

129. To the ALJ's failure to conclude as a matter of law that soliciting ideas on how to improve the plant does not violate the Act because general and innocuous questions and an open-ended solicitation for suggestions is not an attempt to erode the union's role and not motivated by legitimate business concerns. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

130. To the ALJ's failure to conclude as a matter of law that it is not an unlawful solicitation of grievances for an employer to ask employees if they have any complaints. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

131. To the ALJ's failure to conclude as a matter of law that questioning employees is not illegal *per se* because an employer is free to communicate to employees so long as the communications do not contain a threat of reprisal or force or promise of benefit. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

132. To the ALJ's failure to conclude as a matter of law that there is no violation of the Act where the employer does not propose to strip union of its collective

bargaining function through employee questioning. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

133. To the ALJ's failure to conclude as a matter of law that employees would have viewed Meadows' tour as a routine visit rather than as an expedition to deal directly with them. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 33, 43 (Bishop); 76 (Rausch); 822, 823-25 (Wood); 861, 863-65 (Kluetz); 944-45 (Meadows).

134. To the ALJ's failure to conclude as a matter of law that solicitation of grievances is not unlawful where the employer maintains an "open door policy" and has consistently applied and maintained a practice of soliciting employee grievances. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

135. To the ALJ's failure to conclude as a matter of law that an employer's questions and statements do not violate the Act where an atmosphere of informality pervaded the relations between the employer and employees. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

136. To the ALJ's failure to conclude as a matter of law that even if Meadows had solicited grievances, the Board has held that an employer does not violate the Act by soliciting grievances where, as in this instance, the employer maintained a prior open door policy and employees on their own accord approached management to discuss problems. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

137. To the ALJ's failure to find as fact or to conclude as a matter of law that the Cedar Rapids plant has the type of practice that would permit the solicitation of employees as alleged by the General Counsel. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

138. To the ALJ's failure to conclude as a matter of law that the General Counsel has failed to show that Meadows engaged in unlawful direct dealing because the record does not show that the discussion was for the purpose of establishing or changing wages, hours, and terms and conditions of employment or undercutting the Union's role in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

139. To the ALJ's failure to find as fact that the letter Meadows sent on May 11 in order to request a new collective bargaining agreement was required by the Red Book. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 15; Jt. Exh. 16, Art. XII, § 5 at 9640; Tr. 935, 1087 (Meadows).

140. To the ALJ's finding of fact or conclusion of law that Eby's testimony regarding the bargaining meetings was generally credible, while Meadows' testimony was not as reliable. JD 11, ll. 26-32. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

141. To the ALJ's failure to find as fact that Eby maintained bargaining notes in front of him as he testified. JD 1-63. The basis for this exception is that the record so shows. Tr. 404, 418, 422, 425-26, 428, 431-32, 455, 477 (Eby).

142. To the ALJ's failure to find as fact that much of Eby's testimony on important subjects was not supported by his own notes. JD 1-63. The basis for this exception is that the record so shows. Tr. 411-13, 447, 458-59, 466, 493, 503; GC Exh. 8.

143. To the ALJ's failure to find as fact that hat Eby's notes clearly did not record much of what occurred in bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 428-429 (Eby); GC Exh. 8 (generally) and at pages 5 and 11.

144. To the ALJ's failure to find as fact that Eby's testimony contained a number of inaccuracies. JD 1-63. The basis for this exception is that the record so shows. Tr. 413, 416, 480, 482, 499, 573 (Eby); 957, 972, 1038-39 (Meadows); Jt. Exhs. 26, 28; GC Exh. 7 at 24; GC Exh. 8 at 2-3, 9; R. Exh. 67 at 5, 24, 42.

145. To the ALJ's failure to find as fact that Eby demonstrated a willingness to lie under oath when it could help the General Counsel's case. JD 1-63. The basis for this exception is that the record so shows. Tr. 565-67, 569-70, 586-88.

146. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows' testimony is especially credible, including because after the occasions during which his memory was properly refreshed by documents, those documents were consistently removed from him. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 966, 969, 978, 1014, 1016, 1018, 1028, 1031, 1040, 1043, 1048, 1049, 1068, 1082-83, 1109, 1116.

147. To the ALJ's failure to find as fact that Jethro Head would reasonably be assumed to have been favorably disposed to the General Counsel's case. JD 1-63. The basis for this exception is that the record so shows. Tr. 127 (Shannon).

148. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel failed to provide any reason for Head's absence. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

149. To the ALJ's failure to find as fact and conclude as a matter of law to draw the adverse inference that Head's testimony would not have corroborated the bargaining testimony of Shannon and Eby. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

150. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel largely did not elicit testimony from Shannon about what happened at the table, instead, choosing to have Shannon testify about what *her notes purport to say* about what happened in bargaining, and that this method elicited only indirect testimony regarding bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

151. To the ALJ's failure to find as fact that Shannon actively referred to her notes during her entire testimony about bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 354 (Shannon); Tr. 252-347 (Shannon).

152. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon's notes are were clearly unreliable. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 256-57, 314, 316, 354, 369 (Shannon); Tr. 973 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218; GC Exh. 8 at 3; GC Exh. 7 at 1, 2, 8, 22, 23.

153. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon maintained her partisan viewpoint as she testified, affecting her ability to testify accurately about the facts. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 361-62 (Shannon).

154. To the ALJ's failure to find as fact and conclude as a matter of law that even while looking at her notes, Shannon was frequently unable to remember relevant facts concerning what was said or done during negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 354 (Shannon); Tr. 258, 261, 264, 269, 270 (Lines 1, 22); 271 (Lines 2-3, 15); 272, 280, 282, 283, 291, 301, 304, 311 (Lines 3-4, 17); 314, 316, 321, 329, and 374 (Shannon).

155. To the ALJ's failure to find as fact and conclude as a matter of law that while looking at her notes Shannon often could not recall to whom the notes were attributed, or what the words she wrote meant. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 261, 264, 269, 271, 283, 286, 291, 301, 306, 308, 311, 312, 314, 316-17, 321, 329, 344.

156. To the ALJ's failure to find as fact and conclude as a matter of law that Portions of Shannon's testimony were clearly inaccurate. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 255-56, 267-69, 370, 379 (Shannon); Tr. 425, 439, 514 (Eby); Tr. 973, 976-78, 986, 991, 1014, 1017, 1019, 1035, 1044, 1047, 1049 (Meadows); Jt. Exh. 7 at 432, 447-48; R. Exh. 67 at 6, 8, 13, 23, 26, 39, 46, 51, 52; R. Exh. 66 at 218, 224, 225, 189, 191, 193, 196; GC Exh. 7 at 22-23; GC Exh. 7(a) at 1, 6, 7; GC Exh. 8 at 4.

157. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon's testimony was not credible. JD 1-63. The basis for this exception is that the record

so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

158. To the ALJ's failure to find as fact that in the absence of Head, Meadows was the only lead negotiator who testified about what was said at negotiations. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98. .all

159. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's sources are deeply consistent throughout the record, and Meadows was especially credible. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

160. To the ALJ's failure to find as fact and conclude as a matter of law that unlike Shannon and Eby, Meadows testified wholly from his memory during lengthy direct and cross examination on both the General Counsel and the Respondent's cases-in-chief. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135.

161. To the ALJ's failure to find as fact and conclude as a matter of law that on occasion Meadows' memory was properly refreshed by documents, after which those documents were consistently removed from him. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 966, 969, 978, 1014, 1016, 1018, 1028, 1031, 1040, 1043, 1048, 1049, 1068, 1082, 1083, 1109, 1116.

162. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon and Eby, the witnesses who did testify about bargaining for the General Counsel's case, should not be credited. JD 1-63. The basis for this exception is that the record so shows, and the

law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

163. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's bargaining witnesses and notes should be credited. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

164. To the ALJ's failure to find as fact that Meadows, who has been the lead negotiator for over 50 negotiations, has often worked from pre-existing collective bargaining agreements, and in recently purchased plants has always examined the expiring contract and worked from it where possible. JD 1-63. The basis for this exception is that the record so shows. Tr. 947-48 (Meadows).

165. To the ALJ's failure to find as fact that in his long experience in negotiating contracts Meadows has never been found by the NLRB to have bargained in bad faith. JD 1-63. The basis for this exception is that the record so shows. Tr. 947-48 (Meadows).

166. To the ALJ's failure to find as fact that once the Union learned that the Respondent was considering purchasing the Cedar Rapids plant, the Union began researching the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 389 (Eby)

167. To the ALJ's failure to find as fact that in April, the Union leadership asked that the other unions that represent employees of the Respondent bring their contracts and proposals to a meeting of the Interunion Wet/Dry Corn Council. JD 1-63. The basis for this exception is that the record so shows. Tr. 390 (Eby); Tr. 226 (Shannon).

168. To the ALJ's failure to find as fact that as the Union prepared to negotiate with the Respondent for the first time, Eby looked at the Respondent's contracts with other

unions and noticed common themes, including frozen pensions and the implementation of high-deductible health insurance plans and HSAs. JD 1-63. The basis for this exception is that the record so shows. Tr. 390-91 (Eby); Tr. 554 (Eby).

169. To the ALJ's failure to find as fact that due in part to the Respondent's purchase of the Cedar Rapids facility, and because the Union was concerned about differences between the Red Book and other Respondent collective bargaining agreements, the Union enlisted the help of its International Union, and Jethro Head in particular, to bring experience to the bargaining committee. JD 1-63. The basis for this exception is that the record so shows. Tr. 391, 556-57 (Eby).

170. To the ALJ's finding of fact that on June 1, the parties met from 1:00 p.m. to 3:00 p.m. JD 11, l. 35. The basis for this exception is that the record does not so show. Jt. Exh. 29.

171. To the ALJ's failure to find as fact that the parties bargained from 1:00 p.m. until 3:10 p.m. on June 1. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 29.

172. To the ALJ's finding of fact that the Respondent's June 1 proposal set forth an entirely new agreement in substance that bore no resemblance to the existing contract. JD 11, ll. 35-39. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 16.

173. To the ALJ's failure to find as fact that while the Respondent's proposal set forth an entirely new agreement in format, much of its substance was similar to that of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 1, 16.

174. To the ALJ's finding of fact that Meadows proposed an entirely new collective-bargaining agreement in both form and substance. JD 11, fn. 10. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 16.

175. To the ALJ's finding of fact that the only explanation given by Meadows for his initial proposal was that the terms of the existing collective-bargaining agreement at the Cedar Rapids facility were inconsistent with that of other Respondent collective-bargaining agreements and did not "fit" the Respondent's operational needs for the plant. JD 11, fn. 10. The basis for this exception is that the record does not so show. Tr. 1074 (Meadows).

176. To the ALJ's failure to find as fact that during the June 1 bargaining session, Meadows explained that the Respondent's proposals were necessary for operational modifications the Respondent sought to make, including looking at product lines, doing a network optimization study, comparing products that the Respondent made at other plants to those made in Cedar Rapids, and exploring moving products to the Cedar Rapids plant. JD 1-63. The basis for this exception is that the record so shows. Tr. 1074 (Meadows).

177. To the ALJ's finding of fact that Meadows, on June 1, indicated that his proposal contained radical changes that would not necessarily make people happy. JD 12, ll. 1-3. The basis for this exception is that the record does not so show. Tr. 956 (Meadows); R. Exh. 67 at 1.

178. To the ALJ's failure to find as fact that Meadows stated that some people would consider these to be "radical changes." JD 1-63. The basis for this exception is that the record so shows. Tr. 956 (Meadows); R. Exh. 67 at 1.

179. To the ALJ's failure to find that on June 1, after Meadows presented the Respondent's proposal, Head gave no substantive response, instead saying that the Union was

not leaving the table without a substantial wage increase and that if the Respondent sought a lot of changes, then the parties' bargaining would not be productive. JD 1-63. The basis for this exception is that the record so shows. Tr. 957 (Meadows); R. Exh. 67 at 1 and 2; R. Exh. 66 at 210.

180. To the ALJ's finding of fact that on June 1, the parties briefly discussed some of the Union's proposals. JD 12, ll. 16-17. The basis for this exception is that the record does not so show. Tr. 958-59 (Meadows); R. Exh. 67 at 2; Jt. 10 at 572; GC Exh. 7 at 1; GC Exh. 8 at 1.

181. To the ALJ's failure to find as fact that the record shows that Meadows engaged Head on the substance of the Union's first proposal and extensively discussed the Union's proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 958-59 (Meadows); R. Exh. 67 at 2; Jt. 10 at 572; GC Exh. 7 at 1; GC Exh. 8 at 1.

182. To the ALJ's failure to find as fact that regarding the Union's proposals on Art. IV, § 1, Meadows stated that he understood the Union's position. JD 1-63. The basis for this exception is that the record so shows. Tr. 958 (Meadows); R. Exh. 67 at 2; GC Exh. 7 at 1; GC Exh. 8 at 1.

183. To the ALJ's failure to find as fact that regarding the Union's proposals on Art. X, § 1(A); Meadows stated that he did not have a problem with adding the ability to retire after eighty (80) points with no penalty. JD 1-63. The basis for this exception is that the record so shows. Tr. 958 (Meadows); Jt. Exh. 10 at 572; GC Exh. 7 at 1; GC Exh. 8 at 1.

184. To the ALJ's failure to find as fact that regarding the Union's proposals on Art. IV, § 3, Meadows explained to Head that he had an issue with the Union's proposal regarding contractors, because the plant needed consistent contractors just to maintain the

business. JD 1-63. The basis for this exception is that the record so shows. Tr. 959 (Meadows); R. Exh. 67 at 2.

185. To the ALJ's failure to find as fact and conclude as a matter of law that at no point on June 1 did Meadows threaten the Union with impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 965 (Meadows).

186. To the ALJ's failure to find that Meadows gave the Union a copy of R. Exh. 29. JD 1-63. The basis for this exception is that the record so shows. Tr. 960 (Meadows); 255 (Shannon); 410-11 (Eby).

187. To the ALJ's failure to find that when Meadows presented the Respondent's proposal he explained that the attempt of the Respondent's proposal was to maintain consistency with the Respondent's other unionized facilities. JD 1-63. The basis for this exception is that the record so shows. Tr. 960 (Meadows).

188. To the ALJ's failure to find that when Meadows presented the Respondent's first proposal, he asked the Union if they wanted him to go through the proposal or if they preferred to take the time to read it on their own and Head immediately told Meadows that he was not going to accept the Respondent's proposal because it was not written in the format that he wanted. JD 1-63. The basis for this exception is that the record so shows. Tr. 961 (Meadows); R. Exh. 67 at 2.

189. To the ALJ's failure to find as fact that Meadows went through the Respondent's first proposal and pointed out items that were the same as in the Red Book, explained areas where he still had questions in formatting his proposals, pointed out proposed changes to the parties' past practice, and explained the rationale for particular proposals.

JD 1-63. The basis for this exception is that the record so shows. Tr. 411-12 (Eby); 961-64 (Meadows); R. Exh. 67 at 2 and 3; Jt. Exh. 1 at 1966, 1971, 1975; GC Exh. 7 at 2.

190. To the ALJ's failure to find that when Meadows presented the Respondent's first proposal, he highlighted and explained particular proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 963-64 (Meadows); R. Exh. 67 at 3; Jt. Exh. 1 at 1980.

191. To the ALJ's failure to find that after Meadows explained the Respondent's first proposal, the Union asked to end the session and, at no point during that day, responded to the Respondent's first proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 964-65 (Meadows); R. Exh. 67 at 3.

192. To the ALJ's finding of fact that on June 29, Meadows stated that he would not necessarily provide all the information requested by the Union in GC Exh. 9B because the Respondent's proposal did not contain a proposal regarding the continuation of the existing pension plan. JD 12, ll. 30-35. The basis for this exception is that the record does not so show. Tr. 967-68 (Meadows); Tr. 414-15 (Eby); R. Exh. 67 at 4; GC Exh. 7 at 3.

193. To the ALJ's failure to find as fact that Meadows asked the Union on June 29 to let him know what it was they had not received and promised to work to obtain any further information, explained to the Union that he had reached out to the Respondent's insurance carrier to try to get quotes and the insurance company told him that they were not going to be able to get Meadows those quotes until September or October, and told the Union that he would give the Union the vacation cost per hour as soon as he could. JD 1-63. The basis for this exception is that the record so shows. Tr. 967-68 (Meadows); Tr. 414-15 (Eby); R. Exh. 67 at 4; GC Exh. 7 at 3.

194. To the ALJ's finding of fact that during the June 29 meeting, Meadows stated that Respondent was not interested in the vast majority of the Union's proposals and indicated that other Union proposals were incorporated into the Respondent's proposal. JD 12, ll. 38-41. The basis for this exception is that the record does not so show. Tr. 970 (Meadows).

195. To the ALJ's failure to find as fact that where Meadows was not interested in a particular Union proposal, he explained to the Union why the Respondent was not interested in it, including by pointing out particular costs or burdens the proposal would impose. JD 1-63. The basis for this exception is that the record so shows. Tr. 970 (Meadows).

196. To the ALJ's failure to find that during the June 29 session, Meadows also responded to the Union's proposal that vibration analysis be assigned to the bargaining unit by explaining that the Respondent viewed that as technical work that it wanted to entrust to engineers. JD 1-63. The basis for this exception is that the record so shows. Tr. 970 (Meadows); Jt. Exh. 10 at 574.

197. To the ALJ's finding of fact that Meadows' review of the Union's June 29 proposal took approximately 5 to 10 minutes. JD 13, ll. 3-4. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

198. To the ALJ's finding of fact that on June 29, Meadows indicated that the labor relations committee was non-existent in his proposal and that when the Union representatives attempted to explain the value of the labor relations committee, Meadows replied that there was no need for a labor relations committee because the Respondent had an open door policy. JD 13, ll. 12-16. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1967.

199. To the ALJ's failure to find as fact that the Respondent's first proposal did, in fact, propose a labor relations committee. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1967.

200. To the ALJ's failure to find as fact that when Union presented Jt. Exh. 11, Head did not explain the Union's proposal other than to identify how changes were marked in the document. JD 1-63. The basis for this exception is that the record so shows. Tr. 971-72 (Meadows).

201. To the ALJ's failure to find as fact that the Union's proposal on June 29 to increase the number of Union representatives on the negotiating committee was an incorporation of a Respondent proposal on that subject. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1967; Jt. Exh. 11 at 567.

202. To the ALJ's failure to find that the Union's June 29 proposals to add language specifying how seniority is computed and to require the Respondent to furnish seniority lists to the Union incorporated Respondent proposals on those subjects. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1971; Jt. Exh. 11 at 567-68.

203. To the ALJ's failure to find as fact and conclude as a matter of law that the proposals from the Respondent's initial proposal that the Union chose to incorporate were only those that benefited the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 8 at 3.

204. To the ALJ's failure to find that the Union's June 29 proposal included proposals that it had not mentioned in its June 1 proposal. JD 1-63. The basis for this exception is that the record so shows. On this date the Union proposed for the first time that the Respondent process Union compensation for Union committee members, stewards, and

arbitration witnesses, which went beyond its June 1 proposal on that topic; proposed adding a new section to allow employees time off to vote in political elections; and proposed modifying the language concerning employees' leaves of absence for political or Union office. Jt. Exh. 10 (generally) and at 571; Jt. Exh. 11 at 567, 569.

205. To the ALJ's finding of fact that Meadows indicated toward the end of the June 29 meeting that Respondent was going to work from the new contract it had proposed. JD 13, ll. 25-27. The basis for this exception is that the record does not so show. Tr. 972-73 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218.

206. To the ALJ's failure to find as fact that Shannon's notes also confirmed that Meadows stated he would continue to work from his proposal. JD 13, ll. 27-28. The basis for this exception is that the record so shows. Tr. 972-73 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218.

207. To the ALJ's failure to find as fact that while Meadows implored the Union to consider the Respondent's proposal, it was Head who said that they were not going to do that and were going to work from their book. JD 1-63. The basis for this exception is that the record so shows. Tr. 972-73 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218.

208. To the ALJ's finding of fact that at the beginning of the June 30 meeting, Meadows believed the proposal he made on that date reflected areas of agreement between the parties. JD 13, ll. 32-34. The basis for this exception is that the record does not so show. Tr. 424 (Eby); 975-76 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7.

209. To the ALJ's failure to find as fact that at the beginning of the June 30 meeting Meadows also *told* the Union that he believed that the proposal reflected areas of

agreement between the parties. JD 1-63. The basis for this exception is that the record so shows. Tr. 424 (Eby); 975-76 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7.

210. To the ALJ's finding of fact that after Head stated that there were no tentative agreements between the parties on June 30, Head then brought up the Respondent's proposal to change the recognition clause and its proposal on outsourcing and indicated that he was not going to bargain regarding the recognition clause as it was a permissive subject of bargaining. JD 13, ll. 35-37. The basis for this exception is that the record does not so show. Tr. 424-25 (Eby); 976 (Meadows); R. Exh. 67 at 7.

211. To the ALJ's failure to find as fact that after Head stated that there were no tentative agreements between the parties, Meadows went through the Respondent's proposal and explained each item that the Respondent had changed and that after Meadows finished walking through the changes, and Head said that the Respondent needed to go back to the Red Book and address the issues there rather than through the Respondent's proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 424-25 (Eby); 976 (Meadows); R. Exh. 67 at 7.

212. To the ALJ's finding of fact that on June 30 Head asked how the parties were going to proceed and stated that the parties needed to have an agreed-upon process to negotiate and asked Meadows to take his proposals and submit them in relation to the existing contract language and redline them in order to point out what the Respondent was changing. JD 13, ll. 39-43. The basis for this exception is that the record does not so show. Tr. 425 (Eby); 976 (Meadows).

213. To the ALJ's failure to find as fact that on June 30 Meadows suggested that they invite a federal mediator to attend bargaining to help get the parties moving forward.

JD 1-63. The basis for this exception is that the record so shows. Tr. 978 (Meadows); R. Exh. 67 at 8.

214. To the ALJ's failure to find as fact that on June 30 Head replied to Meadows' suggestion about a mediator by saying, "We don't need a Mediator." JD 1-63. The basis for this exception is that the record so shows. Tr. 978 (Meadows); R. Exh. 67 at 8.

215. To the ALJ's finding of fact that Meadows replied that he was not coming off his proposal and was not going to accept the existing contract language and that it was not going to be a smooth transition as it was not Penford anymore and Ingredion was not going to continue to operate in the present manner and that Meadows then stated that if the parties did not come to an agreement, he could give the Union a last, best, and final offer and that he was going to prepare accordingly. JD 13, ll. 45-47, 14, ll. 1-4. The basis for this exception is that the record does not so show. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

216. To the ALJ's failure to find as fact that on June 30 the Respondent explained that it would work from its proposal and that at no point on June 30 did the Respondent tell the Union that it intended to prepare a last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

217. To the ALJ's finding of fact that on June 30, after Head stated that August 1 was not a drop dead date, he stated that the Union was prepared to negotiate beyond that date. JD 14, ll. 9-10. The basis for this exception is that the record does not so show. Tr. 977 (Meadows).

218. To the ALJ's failure to find as fact that on June 30 Head pointed out to the rest of the Union officers and said that they are used to, at this point, having something by August 1. JD 1-63. The basis for this exception is that the record so shows. Tr. 977 (Meadows).

219. To the ALJ's failure to find as fact that on June 30, after Head stated that August 1 was not a drop dead date, Meadows responded that he agreed that August 1 was not a drop dead date. JD 1-63. The basis for this exception is that the record so shows. Tr. 977 (Meadows); R. Exh. 67 at 8; GC Exh. 8 at 4; Tr. 427 (Eby).

220. To the ALJ's finding of fact that on June 30, Meadows initially replied that August 1 may be drop dead date for him. JD 14, ll. 11-12. The basis for this exception is that the record does not so show. Tr. 977 (Meadows).

221. To the ALJ's failure to find as fact that never during bargaining in the summer of 2015 did Meadows ever say that August 1 would be a drop dead date. JD 1-63. The basis for this exception is that the record so shows. Tr. 977 (Meadows)

222. To the ALJ's failure to find as fact that on July 30, Head brought up the topic of a possible strike, saying that the bargaining unit was stronger than it had ever been and mentioning that the Union had gone on strike in 2004. JD 1-63. The basis for this exception is that the record so shows. Tr. 978 (Meadows); R. Exh. 67 at 8.

223. To the ALJ's failure to find as fact that after Respondent provided the Union with Jt. Exh. 20 on June 30, Meadows walked through the document to explain it and told the Union "you are probably going to have more questions, let me know what they are." JD 1-63. The basis for this exception is that the record so shows. Tr. 979 (Meadows); R. Exh. 67 at 3.

224. To the ALJ's finding of fact or conclusion of law to credit the notes of Shannon and Eby and Eby's testimony that Meadows stated on June 30 that if the parties did not come to an agreement, he could give the Union a last, best, and final offer and that he was going to prepare accordingly. JD 14, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 256-7, 267-69, 314, 316, 354, 369 (Shannon); 973, 977 (Meadows); 573 (Eby); R. Exh. 67 at 6; R. Exh. 6 at 218; GC Exh. 8 at 3; GC Exh. 7 (generally and at 1, 2, 8, 22-23); GC Exh. 8 at 4; R. Exh. 67 at 8.

225. To the ALJ's failure to find as fact and conclude as a matter of law that Shannon's notes are incredible regarding bargaining on June 30, including because on page 7 they did not accurately reflect the conversation in bargaining, and Eby's testimony and notes were not credible because he admitted that he altered his notes at a later date. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 256-7, 267-69, 314, 316, 354, 369 (Shannon); 973, 977 (Meadows); 573 (Eby); R. Exh. 67 at 6; R. Exh. 66 at 218; GC Exh. 8 at 3; GC Exh. 7 (generally and at 1, 2, 8, 22-23); GC Exh. 8 at 4; R. Exh. 67 at 8.

226. To the ALJ's failure to find that after the June 30 bargaining session, Meadows took steps to bring in a mediator by responding to an email from a Federal Mediation and Conciliation Service mediator and subsequently seeking with him about Meadows' desire that he attend the parties' bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 979 (Meadows); R. Exh. 34.

227. To the ALJ's failure to find that after Head emailed Meadows on June 18 to cancel bargaining sessions, Meadows spoke with Head by telephone and expressed to Head his desire to continue moving forward with the bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 1071 (Meadows).

228. To the ALJ's finding of fact that on July 27, Head asked Meadows why the existing contract did not allow the Respondent to grow and Meadows did not respond. JD 16, ll. 10-13. The basis for this exception is that the record does not so show. Tr. 986 (Meadows).

229. To the ALJ's failure to find as fact that the conversation referred to at JD 16, ll. 10-13 began with Meadows stating that the Respondent had presented the Union with various proposals but that the Union had not responded to them and asking the Union to give responses to the Respondent's proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 986 (Meadows).

230. To the ALJ's finding of fact that Head, on July 27, stated that the Union was sticking with its proposal. JD 16, l. 13. The basis for this exception is that the record does not so show. Tr. 986 (Meadows); R. Exh. 66 at 224.

231. To the ALJ's failure to find as fact that Head, responding to Meadows' request for the Union to respond to the Respondent's proposals, stated "Until you work off our Red Book, you are not getting any." JD 1-63. The basis for this exception is that the record so shows. Tr. 986 (Meadows); R. Exh. 66 at 224.

232. To the ALJ's failure to find as fact that on July 27, Meadows tried to get the Union to start talking by bringing up specific subjects of bargaining, but Head insisted on discussing his "process" rather than substantive proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 986-87 (Meadows); R. Exh. 66 at 224.

233. To the ALJ's finding of fact that the Respondent's July 28 proposal significantly modified its proposal regarding gap insurance. JD 16, ll. 26-27. The basis for this exception is that the record does not so show. Jt. Exhs. 2 and 3.

234. To the ALJ's failure to find as fact that on July 28, when the Respondent gave the Union its proposal, Jt. Exh. 3, Meadows walked through all of the proposed changes, including by giving an explanation of why it had changed the gap insurance proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 289 (Shannon); 436 (Eby); 988 (Meadows); R. Exh. 67 at 12.

235. To the ALJ's failure to find that on July 28, when Meadows presented R. Exh. 36 to the Union, he explained that the document showed where the Union could locate terms in the Red Book that the Respondent's proposal already addressed. JD 1-63. The basis for this exception is that the record so shows. Tr. 439 (Eby); 990-91 (Meadows); R. Exh. 66 at 225.

236. To the ALJ's finding of fact that on July 28, Head responded to the Respondent's proposal by stating that he appreciated the effort but that it was not going to get the parties to a settlement. JD 17, ll. 10-11. The basis for this exception is that the record does not so show. Tr. 439 (Eby); 991 (Meadows); R. Exh. 66 at 225; R. Exh. 67 at 13.

237. To the ALJ's failure to find as fact that Head, responding to both the Respondent's proposal and its explanation of the purpose of R. Exh. 36, replied that he did not care, that this was not the process the Union wanted to go through, and that the parties needed to go back to their Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 439 (Eby); 991 (Meadows); R. Exh. 66 at 225; R. Exh. 67 at 13.

238. To the ALJ's failure to find as fact that the Respondent's July 28 proposal in Article XIII, Section 2, increased vacation pay to 44 hours and that its proposal in Article XV, Section 2, added a 27¢ differential for 4<sup>th</sup> shift. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 3 at 2058 and 2064.

239. To the ALJ's failure to find as fact that on July 28, Head said that the Union had a meeting coming up on Saturday and passed out a Union meeting notice for August 1 that said "As a precaution, it is recommended that you remove all your personal property from plant prior to meeting," which the Respondent interpreted to mean that if the membership did not ratify a contract, they were going to go on strike. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 37; R. Exh. 66 at 225; R. Exh. 67 at 13; Tr. 991-92 (Meadows).

240. To the ALJ's failure to find as fact that on July 28, when Head stated that he felt that negotiations were "headed for a train wreck" JD 17, ll. 19-20, Head also stated that negotiations were not going well. JD 1-63. The basis for this exception is that the record so shows. Tr. 441 (Eby); 992 (Meadows); R. Exh. 66 at 225, 67 at 14; GC Exh. 7 at 9.

241. To the ALJ's failure to find as fact that upon receiving R. Exh. 38 on July 28, Meadows explained that the Respondent did not agree to an extension because it was interested in getting a contract. JD 1-63. The basis for this exception is that the record so shows. Tr. 993 (Meadows).

242. To the ALJ's failure to find as fact that on July 28, when Meadows provided a written response to the Union's information request of that day, JD 17, ll. 23-24, he also provided 535 pages of documents responsive to the Union's request. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 23; Tr. 447 (Eby); 994-95 (Meadows); R. Exh. 67 at 14.

243. To the ALJ's failure to find as fact that on July 28, the Union asked the Respondent to consider withdrawing proposals related to 21 items it had raised with the Respondent as part of a request for information. JD 1-63. The basis for this exception is that the

record so shows. Tr. 834 (Wood); 996 (Meadows); Jt. Exh. 24 at 912-14; R. Exh. 66 at 226; R. Exh. 67 at 16.

244. To the ALJ's failure to find as fact that on July 28, Meadows responded to each of the twenty-one (21) items the Union had raised. JD 1-63. The basis for this exception is that the record so shows. Tr. 996 (Meadows); R. Exh. 67 at 16-19.

245. To the ALJ's finding as fact that on July 28, the Respondent's response to the last 21 items on the Union's July 28 information request reflected that these items produced relatively small or no-cost reductions to the Respondent. JD 17, ll. 25-27. The basis for this exception is that the record does not so show. Jt. Exh. 24, pp. 912-14.

246. To the ALJ's failure to find as fact that for about three-quarters of the last 21 items on the Union's July 28 information, the Respondent estimated cost reductions of thousands of dollars and as much as \$3.00 per hour, stated that it had already provided the cost estimate, or stated that it was unable to calculate the cost reduction. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 24, pp. 912-14.

247. To the ALJ's failure to find as fact that in about the second week of July, Meadows had inquired about the "flower fund" by calling the Department of Labor's Wage & Hour Division, which informed him that this scheme was illegal because the Respondent could not arbitrarily deduct employees' pay for time they had, indeed, worked. JD 1-63. The basis for this exception is that the record so shows. Tr. 997, 1085 (Meadows).

248. To the ALJ's failure to find as fact and conclude as a matter of law that management at the Cedar Rapids plant has long had a practice of keeping employees informed about what goes on at the plant and giving employees the opportunity to ask management

questions regarding work matters. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 768 (Froehlich).

249. To the ALJ's finding of fact that on July 28, Meadows stated that he was concerned about the legal implications of the flower fund. JD 17, ll. 39-40. The basis for this exception is that the record does not so show. Tr. 287 (Shannon); 997-98 (Meadows).

250. To the ALJ's failure to find as fact that on July 28 Meadows stated that the flower fund was illegal and that the parties needed to discontinue it. JD 1-63. The basis for this exception is that the record so shows. Tr. 287 (Shannon); 997-98 (Meadows).

251. To the ALJ's failure to find as fact that on July 28, after Meadows indicated that the Respondent would simply pay for the flowers that the flower fund had formerly paid for, and when the Union objected that the flowers would not be coming from the members, JD 17, ll. 40-42, Meadows further offered to label flowers as being sent from the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 998 (Meadows)

252. To the ALJ's failure to find as fact that on July 28, Meadows also suggested that the parties address the causes the flower fund had formerly paid for via a committee. JD 1-63. The basis for this exception is that the record so shows. Tr. 998 (Meadows).

253. To the ALJ's failure to find as fact that on July 28, during the acrimonious exchange regarding the Respondent's position over eliminating the flower fund, JD 17, ll. 43-44, Head called Meadows a "idiot" and a "fucking idiot," and then repeated those insults. JD 1-63. The basis for this exception is that the record so shows. Tr. 454 (Eby); 999 (Meadows).

254. To the ALJ's failure to find as fact and conclude as a matter of law that in the course of the parties' bargaining, Meadows never personally attacked anyone on the Union

bargaining committee. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1007 (Meadows).

255. To the ALJ's failure to find as fact that the Union decided to end bargaining on July 28. JD 1-63. The basis for this exception is that the record so shows. Tr. 1007-08 (Meadows); R. Exh. 67 at 20.

256. To the ALJ's failure to find as fact that during bargaining on July 28, the Union had not agreed to modify any of its proposals, had not agreed to any of the Respondent's proposals, and had expressed no willingness to move on any particular areas. JD 1-63. The basis for this exception is that the record so shows. Tr. 990, 1008 (Meadows).

257. To the ALJ's failure to find as fact that in the Respondent's July 29 proposal the Respondent highlighted all changes in red. JD 1-63. The basis for this exception is that the record so shows. Tr. 1009 (Meadows).

258. To the ALJ's failure to find as fact that in the Respondent's July 29 proposal, it removed the requirement that employees be scheduled in a holiday week to receive holiday pay. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 4 at 2092.

259. To the ALJ's failure to find as fact that when the Respondent's July 29 proposal provided that employees who worked on a holiday when they were not scheduled would receive double time and a half pay, JD 18, ll. 19-20, it also specified that employees would not be penalized for a holiday falling on Sunday. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 4 at 2093.

260. To the ALJ's failure to find as fact that Respondent's July 29 proposal regarding bereavement leave, JD 18, ll. 20-21, used the bereavement terms of the Red Book.

JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 4 at 2095; Jt. Exh. 16 at 9610.

261. To the ALJ's failure to find as fact that although the Respondent's July 29 proposal allowed employees to "bank" vacation, JD 18, ll. 22-23, the Respondent's previous proposals also allowed employees to bank vacations. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 3 at 2059; Jt. Exh. 4 at 2098.

262. To the ALJ's failure to find as fact that on July 29, Meadows explained to the Union the formatting of the Respondent's proposal that highlighted its changes from prior proposals and verbally walked through the changes the Respondent had made. JD 1-63. The basis for this exception is that the record so shows. Tr. 1010 (Meadows); R. Exh. 67 at 21.

263. To the ALJ's failure to find as fact that on July 29, when Meadows went through the Respondent's proposal, he explained where the Respondent had made the changes in response to the Union's 21 items. JD 1-63. The basis for this exception is that the record so shows. Tr. 833 (Wood); 1010 (Meadows); R. Exh. 67 at 21-22; GC Exh. 7 at 13.

264. To the ALJ's failure to find as fact that during the parties' first session on July 29, the Union did not modify any of its proposals, nor did it express any willingness to move in any particular areas. JD 1-63. The basis for this exception is that the record so shows. Tr. 1010 (Meadows).

265. To the ALJ's finding of fact that on July 29, when the Union presented the list of what it viewed as concessions, the parties discussed the items on the list. JD 18, ll. 29-32. The basis for this exception is that the record does not so show. Tr. 292, 295 (Shannon); 1012 (Meadows); R. Exh. 67 at 23-28; GC Exh. 7 at 1427.

266. To the ALJ's failure to find as fact that on July 29, when Meadows received the list of concessions from the Union, *he* went through it and discussed each item. JD 1-63. The basis for this exception is that the record so shows. Tr. 292, 295 (Shannon); 1012 (Meadows); R. Exh. 67 at 23-28; GC Exh. 7 at 1427.

267. To the ALJ's failure to find as fact that although the Union had prepared its list of concessions on July 10, until this point on July 29 the Union had not given this list to the Company. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. R. Exh. 39; Tr. 429-31, 461, 576 (Eby).

268. To the ALJ's failure to find as fact that when Meadows received the list of what the Union viewed as concessions, Meadows commented that the Respondent did not view these as concessions, but said that he was willing to look at these issues to see what the Respondent was able to do. JD 1-63. The basis for this exception is that the record so shows. Tr. 1012 (Meadows).

269. To the ALJ's failure to find as fact that when the Union presented the list of what it viewed as concessions, Meadows also offered to add language to contractually obligate the Respondent to engage in certain effects bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 1013-14 (Meadows); R. Exh. 67 at 29.

270. To the ALJ's failure to find as fact that at the end of the July 29 bargaining session, in which the Union presented the list of what it viewed as concessions, Head told Meadows that to move forward, Meadows needed to go back to their Red Book and Meadows told Head that he was not willing to do that. JD 1-63. The basis for this exception is that the record so shows. Tr. 1014 (Meadows); R. Exh. 67 at 23, 26.

271. To the ALJ's failure to find as fact that on July 29, when Meadows agreed to modify the Respondent's proposals on the probationary period and vacations, JD 18, ll. 37-38, Meadows proposed moving bidding in job to 18 months, the probationary period to four months, and vacation back to the 12/18 year terms of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1014-16 (Meadows); R. Exh. 66 at 228; R. Exh. 67 at 30.

272. To the ALJ's finding of fact that on July 29, Meadows also informed the Union that he could be flexible on the bidding procedure, bumping rights, and would put together a proposal regarding the progressive discipline procedure, and further indicated that insurance and wages needed to be discussed. JD 18, ll. 38-41. The basis for this exception is that the record does not so show. R. Exh. 66 at 228; R. Exh. 67 at 30; Tr. 1014-16 (Meadows); GC Exh. 7 at 17.

273. To the ALJ's failure to find as fact that on July 29 Meadows told the Union that he could be flexible to further change the bidding procedure, consider bumping, add progressive discipline language, and discuss medical insurance and wages. The basis for this exception is that the record so shows. R. Exh. 66 at 228; R. Exh. 67 at 30; Tr. 1014-16 (Meadows); GC Exh. 7 at 17.

274. To the ALJ's finding of fact that on July 29, Meadows told the Union that the Union had not addressed the Respondent's proposal. JD 18-19, ll. 41-1. The basis for this exception is that the record does not so show. Tr. 1017 (Meadows); R. Exh. 67 at 31.

275. To the ALJ's failure to find as fact that on July 29, Meadows told the Union that the Union had not addressed the Respondent's proposals. The basis for this exception is that the record so shows. Tr. 1017 (Meadows); R. Exh. 67 at 31.

276. To the ALJ's failure to find as fact that before Meadows told the Union that the Union had not addressed the Respondent's proposals, the Union had not expressed any willingness to move on any of its proposals and had said that the Union wanted the Respondent to go back to the Red Book and insert the items the Respondent wanted into the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1017 (Meadows).

277. To the ALJ's failure to find as fact that the Union decided to end bargaining on the day of July 29. JD 1-63. The basis for this exception is that the record so shows. Tr. 1017 (Meadows); R. Exh. 67 at 31.

278. To the ALJ's failure to find as fact that at the beginning of bargaining on July 30, Head said that if the parties were to make any progress, the Respondent had to go back to the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1019 (Meadows).

279. To the ALJ's finding of fact that the Respondent's July 30 proposal revised the period of time an employee must wait after being awarded a bid and turning it down from 24 months to 18 months. JD 19, ll. 19-20. The basis for this exception is that the record does not so show. Jt. Exh. 5 at 2124-25.

280. To the ALJ's failure to find as fact that the Respondent's July 30 proposal reduced bid restrictions to 18 months from 24 months regardless of whether the employee turned the bid down or accepted it. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 5 at 2124-25.

281. To the ALJ's failure to find as fact that the Respondent's July 30 proposal addressed items the Union had highlighted in its 21 issues and list of concessions. JD 1-63. The

basis for this exception is that the record so shows. Tr. 1023 (Meadows); Jt. Exh. 23 at 587-89; R. Exh. 39.

282. To the ALJ's failure to find as fact that in its July 30 proposal, the Respondent again marked all changes in red. JD 1-63. The basis for this exception is that the record so shows. Tr. 1023 (Meadows); Jt. Exh. 5.

283. To the ALJ's finding of fact that on July 30, Meadows gave the Union GC Exh. 28. JD 19, ll. 27-28. The basis for this exception is that the record does not so show. Tr. 143-44 (Meadows); 305 (Shannon) 474 (Eby); GC Exh. 7 at 20, 28.

284. To the ALJ's failure to find as fact that the Respondent gave the Union GC 28 on July 31. JD 1-63. The basis for this exception is that the record so shows. Tr. 143-44 (Meadows); 305 (Shannon) 474 (Eby); GC Exh. 7 at 20, 28.

285. To the ALJ's finding of fact that the Respondent was proposing an attendance policy in bargaining. JD 19, ll. 27-28, 34. The basis for this exception is that the record does not so show. Tr. 144 (Meadows); 475 (Eby).

286. To the ALJ's failure to find as fact that the Respondent did not propose that GC Exh. 28 be part of the collective bargaining agreement. JD 1-63. The basis for this exception is that the record so shows. Tr. 144 (Meadows); 475 (Eby).

287. To the ALJ's finding of fact or conclusion of law that there were substantial differences between the attendance policy in the existing contract and an attendance policy in the proposals by the Respondent. JD 19, ll. 28-37. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 144 (Meadows); 475 (Eby).

288. To the ALJ's failure to find as fact that the Respondent did not propose an attendance policy as part of its proposals for a collective bargaining agreement in the summer of

2015. JD 1-63. The basis for this exception is that the record so shows. Tr. 144 (Meadows); 475 (Eby).

289. To the ALJ's finding of fact that when Respondent presented the 2015 rates for the health insurance plans it was proposing, along with a comparison of the rates for the existing health insurance plan, Eby pointed out to Meadows that for a family plan, the existing premium payment was less than the premium for the insurance proposed by the Respondent and the existing plan provided far superior insurance, and that Meadows made no response to his statement. JD 19, ll. 39-44. The basis for this exception is that the record does not so show. R. Exh. 67 at 33; GC Exh. 8 at 8; Tr. 1022 (Meadows).

290. To the ALJ's failure to find as fact that after Meadows presented the 2015 rates for the health insurance plans it was proposing, along with a comparison of the rates for the existing health insurance plan, he explained the insurance costs with Eby and Head. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 33; GC Exh. 8 at 8; Tr. 1022 (Meadows).

291. To the ALJ's finding of fact that the parties discussed the Respondent's proposals on July 30. JD 20, l. 1. The basis for this exception is that the record does not so show. Tr. 1023-24 (Meadows).

292. To the ALJ's failure to find as fact that on July 30 although Meadows pointed out where it had made changes and how each change proposed in the Respondent's July 30 proposal responded to an issue the Union raised with the Respondent, the Union did not respond to any of the Respondent's proposals during this session. JD 1-63. The basis for this exception is that the record so shows. Tr. 1023-24 (Meadows).

293. To the ALJ's failure to find as fact that the Union decided to end bargaining on the day of July 30. JD 1-63. The basis for this exception is that the record so shows. Tr. 1024 (Meadows); R. Exh. 67 at 33.

294. To the ALJ's failure to find as fact that on July 31, the Mediator was again present for bargaining. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 29.

295. To the ALJ's failure to find as fact that coming into negotiations on July 31, the Union's primary concern was the pending expiration of the contract, which was set to expire at 7:00 a.m. on August 1. JD 1-63. The basis for this exception is that the record so shows. Tr. 478 (Eby).

296. To the ALJ's finding of fact that throughout the bargaining, the Respondent's proposal did not contain specific information regarding the medical insurance. JD 20, fn. 17. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 2, 3, 4, and 5, Article XX, Section 1.

297. To the ALJ's failure to find as fact that until the Respondent modified the provision in response to the Union's July 29, 2015 list of concessions, the medical and dental plan provision of all prior Respondent proposals incorporated by reference the specific medical and prescription insurance, dental, and vision insurance plans that applied to the salaried, non-union employees. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 1, 2, 3, 4, and 5, Article XX, Section 1.

298. To the ALJ's finding of fact that the Respondent's July 31 proposal indicated that the Respondent would discuss plant rules before implementing them. JD 20, ll. 10-11. The basis for this exception is that the record does not so show. Jt. Exh. 6 at 2188.

299. To the ALJ's failure to find as fact that the Respondent's July 31 proposal *required* the Respondent to discuss plant rules with the Union before implementing them.

JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 6 at 2188.

300. To the ALJ's failure to find as fact that the Respondent's July 31 proposal again marked changes in red. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 6; Tr. 1025-26 (Meadows).

301. To the ALJ's failure to find as fact that on July 31, when the Respondent presented its first proposal on that day, Meadows went through the proposal, identifying all changes and explaining them to the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 481 (Eby); 1026 (Meadows).

302. To the ALJ's failure to find as fact that all changes in the Respondent's first proposal on July 31 responded to the Union's 21 issues and list of concessions. JD 1-63. The basis for this exception is that the record so shows. Tr. 1026 (Meadows); Jt. Exh. 23 at 587-89; R. Exh. 39.

303. To the ALJ's failure to find as fact that when the Respondent presented its first proposal of July 31 to the Union, the Union asked no questions about the Respondent's proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 1025 (Meadows).

304. To the ALJ's failure to find as fact that after the Respondent presented its first proposal of July 31, Meadows then expressed willingness to also add language extending the existence of the Respondent's Medicare supplement until January 1, 2016. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 35; Tr. 1026-27 (Meadows).

305. To the ALJ's failure to find as fact that during the first bargaining session on July 31, the Union did not adjust any of its proposals, express a willingness to move in its positions, or offer any proposals of its own. JD 1-63. The basis for this exception is that the record so shows. Tr. 1027-28 (Meadows).

306. To the ALJ's failure to find as fact that on July 31, in addition to providing a substantial amount of information to the Union, JD 20, l. 20, the Respondent also provided a written response to the Union's previous request for information. JD 1-63. The basis for this exception is that the record so shows. Tr. 1024-25 (Meadows); Jt. Exh. 27; R. Exh. 67 at 34.

307. To the ALJ's failure to find as fact that when the Union presented a revised proposal regarding the existing defined benefit pension plan, no one from the Union said anything to explain it. JD 1-63. The basis for this exception is that the record so shows. Tr. 481 (Eby); 1029 (Meadows).

308. To the ALJ's finding of fact that on July 31, Head indicated that August 1 was not a drop dead date for the Union and suggesting setting up additional days for further negotiations. JD 20, ll. 25-26. The basis for this exception is that the record does not so show. Tr. 1029, 1082 (Meadows); R. Exh. 67 at 36.

309. To the ALJ's failure to find as fact that on July 31 Head stated that the Union had a meeting the next day and that he wanted the Respondent to present its final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1029, 1082 (Meadows); R. Exh. 67 at 36.

310. To the ALJ's finding of fact that on July 31, Head stated that given where the parties were in the process, if Meadows wanted to put together an offer, he would take it back

and present it to the members. JD 20, ll. 26-28. The basis for this exception is that the record does not so show. Tr. 1029 (Meadows); R. Exh. 67 at 36.

311. To the ALJ's failure to find as fact that on July 31 Head said, "We want your final offer, and I want you to give us your best wages, medical insurance, and to provide it to us, because we got a meeting tomorrow and we're not going to stay here all night." JD 1-63. The basis for this exception is that the record so shows. Tr. 1029 (Meadows); R. Exh. 67 at 36.

312. To the ALJ's finding of fact that on July 31, Meadows replied to Head's request for a final offer by requesting time for putting the final offer together. JD 20, l. 30. The basis for this exception is that the record does not so show. Tr. 1030 (Meadows).

313. To the ALJ's failure to find as fact that on July 31 Meadows said that if that is what Head wanted, he would put it together and asked for time to do so, at which point Head reiterated "Just give us your final offer with your best wages and all." JD 1-63. The basis for this exception is that the record so shows. Tr. 1030 (Meadows).

314. To the ALJ's failure to find as fact that when the Respondent presented its final offer on July 31, as requested by the Union, Meadows explained that because it was the document the Union planned to distribute to bargaining unit employees, it was a clean document without changes highlighted in red. JD 1-63. The basis for this exception is that the record so shows. Tr. 1030 (Meadows).

315. To the ALJ's failure to find as fact that the Respondent's July 31 final offer, in addition to increasing maintenance employees by an additional \$1.00 an hour, thereby increasing its offer to \$2.00 an hour more than their present rate, JD 20, ll. 36-38, also provided for 2%, 2.5%, and 3% increases in subsequent years. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 7 at 447-48.

316. To the ALJ's failure to find as fact that Eby altered his notes at some point after bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 480, 573 (Eby); GC Exh. 8 at 9.

317. To the ALJ's failure to find as fact and conclude as a matter of law that Eby's testimony and notes are generally incredible, despite the ALJ's finding that Eby's notes from July 31 contained a reference to Meadows stating that August 1 was a drop date for him, when the ALJ found it implausible that Meadows would have made such a statement at this meeting. JD 20, fn. 18. The basis for this exception is that the record so shows, and the law so hold, by a clear preponderance of all evidence. Tr. 480, 573 (Eby); GC Exh. 8 at 9.

318. To the ALJ's finding of fact that in the Respondent's final offer, it changed bidding to utilize plant seniority. JD 20, ll. 35-36. The basis for this exception is that the record does not so show. Jt. Exh. 7 at 432.

319. To the ALJ's failure to find as fact that the Respondent's final offer changed the bidding procedure to a combination of department and plant seniority. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 7 at 432.

320. To the ALJ's finding of fact that on July 31, Meadows rejected the Union's proposal on the pension plan by indicating that the Respondent was standing firm on its proposal for freezing the existing pension plan. JD 21, ll. 4-5. The basis for this exception is that the record does not so show. Tr. 1031, 1077 (Meadows); R. Exh. 67 at 37.

321. To the ALJ's failure to find as fact that Meadows responded to the July 31 pension document by saying that the Respondent was remaining with its pension proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 1031, 1077 (Meadows); R. Exh. 67 at 37.

322. To the ALJ's failure to find as fact that after bargaining on July 31, Eby called Meadows back into the room and asked him whether the Medicare supplement benefit would still exist through the end of the year and Meadows gave Eby a letter confirming that it would. JD 1-63. The basis for this exception is that the record so shows. Tr. 486 (Eby).

323. To the ALJ's finding of fact that after the membership failed to ratify the Respondent's final offer, Meadows told Eby that the parties had no contract and, therefore, he was not bound to honor anything and that he was not obligated to follow the terms and conditions of the expired agreement. JD 21, ll. 20-24. The basis for this exception is that the record does not so show. Tr. 1032 (Meadows).

324. To the ALJ's failure to find as fact that after the bargaining unit voted down the Respondent's final offer, Meadows never told the Union that he was not obligated to follow any of the terms and conditions of the Red Book and had no specific conversation with the Union about that. JD 1-63. The basis for this exception is that the record so shows. Tr. 1032 (Meadows).

325. To the ALJ's finding of fact that Meadows testified that he did not recall a specific conversation with anyone from the Union after the contract was voted down. JD 21, fn. 19. The basis for this exception is that the record does not so show. Tr. 1032 (Meadows).

326. To the ALJ's failure to find as fact that Meadows testified not that he did not recall a specific conversation with anyone from the Union after the contract was voted down, but that he recalled no specific conversation with the Union about whether the Respondent was obligated to follow any of the terms and conditions of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1032 (Meadows).

327. To the ALJ's finding of fact or as a conclusion of law that Eby's testimony that Meadows told him that they had no contract, that therefore Meadows was not bound to honor anything and that he was not obligated to follow any of the terms and conditions is consistent with the statement made by Meadows in GC Exh. 15. JD 21, fn. 19. The basis for this exception is that the record does not so show, and the law does not so hold. GC Exh. 15; Tr. 488 (Eby).

328. To the ALJ's failure to find as fact that in GC Exh. 15, Meadows' statement was in terms of the termination of contractual obligations between the parties rather than the statutory obligation to refrain from changing terms and conditions of employment after expiration of a collective bargaining agreement. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 15; Tr. 488 (Eby).

329. To the ALJ's finding of fact or conclusion of law to credit Eby's testimony over that of Meadows. JD 21, fn. 19. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

330. To the ALJ's finding of fact that the bargaining notes of Shannon are clear and concise. JD 21, fn. 20. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 255-56, 267-69, 370, 379 (Shannon); Tr. 425, 439, 514 (Eby); Tr. 973, 976-78, 986, 991, 1014, 1017, 1019, 1035, 1044, 1047, 1049 (Meadows); Jt. Exh. 7 at 432, 447-48; R. Exh. 67 at 6, 8, 13, 23, 26, 39, 46, 51, 52; R. Exh. 66 at 218, 224, 225, 189, 191, 193, 196; GC Exh. 7 at 22-23; GC Exh. 7(a) at 1, 6, 7; GC Exh. 8 at 4.

331. To the ALJ's failure to find as fact that on August 17, the Union made no counterproposals to, or provided any feedback on, the Respondent's final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1033-34, 1036 (Meadows).

332. To the ALJ's failure to find as fact that at the beginning of bargaining on August 17, Meadows thought that the parties had a number of tentative agreements where the Respondent had adjusted its proposals in response to Union requests that it do so, and, in an effort to encourage bargaining, he told the Union that those were things to which the Respondent had already agreed, but Head replied by saying that the parties had no tentative agreements. JD 1-63. The basis for this exception is that the record so shows. Tr. 1033-34, 1036, 1101 (Meadows); R. Exh. 66 at 191; R. Exh. 67 at 40; GC Exh. 7 at 23.

333. To the ALJ's failure to find as fact that on August 17, Head stated that all the Union's proposals were still on the table except for herbal tea and stirrer sticks. JD 1-63. The basis for this exception is that the record so shows. Tr. 1034 (Meadows); R. Exh. 67 at 40.

334. To the ALJ's finding of fact that on August 17, Head discussed several other employers that had incurred significant expenses from their failure to reach an agreement with the Union and the litigation that followed, and stated that he hoped to make progress during the week or the Respondent would "never be the same." JD 21, ll. 34-37. The basis for this exception is that the record does not so show. Tr. 1035 (Meadows); R. Exh. 66 at 189; R. Exh. 67 at 38; GC Exh. 7 at 22.

335. To the ALJ's failure to find as fact that on August 17 Head discussed employers where the Union had struck or been locked out, including Kellogg, Roquette, and American Sugar, told the Respondent "you will never be the same" and said that at this point in

bargaining, the Respondent was “up shit creek.” JD 1-63. The basis for this exception is that the record so shows. Tr. 1035 (Meadows); R. Exh. 66 at 189; R. Exh. 67 at 38; GC Exh. 7 at 22.

336. To the ALJ’s failure to find as fact that on August 17, when Head indicated that the Respondent had a contract it bought, JD 22, ll. 8-9, Head indicated that it was the parties’ expired contract that the Respondent had bought. JD 1-63. The basis for this exception is that the record so shows. Tr. 1035 (Meadows); R. Exh. 66 at 189, 191; R. Exh. 67 at 39; GC Exh. 7 at 22-23.

337. To the ALJ’s failure to find as fact that on August 17, Head said that until Respondent put its proposals into the expired contract, the parties would not be able to agree on a process. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 7 at 22-23; Tr. 1035 (Meadows).

338. To the ALJ’s finding of fact that on August 17, Head said that the Union was ready to discuss the terms of the expired contract and that the Respondent had to incorporate its proposals into the format of the expired contract in order to have a path for meaningful discussion. JD 22, ll. 16-19. The basis for this exception is that the record does not so show. GC Exh. 7 at 22-23.

339. To the ALJ’s failure to find as fact that the record, including the exhibit on which the ALJ stated that he was primarily relying, JD 22, ll. 16-19, shows that Head said “until you put your proposals into our contract . . . if you put your proposals into the current contract we will be able to agree on a process.” JD 1-63. The basis for this exception is that the record so shows. GC Exh. 7 at 22-23.

340. To the ALJ's finding of fact that on August 17, Head stated that the Union was willing to move. JD 22, ll. 21-22. The basis for this exception is that the record does not so show. R. Exh. 67 at 41.

341. To the ALJ's failure to find as fact that the portion of the record relied upon by the ALJ, JD 22, ll. 21-22, shows that Head said "We were willing to move," indicating that the Union had been willing to move *before* this date. The basis for this exception is that the record so shows. R. Exh. 67 at 41.

342. To the ALJ's failure to find as fact and conclude as a matter of law that on August 17 the Respondent understood that the parties were at impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1036 (Meadows).

343. To the ALJ's failure to find as fact that after bargaining on August 17, Meadows wanted to get a contract but thought the parties were not going to be able to reach agreement unless they went back to the expired contract, which Meadows did not think was possible for the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 1036 (Meadows).

344. To the ALJ's failure to find as fact that on August 17, neither the Respondent nor the Union showed any willingness to move on any particular issues. JD 1-63. The basis for this exception is that the record so shows. Tr. 1035 (Meadows).

345. To the ALJ's failure to find as fact that after bargaining on August 17, Meadows drafted the Respondent's last, best, and final offer by looking at everything the Respondent could possibly give the Union, taking into account the Red Book, the Union's 21 issues and list of concessions, media events in which he had seen the Union make statements on

television, and all bargaining to-date. JD 1-63. The basis for this exception is that the record so shows. Tr. 1037-38 (Meadows).

346. To the ALJ's finding of fact that at the end of bargaining on August 17, Head told Meadows that in the past, the Union had worked from the format of the expired contract and stated that there needed to be a process, and Meadows replied that he had taken out the language in the existing agreement that Respondent did not like. JD 22, ll. 24-27. The basis for this exception is that the record does not so show. R. Exh. 67, p. 41.

347. To the ALJ's failure to find as fact that at the end of bargaining on August 17, Head said that the membership had to get something done ASAP and needed process and Meadows responded that he understood process and had taken out the language the parties didn't like. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67, p. 41.

348. To the ALJ's failure to find as fact that when Meadows presented Respondent's last, best, and final offer on August 18, he also told the Union that he had taken time and gone through all of the presentation from the previous day of bargaining. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 42.

349. To the ALJ's finding of fact or conclusion of law that to not credit Meadows' testimony that Head stated that if he were Eby, he would come across the table and cut him. JD 22, fn. 21. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1035 (Meadows); R. Exh. 67 at 41.

350. To the ALJ's finding of fact or conclusion of law that the reference in Wood's notes that Head stated, "Make it clear again Chris will cut you up" is cryptic. JD 22, fn.

21. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1035 (Meadows); R. Exh. 67 at 41.

351. To the ALJ's finding of fact or conclusion of law that it implausible that Head threatened Meadows with physical violence. JD 22, fn. 21. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1- 29; R. Exhs. 1-89; GC Exhs. 1-98.

352. To the ALJ's failure to find as fact that during bargaining on August 17, Head threatened violence against Meadows by saying that if he were Eby, he would have come across the table and cut Meadows. JD 1-63. The basis for this exception is that the uncontroverted evidence of the record so shows. Tr. 1035 (Meadows); R. Exh. 67 at 41.

353. To the ALJ's failure to find as fact that during bargaining, Meadows never physically threatened any member of the Union's bargaining team. JD 1-63. The basis for this exception is that the uncontroverted evidence of the record so shows. Tr. 1035 (Meadows).

354. To the ALJ's finding of fact that on August 18 Meadows said that neither the Respondent nor the Union was going to move and the parties were at an impasse. JD 22-23, ll. 37-1. The basis for this exception is that the record does not so show. Tr. 1038-39 (Meadows); R. Exh. 67 at 42.

355. To the ALJ's failure to find as fact that on August 18 Head said "you're not willing to move from your standpoint, you're not giving us anything" and that Meadows said "I don't see that we are at anything but at impasse and with no movement from either party and both parties locked into where they're at, I [am] going to present this final offer." JD 1-63. The basis for this exception is that the record so shows. Tr. 1038-39 (Meadows); R. Exh. 67 at 42.

356. To the ALJ's failure to find as fact that at the point Meadows presented the Respondent's last, best, and final offer, the Union had withdrawn only its proposal for herbal tea and stirrer sticks. JD 1-63. The basis for this exception is that the record so shows. Tr. 1043 (Meadows).

357. To the ALJ's finding of fact that the Respondent's last, best, and final offer amended the discipline procedure (Article V) to provide that after consultation between the parties, discipline may be removed from an employee's file after one year at the Respondent's discretion. JD 23, ll. 7-9. The basis for this exception is that the record does not so show. Jt. Exh. 8 at 2233-34.

358. To the ALJ's failure to find as fact that the Respondent's proposal to amended the discipline procedure (Article V) was for the Union and Respondent to review all discipline on its one-year anniversary to determine whether it should be removed from the employee's personnel file and that the Respondent's proposal also reduced the first step in the progressive disciplinary process to an undocumented warning. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 8 at 2233-34.

359. To the ALJ's finding of fact that the Respondent's last, best, and final offer indicated that management was responsible for scheduling overtime. JD 23, ll. 9-10. The basis for this exception is that the record does not so show. Jt. Exhs. 1-7, *e.g.* Jt. Exh. 7 at 436.

360. To the ALJ's failure to find as fact that the Respondent's proposal regarding overtime was to remove its previous proposals that the responsibility for maintaining and calling for overtime would rest at the level of each team within the plant. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 1-7, *e.g.* Jt. Exh. 7 at 436.

361. To the ALJ's finding of fact or conclusion of law that the Respondent's last, best, and final offer eliminated prior language that afforded the Union an opportunity to bargain over the decision to close the plant. JD 23, ll. 11-14. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 7 at 457.

362. To the ALJ's failure to find as fact that the Respondent's pre-last, best, and final offer proposals had not provided for decision bargaining, but merely for the Union to "discuss, explore, and present to the Respondent." JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 7 at 457.

363. To the ALJ's failure to find as fact that the Respondent's last, best, and final offer also removed the requirement that employees accept paychecks via direct deposit, which matched the terms of the Red Book, which contained no such requirement. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 7 at 448; Jt. Exh. 8 at 2250; Jt. Exh. 16.

364. To the ALJ's failure to find as fact that when Meadows explained that the changes in the Respondent's last, best, and final offer involved only certain enumerated changes, JD 23-24, ll. 30-3, Meadows also explained the terms of the last, best, and final offer by walking through all changes. JD 1-63. The basis for this exception is that the record so shows. Tr. 321 (Shannon); 496-98 (Eby); 1039-1043, 1046, 1106-12 (Meadows); R. Exh. 67 at 42-43; R. Exh. 66 at 192; GC Exh. 7 at 24.

365. To the ALJ's finding of fact that Jt. Exh. 13 was based on the format of the expired contract. JD 24, ll. 5-6. The basis for this exception is that the record does not so show. Tr. 1044 (Meadows); Jt. Exhs. 13, 16; R. Exh. 66 at 193; R. Exh. 67 at 46.

366. To the ALJ's failure to find as fact that Jt. Exh. 13 had both the form and substance of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1044 (Meadows); Jt. Exhs. 13, 16; R. Exh. 66 at 193; R. Exh. 67 at 46.

367. To the ALJ's failure to find as fact that when Head presented Jt. Exh. 13 to the Respondent, he said "We're going to start presenting you stuff article by article from our book." JD 1-63. The basis for this exception is that the record so shows. Tr. 1044 (Meadows); R. Exh. 66 at 193; R. Exh. 67 at 46.

368. To the ALJ's finding of fact that Head outlined the Union's proposal on preamble and Articles I, II, and III. JD 24, ll. 6-7. The basis for this exception is that the record does not so show. Tr. 501-02 (Eby); 1044 (Meadows); R. Exh. 67 at 47-49.

369. To the ALJ's failure to find as fact that Head merely read the Union's proposal on preamble and Articles I, II, and III. JD 1-63. The basis for this exception is that the record so shows. Tr. 501-02 (Eby); 1044 (Meadows); R. Exh. 67 at 47-49.

370. To the ALJ's finding of fact that after Head presented Jt. Exh. 13, Meadows indicated that he did not have an interest in returning to the language of the expired contract. JD 24, ll. 8-9. The basis for this exception is that the record does not so show. Tr. 1044-45 (Meadows).

371. To the ALJ's failure to find as fact that after Head presented Jt. Exh. 13, Meadows said that this proposal was going back to the Red Book, which contained a great deal of language that was unacceptable to the Respondent, that the Respondent was not interested in going back to the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1044-45 (Meadows).

372. To the ALJ's finding of fact that on August 18, Meadows indicated that he would address some of the provisions of the last, best, and final if the Union wanted to address provisions. JD 24, ll. 8-11. The basis for this exception is that the record does not so show. Tr. 1045 (Meadows); R. Exh. 67 at 46-47.

373. To the ALJ's failure to find as fact that on August 18 Meadows offered to address *any* issues with the Respondent's last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1045 (Meadows); R. Exh. 67 at 46-47.

374. To the ALJ's failure to find as fact that when Meadows offered to address any issues with the Respondent's last, best, and final offer, Head replied that the Union was not willing to work from the last, best, and final offer, that they were going to bargain from their contract, and that it was their way or nothing. JD 1-63. The basis for this exception is that the record so shows. Tr. 1045 (Meadows).

375. To the ALJ's failure to find as fact that during the session in which the Union presented Jt. Exh. 13, neither party agreed to any of the other's bargaining proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 1046 (Meadows).

376. To the ALJ's failure to find as fact that the wage proposal the Union presented on August 18 was the first wage proposal the Union had ever given the Respondent during bargaining in the summer of 2015. JD 1-63. The basis for this exception is that the record so shows. Tr. 1047, 1114 (Meadows).

377. To the ALJ's finding of fact that after the Union presented the wage proposal on August 18, Meadows said that he was not interested in going step-by-step through the Union's wage proposal. JD 24, ll. 17-18. The basis for this exception is that the record does not so show. Tr. 1047, 1114 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 50-51.

378. To the ALJ's failure to find as fact that Meadows found the Union's August 18 wage proposal unacceptable because it continued to propose Red Book terms after the Respondent had already given its last, best, and final offer, and that Meadows responded by telling the Union "you asked for our final. You asked for our best wages. I gave you them," and by stating that the Respondent's best wages were already in the last, best, and final, and that the Respondent was not interested in going through the process the Union was proposing. JD 1-63. The basis for this exception is that the record so shows. Tr. 1047, 1114 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 50-51.

379. To the ALJ's failure to find as fact that after the Union presented its wage proposal on August 18, Meadows asked the Union to review the last, best, and final and let him know if they identified areas that the parties could massage or tweak. JD 1-63. The basis for this exception is that the record so shows. Tr. 1115 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 50-51.

380. To the ALJ's failure to find as fact that when Meadows asked the Union on August 18 to review the last, best, and final, Head said that they were not going to refer to the Respondent's last, best, and final and told Meadows he needed to go back to the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1047 (Meadows); R. Exh. 67 at 51.

381. To the ALJ's finding of fact that at the end of bargaining on August 18, Head indicated that the Union was disappointed in the bargaining during the session and that there was no need for scheduling a meeting the next day. JD 24, ll. 20-22. The basis for this exception is that the record does not so show. Tr. 1047 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 51.

382. To the ALJ's failure to find as fact that at the end of bargaining on August 18, although the parties were scheduled to meet the following day, Head said "There's no use in . . . there is no reason for us to meet anymore. We're not going to meet tomorrow." JD 1-63. The basis for this exception is that the record so shows. Tr. 1047 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 51.

383. To the ALJ's failure to find as fact that at the beginning of bargaining on September 9, Head said that the Respondent needed to go back to the Red Book if the parties were going to get anywhere in bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 1049 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

384. To the ALJ's finding of fact that on September 9, Meadows said that he had given the Union the Respondent's last, best, and final offer and asked the Union representatives what they wanted to do. JD 24, ll. 28-30. The basis for this exception is that the record does not so show. Tr. 1049 (Meadows); R. Exh. 67 at 52.

385. To the ALJ's failure to find as fact that on September 9 Meadows said that the last, best, and final offer was on the table and if there were issues with particular items of the last, best, and final, they Union needed to tell him what the issues were, but that so far the Union had not identified any problems or concerns. JD 1-63. The basis for this exception is that the record so shows. Tr. 1049 (Meadows); R. Exh. 67 at 52.

386. To the ALJ's finding of fact that on September 9, Meadows stated that he was there to listen but that he was not interested in going through the Union's proposal article by article, to which Head responded "Then we're done." JD 24, ll. 30-32. The basis for this exception is that the record does not so show. Tr. 514 (Eby); 1049-50, 1117 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

387. To the ALJ's failure to find as fact that on September 9 Meadows told Head that he found it unacceptable that the Union was going to continue with the way they left off and continue to propose the Red Book article by article, because the Respondent had already stated that it was not interested in that contract and that the Respondent had its proposals on the table and Meadows had not received a response from the Union, to which Head replied "Okay, then we're done." JD 1-63. The basis for this exception is that the record so shows. Tr. 514 (Eby); 1049-50, 1117 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

388. To the ALJ's finding of fact that at the end of the bargaining session on September 9, Meadows said that the Respondent would be implementing its agreement on the following Monday and that letters to employees would be in the mail. JD 24, ll. 32-33. The basis for this exception is that the record does not so show. Tr. 1050 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

389. To the ALJ's failure to find as fact that the end of the bargaining session on September Meadows told Head "Then if we're done and we're not going to be moving further, then I got no alternative left but to go ahead and implement our last, best, and final" and that he would plan on doing that the following Monday if parties could not get movement in the meantime. JD 1-63. The basis for this exception is that the record so shows. Tr. 1050 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

390. To the ALJ's failure to find as fact that neither the Respondent nor the Union agreed to any of the other's proposals during bargaining on September 9. JD 1-63. The basis for this exception is that the record so shows. Tr. 1050 (Meadows).

391. To the ALJ's finding of fact that at the beginning of the parties' bargaining on September 10, Meadows said that he had given the Union the Respondent's last,

best, and final offer but that he would listen to recommendations to that proposal. JD 24, ll. 38-40. The basis for this exception is that the record does not so show. Tr. 1051 (Meadows); R. Exh. 66 at 197-98; R. Exh. 7 at 52.

392. To the ALJ's failure to find as fact that at the beginning of the parties' bargaining on September 10 Meadows told the Union that if the Union wanted to present issues with the Respondent's last, best, and final, then the Respondent was more than interested in reviewing them but that it was up to the Union to give the Respondent feedback. JD 1-63. The basis for this exception is that the record so shows. Tr. 1051 (Meadows); R. Exh. 66 at 197-98; R. Exh. 7 at 52.

393. To the ALJ's failure to find as fact that after Meadows stated that it was up to the Union to give the Respondent feedback, Head declined to do so. JD 1-63. The basis for this exception is that the record so shows. Tr. 1051 (Meadows).

394. To the ALJ's finding of fact that on September 10, Head asked if Meadows was willing to consider issues that the Union came up with. JD 24, ll. 41-42. The basis for this exception is that the record does not so show. Tr. 1117-18 (Meadows).

395. To the ALJ's failure to find as fact that on September 10, Head asked Meadows if he wanted to look at a new proposal from the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 1117-18 (Meadows).

396. To the ALJ's finding of fact that on September 10, Meadows replied that he was going to keep an open mind and respond to a proposal from the Union when he had all of the issues they wished to present and added that if there was a proposed modification to the last, best, and final offer, that he was going to consider it. JD 24, ll. 41-43. The basis for this exception is that the record does not so show. Tr. 1117-18 (Meadows).

397. To the ALJ's failure to find as fact that on September 10 Meadows said "I'm willing to consider anything that you guys want to propose if it's in reference to our last, best, and final." JD 1-63. The basis for this exception is that the record so shows. Tr. 1117-18 (Meadows).

398. To the ALJ's finding of fact that Jt. Exh. 15 was based on the format of the expired contract. JD 25, ll. 1-2. The basis for this exception is that the record does not so show. Jt. Exhs. 15, 16.

399. To the ALJ's failure to find as fact that Jt. Exh. 15 was based on both the format and substance of the expired contract. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 15, 16.

400. To the ALJ's finding of fact that on September 10, Head presented Jt. Exh. 15. JD 24-25, ll. 47 and 1. The basis for this exception is that the record does not so show. Tr. 1054 (Meadows); R. Exh. 66 at 199; R. Exh. 67 at 55.

401. To the ALJ's failure to find as fact that on September 10 while Head gave the Respondent Jt. Exh. 15, Head did not explain the offer to the Respondent, instead stating that the Union Committee was too tired to explain it. JD 1-63. The basis for this exception is that the record so shows. Tr. 1054 (Meadows); R. Exh. 66 at 199; R. Exh. 67 at 55.

402. To the ALJ's finding of fact that in Jt. Exh. 15, the Union made a number of changes, including eliminating the Labor Relations Committee. JD 25, ll. 2-3. The basis for this exception is that the record does not so show. Jt. Exh. 15 at 608, Article II, Section 2.

403. To the ALJ's failure to find as fact that Jt. Exh. 15 retains the Labor Relations Committee while simply eliminating the reference to that committee as "Joint Labor

Relations.” JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 15 at 608, Article II, Section 2.

404. To the ALJ’s failure to find as fact that when Meadows thumbed through Jt. Exh. 15 he realized it was the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 1119 (Meadows).

405. To the ALJ’s finding of fact that after Meadows quickly reviewed Jt. Exh. 15, he indicated that he would review the proposal and get back to the Union that evening. JD 25, ll. 10-11. The basis for this exception is that the record does not so show. Tr. 1054 (Meadows).

406. To the ALJ’s failure to find as fact that after Meadows quickly reviewed Jt. Exh. 15 Meadows told Head that the Respondent’s last, best, and final was on the table and that Head had refused to address any issues the Union had with the last, best, and final. JD 1-63. The basis for this exception is that the record so shows. Tr. 1054 (Meadows).

407. To the ALJ’s failure to find as fact that after reviewing Jt. Exh. 15 Meadows did not think that continued bargaining might get a contract because Head had made it perfectly clear to him that if the Respondent did not agree to use the Red Book the Union was not going to make any movement. JD 1-63. The basis for this exception is that the record so shows. Tr. 1054 (Meadows).

408. To the ALJ’s failure to find as fact that at the end of bargaining on September 10, after Meadows had presented R. Exh. 45 to the Union, Meadows again said that if the Union wanted to review the last, best, and final and present the Respondent with its concerns, the Respondent would consider them. JD 1-63. The basis for this exception is that the record so shows. Tr. 1055 (Meadows).

409. To the ALJ's finding of fact that on September 11, at the beginning of bargaining, Meadows stated that he was disappointed in the Union's latest proposal and that the Respondent was not interested in it. JD 25, ll. 19-21. The basis for this exception is that the record does not so show. Tr. 525 (Eby); 1056 (Meadows); R. Exh. 66 at 200; R. Exh. 67 at 57.

410. To the ALJ's failure to find as fact that on September 11, at the beginning of bargaining, Meadows stated that the Respondent had gone through the Union's offer of settlement and was not interested in going back to the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 525 (Eby); 1056 (Meadows); R. Exh. 66 at 200; R. Exh. 67 at 57.

411. To the ALJ's finding of fact that on September 11, Head stated that the Union Committee had made a good faith effort in preparing a proposal but that the Respondent would not consider it and stated that the Respondent had not engaged the Union in a meaningful way. JD 25, ll. 23-25. The basis for this exception is that the record does not so show. Tr. 1056 (Meadows).

412. To the ALJ's failure to find as fact that on September 11 Head said that he was not willing to work from the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1056 (Meadows).

413. To the ALJ's failure to find as fact that at the end of bargaining on September 11, Head said, "You can lock us out, or we can strike," Head then said "You do what you want to do." JD 1-63. The basis for this exception is that the record so shows. Tr. 1056 (Meadows); R. Exh. 66 at 200; R. Exh. 67 at 57-58.

414. To the ALJ's finding of fact that at the end of bargaining on September 11, Meadows stated that he would respond to the Union's proposed bargaining at

email. JD 25, ll. 26-27. The basis for this exception is that the record does not so show.

R. Exh. 67 at 58.

415. To the ALJ's failure to find as fact that at the end of bargaining on September 11 Meadows said that the Respondent would contact the Union via email on next steps. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 58.

416. To the ALJ's failure to find as fact that on September 11, neither party adjusted its proposals nor presented any proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 1056 (Meadows).

417. To the ALJ's finding of fact that on September 28, 2015, Meadows and Eby discussed retiree health care in the Ethanol Control Room and Meadows told Eby that there would not be any changes in it. JD 25, ll. 37-40. The basis for this exception is that the record does not so show. Tr. 1058-59 (Meadows).

418. To the ALJ's failure to find as fact that on September 28 the parties did not discuss retiree health care, but, rather, discussed whether retirees could come back to work. JD 1-63. The basis for this exception is that the record so shows. Tr. 1058-59 (Meadows).

419. To the ALJ's finding of fact that on September 28, in the Ethanol Control Room, Eby said that both parties had what they considered to be some leverage but they needed "to get to a discussion." JD 25-26, ll. 42-2. The basis for this exception is that the record does not so show. Tr. 1058 (Meadows).

420. To the ALJ's failure to find as fact that on September 28, in the Ethanol Control Room, both Meadows and Eby asked each other "what are we going to do" and agreed that they wanted to get a contract done. JD 1-63. The basis for this exception is that the record so shows. Tr. 1058 (Meadows).

421. To the ALJ's finding of fact that on September 28 in the Ethanol Control Room, Eby referred to the pending unfair labor practice charge in the instant matter and stated that the parties did not know "which way it would go" and Meadows responded that he was not worried about the charge, and that if the Board ruled against him, "he would come back to the table and do the exact same thing and get to impasse." JD 26, ll. 2-5. The basis for this exception is that the record does not so show. Tr. 1059-60 (Meadows).

422. To the ALJ's finding of fact or conclusion of law to credit Eby's version of his conversation in near the ethanol control room to the extent it conflicts with that of Meadows. JD 26, ll. 15-16. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1- 29; R. Exhs. 1-89; GC Exhs. 1-98.

423. To the ALJ's finding of fact or conclusion of law that Eby's testimony was more detailed and thorough and his demeanor was more convincing. JD 26, l. 16. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1- 29; R. Exhs. 1-89; GC Exhs. 1-98.

424. To the ALJ's finding of fact or conclusion of law that Meadows made the statement attributed to him by Eby regarding the fact that if the NLRB ruled against them he would do the exact same thing and get to an impasse. JD 26, ll. 17-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1059-60 (Meadows); Tr. 1-1135; Jt. Exhs. 1- 29; R. Exhs. 1-89; GC Exhs. 1-98.

425. To the ALJ's failure to find as fact that on September 28 in the Ethanol Control Room there was no discussion of the NLRB charges and that Meadows did not say that

if the NLRB ruled against the Respondent, he would do the same thing and get to impasse.

JD 1-63. The basis for this exception is that the record so shows. Tr. 1059-60 (Meadows).

426. To the ALJ's failure to find as fact and conclude as a matter of law that Art. V, § 1 of the Respondent's June 30 proposal provided for drawing numbers to determine the seniority order of employees hired on the same day in response to the Union's June 29 proposal, "When employees have been employed on the same day, seniority as between such employees will be established by drawing numbers." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2008; Jt. Exh. 11 at 568.

427. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 4(c) of the Respondent's June 30 proposal added leave for union representatives participating in a union assignment or political office in response to the Union's June 29 proposal asking to expand benefits for such leave beyond the provisions of the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2018; Jt. Exh. 11 at 569; Jt. Exh. 16 at 9629.

428. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 4(d) of the Respondent's June 30 proposal added employee leave for voting in political elections in response to the Union's June 29 proposal, "Employees shall be allowed such time off as necessary to vote in any Federal, State or Municipal elections." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2018; Jt. Exh. 11 at 569.

429. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 7 of the Respondent's June 30 proposal added medical insurance while on active military duty in response to the Union's June 1 proposal, "Add Respondent will pay 100% of all

plan premiums during active service.” JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2019; Jt. Exh. 10 at 573.

430. To the ALJ’s failure to find as fact and conclude as a matter of law that Art. X, § 2 of the Respondent’s July 28 proposal provided double pay for Sunday work to match Red Book Art. VI, § 1. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2051; Jt. Exh. 16 at 9622.

431. To the ALJ’s failure to find as fact and conclude as a matter of law that Art. X, § 4, Overtime Rule #2 of the Respondent’s July 28 proposal added that employees may not be forced more than two (2) consecutive days of overtime to match Red Book Art. V, § 12(5). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2052; Jt. Exh. 16 at 9618.

432. To the ALJ’s failure to find as fact and conclude as a matter of law that Art. X, § 7 of the Respondent’s July 28 proposal provided two (2) additional personal holidays in response to the Union’s June 1 proposal, “Add MLK Day and day after Thanksgiving.” JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2054; Jt. Exh. 10 at 572.

433. To the ALJ’s failure to find as fact and conclude as a matter of law that Art. XIII, § 1 of the Respondent’s July 28 proposal increased the top level of vacation to six (6) weeks for twenty-five (25)+ year employees to match Red Book Art. VII, § 1. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2058; Jt. Exh. 16 at 9625.

434. To the ALJ’s failure to find as fact and conclude as a matter of law that Art. XIII, § 2 of the Respondent’s July 28 proposal increased vacation pay to forty-four (44)

hours in response to the Union's June 1 proposal, "Modify so that all employees vacation weeks consist of seven 7 days at forty-nine 49 hours per week." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2058; Jt. Exh. 10 at 572.

435. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XV, § 1 of the Respondent's July 28 proposal proposed all wage rates in response to a series of wage proposals tied to Red Book Art. IV, § 1 in the Union's June 1 proposal. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2062-63; Jt. Exh. 10 at 571.

436. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XV, § 2 of the Respondent's July 28 proposal added a twenty-seven (27) cent differential for 4<sup>th</sup> shift to match Red Book Art. IV, § 8. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2064; Jt. Exh. 16 at 9609.

437. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XX, § 3 of the Respondent's July 28 proposal added language to make clear that the Respondent was, in fact, proposing gap insurance for employees with hire dates both before and after August 1, 2004 in response to the Union's June 1 proposal, "All employees (existing or new) with less than 60 pts on August 1, 2004 will be entitled to the same retiree medical provisions (prior to August 1, 2004) once said employees attain 20 years of service." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2069; Jt. Exh. 10 at 573.

438. To the ALJ's failure to find as fact and conclude as a matter of law that Art. X, § 2 of the Respondent's July 29 proposal added time-and-a-half pay for work over eight (8) hours in a day and added double time for work over twelve (12) hours in a day in response to

the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2089-90; Jt. Exh. 23 at 588 (#17).

439. To the ALJ's failure to find as fact and conclude as a matter of law that Art. X, § 4, Overtime Rules #10 of the Respondent's July 29 proposal provided for double pay for day shift maintenance employees working at night in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2091; Jt. Exh. 23 at 589 (#19).

440. To the ALJ's failure to find as fact and conclude as a matter of law that Art. X, § 7 of the Respondent's July 29 proposal removed a holiday pay exclusion for probationary employees in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2092; Jt. Exh. 23 at 588 (#1).

441. To the ALJ's failure to find as fact and conclude as a matter of law that Art. X, § 7 of the Respondent's July 29 proposal removed the requirement that employees be scheduled in a holiday week to receive holiday pay in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2092; Jt. Exh. 23 at 588 (#2).

442. To the ALJ's failure to find as fact and conclude as a matter of law that Art. X, § 7(e) and (f) of the Respondent's July 29 proposal provided two-and-a-half-time pay for working on a holiday if an employee was not scheduled but nonetheless worked, and specified

that employees will not be penalized for a holiday falling on a Sunday, in response to the Union's request that the Respondent withdraw its previous proposals on those subjects. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2093; Jt. Exh. 23 at 588 (#15).

443. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 5 of the Respondent's July 29 proposal added the bereavement terms of the Red Book to the Respondent's proposal in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2095; Jt. Exh. 23 at 588 (#3).

444. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 6 of the Respondent's July 29 proposal removed restrictions on use of jury service leave in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2095; Jt. Exh. 23 at 588 (#16).

445. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XIII, § 8 of the Respondent's July 29 proposal raised the amount of vacation senior employees can bank to use as single days in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2098; Jt. Exh. 23 at 588 (#5).

446. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XIII, § 10 of the Respondent's July 29 proposal removed the requirement to use vacation leave before using FMLA leave in response to the Union's request that the Respondent withdraw

its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2098; Jt. Exh. 23 at 588 (#9).

447. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVII, § 1(A) of the Respondent's July 29 proposal specified that the Respondent would pay for temporary disability benefits in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2103; Jt. Exh. 23 at 588 (#12).

448. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVII, § 3 of the Respondent's July 29 proposal raised the temporary disability benefit from \$325/week to \$375/week in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2104; Jt. Exh. 23 at 588 (#12).

449. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVIII, § 1 of the Respondent's July 29 proposal raised the group life insurance benefit from \$25,000 to \$50,000 in response to the Union's request that the Respondent withdraw its previous proposal on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 4 at 2106; Jt. Exh. 23 at 588 (#13).

450. To the ALJ's failure to find as fact and conclude as a matter of law that Art. I, § 2 of the Respondent's July 30 proposal reduced the probationary period to four (4) months in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2117; Exh. 39 at 560 ("Probation period 6 months instead of 50 working days").

451. To the ALJ's failure to find as fact and conclude as a matter of law that Art. IV (B) of the Respondent's July 30 proposal added progressive discipline language in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2122; R. Exh. 39 at 559 ("No progressive disciplinary procedure").

452. To the ALJ's failure to find as fact and conclude as a matter of law that Art. V, § 1(E) of the Respondent's July 30 proposal increased the number of days of unexcused absence before an employee loses seniority from two (2) to three (3) in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2123; R. Exh. 39 at 560 ("Loss of seniority if absent for two unexcused days.")

453. To the ALJ's failure to find as fact and conclude as a matter of law that Art. VI, § 1(D) (2) and (E) of the Respondent's July 30 proposal reduced the bid restriction to eighteen (18) months from twenty-four (24) months in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2124-25; R. Exh. 39 at 559 ("Moving to new bid job limited to once every two years vs multiple times a year").

454. To the ALJ's failure to find as fact and conclude as a matter of law that Art. VII, § 1(3) of the Respondent's July 30 proposal changed to plant-wide seniority instead of classification seniority for layoffs in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2125; R. Exh. 39 at 559 ("Layoffs not done by seniority").

455. To the ALJ's failure to find as fact and conclude as a matter of law that Art. VII, § 1(6) of the Respondent's July 30 proposal exempted only Maintenance, not Lab employees, from general layoffs in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2126; R. Exh. 39 at 559, 561 ("Layoffs not done by seniority . . . No bump rights for discontinuance of job, etc.")

456. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XIII, § 1 of the Respondent's July 30 proposal provided for vacation increases after 12 and 18 years of service in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 5 at 2135; R. Exh. 39 at 560 ("5<sup>th</sup> week of vacation after 20 years instead of 18 yrs").

457. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XIII, § 2 of the Respondent's July 31 proposal increased vacation pay for an additional hour beyond the forty-four (44) hours to which the Respondent had already increased vacation pay in its July 28 proposal in response to the Union's June 1 proposal, "Modify so that all employees vacation weeks consist of seven 7 days at forty-nine 49 hours per week." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 7 at 443; Jt. Exh. 3 at 2058; Jt. Exh. 10 at 572.

458. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVIII, § 6 of the Respondent's July 31 proposal added a long-term disability benefit in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 6 at 2182; R. Exh. 39 at 559 ("STD reduced from 52 wks to 26 wks").

459. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XXI, § 1 of the Respondent's July 31 proposal unlinked the bargaining unit's benefit plans from those of the salaried employees in response to a number of bullet points related to benefit plans on the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 6 at 2184; R. Exh. 39 at 559.

460. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XX, § 3 of the Respondent's July 31 proposal delayed proposed changes to the gap insurance benefit until January 1, 2016 to extend the terms of the Red Book on that subject. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 6 at 2184; Jt. Exh. 16 at 9636.

461. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XXVII of the Respondent's July 31 proposal required the Respondent to discuss plant rules with the Union before implementing them in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 6 at 2188; R. Exh. 39 at 559 ("Respondent can make and change plant rules at any time simply by posting on board").

462. To the ALJ's failure to find as fact and conclude as a matter of law that Art. VII, § 1 of the Respondent's July 31 "Final Offer" changed bidding to be by department and plant seniority in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 7 at 432; R. Exh. 39 at 559 ("Bidding not done by seniority").

463. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVI of the Respondent's July 31 "Final Offer" increased maintenance wages to \$2.00

immediately, with 2%, 2.5% and 3% increases in subsequent years in response to the Union's June 1 proposal to "Immediately add \$2 to Reliability Specialist Classification." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 7 at 447-48; Jt. Exh. 10 at 571.

464. To the ALJ's failure to find as fact and conclude as a matter of law that Art. I, § 2 of the Respondent's Last, Best, and Final Offer reverted to the Red Book's bargaining unit description in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2228; R. Exh. 39 at 560 ("Reducing whose [sic] represented in bargaining unit; company looking to 'redefine'").

465. To the ALJ's failure to find as fact and conclude as a matter of law that Art. III, § 1 of the Respondent's Last, Best, and Final Offer removed language seeking to restrict the number of persons on the negotiating committee in response to the Union's June 29 proposal, "The employees shall be represented by a Negotiating Committee composed of not more than four (4) including the Unit President of Local No. 100G." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2230; Jt. Exh. 11 at 567.

466. To the ALJ's failure to find as fact and conclude as a matter of law that Art. III, § 1 of the Respondent's Last, Best, and Final Offer removed the requirement that bargaining committee members be employees of the Respondent to match the terms of the Red Book, which contained no such requirement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2230; Jt. Exh. 16.

467. To the ALJ's failure to find as fact and conclude as a matter of law that Art. V of the Respondent's Last, Best, and Final Offer added provisions about how long

discipline stays in the file and reduced the first step to an undocumented warning in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2233-34; R. Exh. 39 at 559 ("No progressive disciplinary procedure").

468. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XI, § 4 of the Respondent's Last, Best, and Final Offer removed a proposal to make employees responsible for overtime in response to the Union's July 29, 2015, list concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2240-41; R. Exh. 39 at 560 ("Employees line up overtime and maintain records").

469. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVI, § 1 of the Respondent's Last, Best, and Final Offer removed the requirement that employees accept paychecks via direct deposit to match the terms of the Red Book, which contained no such requirement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2250; Jt. Exh. 16.

470. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XVIII, § 1(F) of the Respondent's Last, Best, and Final Offer removed language about discontinuing benefits payments during a work stoppage in response to the Union's July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2253; R. Exh. 39 at 560 ("Creates greater restrictions and requirements for S&A benefits").

471. To the ALJ's failure to find as fact and conclude as a matter of law that Art. XXV, § 2 of the Respondent's Last, Best, and Final Offer contractually required effects bargaining for layoffs in response to the Union's July 29, 2015, list of concessions. JD 1-63.

The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2260-61; R. Exh. 39 at 562 (“Eliminate severance language and benefits”).

472. To the ALJ’s failure to find as fact and conclude as a matter of law that the Addendum of the Respondent’s Last, Best, and Final Offer provided offsets for HSP medical plans in response to the Union’s July 29, 2015, list of concessions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 9 at 2263; R. Exh. 39 at 559 (“Medical insurance different; premium & deductible, etc.?”).

473. To the ALJ’s failure to conclude as a matter of law that “the Board cannot force an employer to make a ‘concession’ on any specific issue or to adopt any particular position.” JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

474. To the ALJ’s failure to conclude as a matter of law that in addition to "unreasonable bargaining demands, delaying tactics, efforts to bypass the bargaining representative, failure to provide relevant information and unlawful conduct away from the table,” JD 26, ll. 4-6, basic points the Board considers in determining bad faith include willingness to meet, consideration of proposals, making counterproposals, responses to information requests, explanations given for proposals, and sincerity with which a party's positions are taken and held. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

475. To the ALJ’s conclusion of law that “the allegations that the Respondent engaged in unlawful conduct away from the bargaining table and unlawfully delayed in providing the Union necessary and relevant information . . .” were threshold issues to the surface

bargaining allegation. JD 27, ll. 11-15. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

476. To the ALJ's finding of fact or conclusion of law that the Respondent-paid supplement for Medicare and the option to have a drug card were part of the Respondent's gap insurance. JD 28, ll. 7-9. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 16 at 650 (Red Book) (referencing "The Insurance Plan for Retired Employees"); Tr. 257 (Shannon); Tr. 786 (Froehlich).

477. To the ALJ's failure to find as fact and conclude as a matter of law that gap insurance (medical insurance that covers certain retirees from the time they retire until they turn sixty-five (65) years old or otherwise become eligible for Medicare) is distinct from the Medicare supplement and drug card for retirees. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 16 at 650 (Red Book) (referencing "The Insurance Plan for Retired Employees"); Tr. 257 (Shannon); Tr. 786 (Froehlich).

478. To the ALJ's failure to find as fact that the Respondent sent the July 17 letters to employees because it had heard employees say that the Respondent wanted to do away with gap insurance and eliminate a classification from the bargaining unit, which misrepresented the Respondent's positions in bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 785-87(Froehlich); GC Exh. 20.

479. To the ALJ's finding of fact that the record establishes that the total monthly premium for the Respondent's proposed HSP plan was \$500.25, and the cost to an actively employed employee would be \$85 and the cost to the Respondent would be \$415.25. JD, p. 28, ll. 26-18. The basis for this exception is that the record does not so show. Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 16 at 9634-35.

480. To the ALJ's failure to find as fact that the Respondent's gap insurance proposal, like that of the Red Book, tied the employee contribution for gap insurance to variable insurance plans. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 16 at 9634-35.

481. To the ALJ's failure to find as fact that the Respondent had proposed gap insurance in its very first proposal. JD 1-63. The basis for this exception is that the record so shows. Tr. 893 (Meadows); Tr. 367 (Shannon); Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 2, Art. XX, § 3 at 2032.

482. To the ALJ's failure to find as fact that the Respondent aimed to extend gap insurance to less-tenured employees who were previously not eligible for it. JD 1-63. The basis for this exception is that the record so shows. Tr. 786 (Froehlich); Tr. 984 (Meadows).

483. To the ALJ's failure to find as fact that the Respondent's proposal on June 30 contained the same proposed gap insurance clause, and that the Respondent never sought to eliminate gap insurance. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 2, Art. XX, § 3 at 2032; Tr. 983-84 (Meadows).

484. To the ALJ's failure to find as fact that the Respondent intended to maintain all of the current classifications in its June 1 and June 30 proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 786, 803 (Froehlich); Tr. 984 (Meadows).

485. To the ALJ's failure to conclude as a matter of law that Section 8(a)(5) does not, on a *per se* basis, preclude an employer from communicating, in noncoercive terms, with employees during collective-bargaining negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

486. To the ALJ's failure to conclude as a matter of law that the Act allows employers to engage in non-coercive communications with employees. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

487. To the ALJ's failure to conclude as a matter of law that the Act permits employer to communicate with bargaining unit employees as to the progress of collective bargaining negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

488. To the ALJ's failure to find as fact and conclude as law that because all of the Respondent's letters to employees regarding the status of bargaining instructed employees to direct any questions to the Union, the letters were not communications to the exclusion of the Union, and thus not direct dealing in violation of Section 8(a)(5). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 786 (Froehlich); GC Exhs. 20, 26, 32, and 36.

489. To the ALJ's finding of fact that David Roseberry came into Ann Junge's office and told Michael Sarchett not to sign retirement papers. JD 30, ll. 22-23. The basis for this exception is that the record does not so show. Tr. 918-19 (Roseberry).

490. To the ALJ's failure to find as fact that Roseberry happened to run into Sarchett in the shared accounting area of the front office. JD 1-63. The basis for this exception is that the record so shows. Tr. 918-19 (Roseberry).

491. To the ALJ's finding of fact that in the hallway outside Junge's office, Roseberry told Sarchett not to sign the retirement papers as there was a better contract coming, and that Sarchett would like the retirement that the Respondent was going to propose, adding,

"do not let a few people in the union body sway what you want to do." JD 30, ll. 24-28. The basis for this exception is that the record does not so show. Tr. 919-21 (Roseberry).

492. To the ALJ's failure to find as fact that Roseberry asked Sarchett, "Hey, how's it going?" to which Sarchett responded, "Not so well. Have to make a decision whether to retire or not," and Roseberry replied that he was speaking to him as a friend and told Sarchett to talk to his financial advisor and to find out from the Union committee what the Respondent was offering, so that he could make an educated decision about what was best for him and his family. JD 1-63. The basis for this exception is that the record so shows. Tr. 919 (Roseberry).

493. To the ALJ's failure to find as fact that Roseberry never told employees that the Respondent would retain their current retirement benefits in the next collective bargaining agreement, not to retire, that a "better contract was coming," or that they would "like the Respondent's proposal." JD 1-63. The basis for this exception is that the record so shows. Tr. 920-21 (Roseberry).

494. To the ALJ's finding of fact that Sarchett asked Roseberry who had given him permission to tell him this and why was he getting this information out, and that Roseberry replied that Meadows had given him permission to talk about it with employees. JD 30, ll. 28-30. The basis for this exception is that the record does not so show. Tr. 920-21 (Roseberry).

495. To the ALJ's failure to find as fact that Roseberry never told Sarchett that he was sent to talk to him. JD 1-63. The basis for this exception is that the record so shows. Tr. 920-21 (Roseberry).

496. To the ALJ's failure to find as fact that Roseberry had known Sarchett for over fifty (50) years and that at all relevant time he was speaking to him as a friend. JD 1-63. The basis for this exception is that the record so shows. Tr. 919 (Roseberry).

497. To the ALJ's failure to find as fact that Jeff King was a union steward not only at the time of his retirement, JD 30, ll. 34-35, but also at the time he spoke with Roseberry, which is relevant to the Complaint. JD 1-63. The basis for this exception is that the record so shows. Tr. 745 (King).

498. To the ALJ's finding of fact that when King met with Junge on approximately July 17 to review his pension calculation with her, Junge told King that she would have to notify the operations manager in the human resources department of his decision to retire. JD 30, ll. 39-40. The basis for this exception is that the record does not so show. Tr. 176-212 (Junge); Tr. 918 (Roseberry).

499. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference because Counsel for the General Counsel failed to question Junge regarding the allegations concerning Roseberry when she called her in the General Counsel's case-in-chief. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 176-212 (Junge).

500. To the ALJ's failure to find as fact that Roseberry knew from general talk in the plant that Sarchett and King were among those thinking of retiring. JD 1-63. The basis for this exception is that the record so shows. Tr. 918 (Roseberry).

501. To the ALJ's finding of fact that Roseberry approached King and said that he had heard that King was signing his retirement papers. JD 30, l. 41. The basis for this exception is that the record does not so show. Tr. 919 (Roseberry).

502. To the ALJ's failure to find as fact that Roseberry struck up the conversation with King by asking "how things were going," to which King responded that he was having to make a tough decision whether to retire or not. JD 1-63. The basis for this exception is that the record so shows. Tr. 919 (Roseberry).

503. To the ALJ's finding of fact that Roseberry said that the "pension is negotiable, the hours, wages are negotiable, everything is negotiable." JD 30, ll. 43-44. The basis for this exception is that the record does not so show. Tr. 921 (Roseberry).

504. To the ALJ's failure to find as fact that Roseberry never said anything to employees about what was negotiable and what was not. JD 1-63. The basis for this exception is that the record so shows. Tr. 921 (Roseberry).

505. To the ALJ's finding of fact that Roseberry told King that he needed to get a hold of the union executive board and get them to go in and negotiate and that he needed to call his union representatives and "have them get a hold of the company and start negotiating." JD 30, ll. 44-45. The basis for this exception is that the record does not so show. Tr. 921 (Roseberry).

506. To the ALJ's failure to find as fact that Roseberry told King, "Make sure you talk to your financial advisor and try to find out from your Union committee what the company is offering so you can make an educated decision on your retirement," and that Roseberry never told employees to get the Union to start negotiating. JD 1-63. The basis for this exception is that the record so shows. Tr. 921 (Roseberry).

507. To the ALJ's finding of fact that King told Roseberry, "I am friends with Matt Mans, the vice president, are you sure you want me to call him and tell him what you are telling me," to which Roseberry replied, "yes, we need to get together, we need to get this taken

care of." JD 30-31, ll. 45-1. The basis for this exception is that the record does not so show. Tr. 920-21 (Roseberry).

508. To the ALJ's failure to find as fact that Roseberry never told King anything to try to put pressure on the Union committee. JD 1-63. The basis for this exception is that the record so shows. Tr. 920-21 (Roseberry).

509. To the ALJ's finding of fact that Roseberry stated that he had been instructed to come out and talk to the senior employees about retirement. JD 31, ll. 1-2. The basis for this exception is that the record does not so show. Tr. 920-21 (Roseberry).

510. To the ALJ's failure to find as fact that Roseberry never told King that he was sent to talk to him. JD 1-63. The basis for this exception is that the record so shows. Tr. 920-21 (Roseberry).

511. To the ALJ's finding of fact that shortly after King and Roseberry spoke, King went into the maintenance shop and saw Sarchett having an animated discussion with Karen Sarchett and Renita Shannon, that Roseberry joined the conversation briefly, Sarchett said that he had just had a conversation with Roseberry and that Roseberry had told him that the Union was not telling the employees everything, "that company has a lot to give us," and that the Union and the Respondent needed to get together and negotiate. JD 31, ll. 4-9. The basis for this exception is that the record does not so show. Tr. 722-33 (Sarchett); Tr. 741 (King).

512. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference because Counsel for the General Counsel failed to question Sarchett regarding the alleged conversation in the maintenance shop. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 722-33 (Sarchett).

513. To the ALJ's failure to find as fact that even by the testimony of King, the record shows that Roseberry was not present for the alleged conversation in the maintenance shop. JD 1-63. The basis for this exception is that the record so shows. Tr. 741 (King).

514. To the ALJ's failure to find as fact that Roseberry typically spoke with King a couple times a week. JD 1-63. The basis for this exception is that the record so shows. Tr. 923 (Roseberry).

515. To the ALJ's failure to find as fact that Roseberry had no role in negotiating a successor collective bargaining agreement and went to no bargaining sessions, that no one from the Respondent ever asked him for input about what positions to take in bargaining, that no one from the Respondent kept him updated about what was happening in bargaining, that no one showed him Union or Respondent proposals while the parties were negotiating, and that he saw no bargaining proposals until he saw the last, best, and final offer just before the Respondent implemented the terms of the last, best, and final offer. JD 1-63. The basis for this exception is that the uncontroverted testimony so shows. Tr. 916-18 (Roseberry).

516. To the ALJ's finding of fact or conclusion of law to credit the testimony of Sarchett and King over that of Roseberry. JD 31, ll. 28-39, fn. 26. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 724-26, 728-30 (Sarchett); Tr. 739, 741, 744-46 (King); Tr. 823 (Wood); Tr. 199 (Junge).

517. To the ALJ's failure to find as fact and conclude as a matter of law that Sarchett and King were not credible witnesses because they could not recall their conversations with Roseberry in sufficient detail, contradicted themselves and each other, and because Sarchett lied about his ability to recall that conversation in detail. JD 1-63. The basis for this exception is

that the record so shows, and the law so holds, by a clear preponderance of all evidence.

Tr. 724-26, 728-30 (Sarchett); Tr. 739, 741, 744-46 (King); Tr. 823 (Wood); Tr. 199 (Junge).

518. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference because Counsel for the General Counsel did not call Karen Sarchett as a witness and gave no explanation for failing to do so, although she could have corroborated Sarchett's testimony. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

519. To the ALJ's finding of fact or conclusion of law that because Sarchett was an employee of Respondent at the time of the hearing and it is unlikely that his testimony is false. JD 31, ll. 31-32. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

520. To the ALJ's failure to find as fact and conclude as a matter of law it was likely that Sarchett's testimony was false. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Sarchett was not merely an employee, he was a Union steward who had an interest in supporting the allegations of the Union, which is the Charging Party in the instant case. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

521. To the ALJ's finding of fact or conclusion of law that the Respondent's interest in the high number of employees who had indicated they may retire by July 31 supports the conclusions of Complaint paragraph 5(c) and 13(b). JD 31, fn. 25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

522. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's interest in the high number of employees who had indicated they may retire by July 31 supports a finding that the Sarchett was not sent to speak with Sarchett and King or otherwise sought them out because no supervisors sought out any of the other many employees who were taking steps toward retirement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

523. To the ALJ's finding of fact or conclusion of law that on approximately July 17, Roseberry made statements indicating that the Respondent was willing to offer a better contract but that the Union was unwilling to negotiate. JD 31-32, ll. 39-1. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 722-49 (Sarchett, King); Tr. 920-21 (Roseberry).

524. To the ALJ's failure to find as fact and conclude as a matter of law that no witness, including Sarchett or King, testified that Roseberry said the Union was unwilling to negotiate. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 722-49 (Sarchett, King); Tr. 920-21 (Roseberry).

525. To the ALJ's conclusion of law that by Sarchett's alleged statement that Respondent was willing to offer a better contract but that the Union was unwilling to negotiate, the Respondent was attempting to denigrate the Union in the eyes of employees and thus violated Section 8(a)(1) of the Act. JD 32, ll. 1-3. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

526. To the ALJ's failure to conclude as a matter of law that *Carib Inn of San Juan* is distinguishable. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The evidence there was that a supervisor told employees that there was "no

Union that could defend them,” and the ALJ found that that statement was *calculated* to denigrate the Union in the eyes of employees. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

527. To the ALJ’s failure to conclude as a matter of law that the allegation regarding denigrating the Union in the eyes of employees is not encompassed by the Complaint. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The Complaint instead alleged that Roseberry “informed employees who were deciding to retire that Respondent would retain their current retirement benefits in the next collective-bargaining agreement, thereby misrepresenting to employees the position Respondent was taking at the bargaining table.” GC Exh. 3.

528. To the ALJ’s failure to conclude as fact or a matter of law that Sarchett did not testify that Roseberry said that the Respondent would retain current retirement benefits if the Union asked it to do so. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

529. To the ALJ’s failure to conclude as fact or a matter of law that King testified that he was motivated to think about retiring because of “rumors going around” and because there had been a strike in 2004, and therefore had negotiations on his mind even before Roseberry approached him. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 735 (King).

530. To the ALJ’s failure to find as fact and conclude as a matter of law that Roseberry’s only statement to King was, “Make sure you talk to your financial advisor and try to find out from your Union committee what the company is offering so you can make an educated

decision on your retirement." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 918-20 (Roseberry); Tr. 739 (King).

531. To the ALJ's failure to conclude as fact or a matter of law that Sarchett and King were accustomed to talking with Roseberry at work, and their conversations were cordial. JD 1-63. The basis for this exception is that the record so shows and law so holds. Tr. 919, 923 (Roseberry); Tr. 726 (Sarchett).

532. To the ALJ's failure to conclude as fact or a matter of law that Sarchett and King understood that Roseberry was not authorized to speak for the Respondent's bargaining team. JD 1-63. The basis for this exception is that the record so shows and law so holds. Tr. 725-76 (Sarchett); Tr. 743 (King).

533. To the ALJ's failure to conclude as fact or a matter of law that because Sarchett and King were both Union stewards at the time they did not reasonably find the comments they claim Roseberry made to be coercive. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 733 (Sarchett); Tr. 745 (King).

534. To the ALJ's failure to conclude as fact or a matter of law that even if Roseberry had told Sarchett or King that the Respondent would retain current retirement benefits, such a statement *would be true* as it related to the vested portion of their pensions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 731 (Sarchett).

535. To the ALJ's failure to conclude as a matter of law that Roseberry did not misrepresent to employees the position Respondent was taking at the bargaining table. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 725-26, 733 (Sarchett); Tr. 743, 745 (King); Tr. 919, 923 (Roseberry).

536. To the ALJ's finding as fact that, under the authority of Meadows, Roseberry went to employees and told them that the Respondent was going to make a better contract offer and that the employees needed to contact the Union's bargaining committee and get them to negotiate. JD 32, ll. 5-7. The basis for this exception is that the record does not so show. Tr. 920-21 (Roseberry).

537. To the ALJ's finding of fact or conclusion of law that Roseberry's conversations with employees occurred without the presence of the Union and were designed to undercut the Union's role in bargaining. JD 32, ll. 7-9. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 733 (Sarchett); Tr. 745 (King); Tr. 920-21 (Roseberry).

538. To the ALJ's failure to find as fact and conclude as a matter of law that Roseberry communicated only with Union stewards. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 733 (Sarchett); Tr. 745 (King); Tr. 920-21 (Roseberry).

539. To the ALJ's failure to conclude as a matter of law that Roseberry did not directly deal with employees. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

540. To the ALJ's failure to conclude as a matter of law that Roseberry's conversations with Sarchett and King were not for the purpose of establishing or changing wages, hours, and terms and conditions of employment or undercutting the Union's role in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

541. To the ALJ's conclusion of law that the fact that Sarchett and King were both union stewards at the relevant time does not serve as a defense to a finding of direct dealing because neither employee had any role in the negotiations. JD 32, fn. 27. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 916-18 (Roseberry).

542. To the ALJ's failure to find as fact that Roseberry, too, had no role in negotiations. JD 1-63. The basis for this exception is that the record so shows. Tr. 916-18 (Roseberry).

543. To the ALJ's finding of fact or conclusion of law that the Respondent's conduct constitutes direct dealing in violation of Section 8(a)(5) and (1) of the Act. JD 32, ll. 10-11. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

544. To the ALJ's failure to conclude as a matter of law that Respondent's conduct does not constitute direct dealing in violation of Section 8(a)(5) and (1) of the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

545. To the ALJ's finding of fact that in July 2015 Bishop was in the control room in building 95 talking to approximately three other employees about the negotiations and whether there would be a strike, and Facility Manager David Vislisel told the employees "You boys, you might want to think long and hard about walking out on these people. They've got the deep pockets and lots of plants that make the same thing you do. You may not get back in the door if you go out." JD 32 ll. 24-28. The basis for this exception is that the record does not so show. Tr. 928-29 (Vislisel).

546. To the ALJ's failure to find as fact that Vislisel never told employees that they would never return to work if they went on strike, that they might want to think long and hard about walking out on the Respondent, that the Respondent has "deep pockets," or that if they went on strike they might not get back in the door. JD 1-63. The basis for this exception is that the record so shows. Tr. 928-29 (Vislisel).

547. To the ALJ's finding of fact or conclusion of law to credit the testimony of Bishop over that of Vislisel. JD 32, ll. 30-38. The basis for this exception is that the record does not so show, and the law does not so hold, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

548. To the ALJ's failure to find as fact and conclude as a matter of law that Bishop was not a credible witness regarding his conversation with Vislisel. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Bishop testified that he could not say that in 2015 no one ever said anything to him personally about being replaced, but when confronted with an affidavit he gave under oath on August 1 (within a month of when the Complaint alleges this conduct took place); Bishop agreed that no one told him that he was personally going to be replaced. Tr. 38, 46 (Bishop).

549. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference because Counsel for the General Counsel did not call Vaude Wilford as a witness and gave no explanation for failing to do so, although he could have corroborated Bishops' testimony. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

550. To the ALJ's finding of fact or conclusion of law that Bishop's impeachment was based on inconsistencies between his affidavit and his testimony. JD 32, ll. 32-36. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 46-48 (Bishop).

551. To the ALJ's failure to find as fact and conclude as a matter of law that Bishop's impeachment was based on inconsistency between Bishop's testimony before he was confronted with his affidavit and after. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 46-48 (Bishop).

552. To the ALJ's failure to find as fact that Vislisel had no role in negotiating a successor collective bargaining agreement. JD 1-63. The basis for this exception is that the record so shows. Tr. 928 (Vislisel).

553. To the ALJ's failure to find as fact that Vislisel never had any conversations with Bishop about a potential strike. JD 1-63. The basis for this exception is that the record so shows. Tr. 928 (Vislisel).

554. To the ALJ's failure to find as fact that Vislisel did not speak with General Utilities Employee Brandon Morris about voting on a contract in summer 2015. JD 1-63. The basis for this exception is that the record so shows. Tr. 929 (Vislisel).

555. To the ALJ's failure to find as fact that Vislisel never told Morris that the Respondent's contract was a good offer, asked Morris why employees voted down the Respondent's proposed contract, or told Morris that he could not believe that employees voted down the Respondent's proposed contract. JD 1-63. The basis for this exception is that the record so shows. Tr. 929 (Vislisel).

556. To the ALJ's conclusion of law that an employer cannot tell employees without an explanation that they would lose their jobs as a consequence of a strike. JD 32 ll. 40-42. The basis for this exception is that the record does not so show, and the law does not so hold.

557. To the ALJ's failure to conclude as a matter of law does hold that an employer cannot tell employees without an explanation that they would lose their jobs as a consequence of a strike not so hold in cases, such as the instant case, where the employer has not combined rhetoric regarding the possibility of replacement with simultaneous coercive statements that were clearly improper. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

558. To the ALJ's conclusion of law that a statement that if the employees went on strike "they might not get back in the door" impliedly threatened employees with a loss of their jobs if they went on strike and was not a truthful but incomplete statement regarding an employer's right to replace economic strikers that is permitted by *Eagle Comtronics* and its progeny. JD 32-33, ll. 42-7. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

559. To the ALJ's failure to find as fact and conclude as a matter of law that Vislisel's alleged statement was not a threat or coupled with a threat. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 37, 45-46 (Bishop).

560. To the ALJ's failure to find as fact of conclude as a matter of law that even if Bishop's testimony regarding Vislisel were credited, it would not show a violation of 8(a)(1). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Vislisel's alleged statement was not a threat or coupled with such a threat. Tr. 37, 45-46 (Bishop).

561. To the ALJ's conclusion of law that Respondent violated Section 8(a)(1) through Vislisel. JD 33 ll. 4-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 928-29 (Vislisel).

562. To the ALJ's failure to conclude as a matter of law that Respondent did not violate Section 8(a)(1) through Vislisel. JD 33 ll. 4-5. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

563. To the ALJ's finding of fact that Maintenance Supervisor John Swales told the employees that he thought that the Respondent was offering a good contract, that he had been on the union side and he knew how negotiations were, that the reason that negotiations were not moving forward was because Eby was holding them back by not negotiating and also because of his relationship with Meadows, and that the Union wanted everything and was not willing to give anything and again stated that he thought that the Respondent was offering a fair contract. JD 33, ll. 13-21. The basis for this exception is that the record does not so show. Tr. 925 (Swails).

564. To the ALJ's failure to find as fact that Swails never told employees that the Respondent offered the Union a good contract or that the Union wanted everything and wasn't willing to give anything up. JD 1-63. The basis for this exception is that the record so shows. Tr. 925 (Swails).

565. To the ALJ's finding of fact that Employee Adam Beitz testified that he and another employee spoke to their supervisor, Bumba about questions they had about their schedules. JD 33, ll. 23-25. The basis for this exception is that the record does not so show. Tr. 647 (Beitz).

566. To the ALJ's failure to find as fact that Beitz testified that the employees asked Bumba to come explain scheduling to them. JD 1-63. The basis for this exception is that the record so shows. Tr. 647 (Beitz).

567. To the ALJ's finding of fact that Beitz testified that Bumba asked him how long he had been involved with the Union. JD 33, ll. 30-31. The basis for this exception is that the record does not so show. Tr. 647 (Beitz).

568. To the ALJ's failure to find as fact that Beitz testified that Bumba asked how long he had been involved in a union situation. JD 1-63. The basis for this exception is that the record so shows. Tr. 647 (Beitz).

569. To the ALJ's failure to find as fact that Swails had no role in negotiating a successor collective bargaining agreement. JD 1-63. The basis for this exception is that the record so shows. Tr. 925 (Swails).

570. To the ALJ's failure to find as fact that Bumba had no role in negotiating a successor collective bargaining agreement. JD 1-63. The basis for this exception is that the record so shows. Tr. 842 (Bumba).

571. To the ALJ's failure to find as fact that at the end of his conversation with Beitz and Coufal, Bumba reiterated that he was not saying that it was the Union's fault. JD 1-63. The basis for this exception is that the record so shows. Tr. 847 (Bumba).

572. To the ALJ's failure to find as fact that Bumba never told any employee to remember why things were the way they were, and that he never told Beitz that he was making a statement. JD 1-63. The basis for this exception is that the record so shows. Tr. 847 (Beitz).

573. To the ALJ's finding of fact or conclusion of law to credit the testimony of Beitz over that of Swails. JD 34, ll. 12-13. The basis for this exception is that the record does

not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

574. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference because Counsel for the General Counsel did not call other employees present for Beitz's conversation with Swails as witnesses and gave no explanation for failing to do so, although they could have corroborated Beitz's testimony. JD 1-63. The basis for this exception is that the record so shows, and the law so holds, by a clear preponderance of all evidence. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

575. To the ALJ's conclusion of law that Swales' alleged statement that Eby was not negotiating and that Respondent was offering a fair contract denigrated the Union in violation of Section 8(a)(1). JD 34, ll. 13-15. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

576. To the ALJ's conclusion of law that Swales' alleged statement that Eby was not negotiating and that Respondent was offering a fair contract constituted direct dealing in violation of Section 8(a)(5) and (1). JD 34, ll. 13-16. The basis for this exception is that the record does not so show, and the law does not so hold. GC Exh. 3.

577. To the ALJ's failure to conclude as a matter of law that a direct dealing allegation regarding Swales is not encompassed by the Complaint. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 3.

578. To the ALJ's failure to find as fact that there is no testimony regarding Swails "misrepresenting the Union's position in collective bargaining" as alleged by the

Complaint. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

579. To the ALJ's failure to find as fact that Beitz and two other employees were already having a discussion about the contract when Swails entered the room. JD 1-63. The basis for this exception is that the record so shows. Tr. 645 (Beitz).

580. To the ALJ's failure to find as fact that even if the testimony of Beitz is credited, there is no testimony regarding Bumba "misrepresenting the Union's position in collective bargaining" as alleged by the Complaint. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

581. To the ALJ's failure to find as fact and conclude as a matter of law that neither Beitz nor Bumba misrepresented the Union's position in collective bargaining in violation of Section 8(a)(1). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

582. To the ALJ's failure to find as fact and conclude as a matter of law that the statements of Beitz and Bumba were protected by 8(c). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

583. To the ALJ's failure to conclude as a matter of law that the Respondent did not interfere with, restrain, or coerce employees by statements of its supervisors in violation of Section 8(a)(1). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

584. To the ALJ's failure to conclude as a matter of law that any statements made by supervisors to employees were protected by Section 8(c) of the Act. JD 1-63. The

basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

585. To the ALJ's finding of fact that the handwritten notes of Drahos that she made on the Union's request indicate with respect to the total dollar cost and cents-per-hour cost for each fringe benefit during the period of May 1, 2014 through May 1, 2015, including the Respondent's accounting method for the cost-per-hour basis for each benefit, indicated "I don't have." JD 34 ll. 40-24. The basis for this exception is that the record does not so show. GC Exh. 72; Tr. 163 (Drahos).

586. To the ALJ's failure to find as fact that the handwritten notes of Drahos that she made on the Union's request indicate with respect to the total dollar cost and cents-per-hour cost for each fringe benefit during the period of May 1, 2014 through May 1, 2015, including the Respondent's accounting method for the cost-per-hour basis for each benefit, indicated "We don't have." JD 1-63. The basis for this exception is that the record so shows. GC Exh. 72; Tr. 163 (Drahos).

587. To the ALJ's failure to find as fact that the Respondent set to work gathering the documents requested in GC Exh. 72 the same week it received that request. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 72 (Drahos handwriting authenticated at Tr. 163 (Drahos)).

588. To the ALJ's failure to find as fact that the Respondent responded to GC Exh. 72 by providing Jt. Exh. 18, which included all responsive information that the Respondent had in its possession and fully responded to nine of the twelve bullet points of requested information. JD 1-63. The basis for this exception is that the record so shows. Tr. 955 (Meadows); Tr. 191 (Junge).

589. To the ALJ's failure to find as fact that the Respondent had to have Mercer gather the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan. JD 1-63. The basis for this exception is that the record so shows, including because Drahos testified that on GC Exh. 72 she checked off the information the Respondent had, and none of those items have check marks. Tr. 161-63, 171 (Drahos); GC Ex 72.

590. To the ALJ's failure to find as fact that the Respondent did not have the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan. JD 1-63. The basis for this exception is that the record so shows. Tr. 161-63, 171 (Drahos); GC Ex 72.

591. To the ALJ's failure to find as fact that although the Respondent did not have time to obtain potentially responsive information from third parties before negotiations started, it did initiate a request to obtain responsive information from Blue Cross/Blue Shield. JD 1-63. The basis for this exception is that the record so shows. Tr. 174 (Drahos); Tr. 191 (Junge).

592. To the ALJ's failure to find as fact that no one from the Union told the Respondent that it had a problem with the documents the Respondent produced until June 29. JD 1-63. The basis for this exception is that the record so shows. Tr. 967 (Meadows).

593. To the ALJ's failure to find as fact that on June 29 Meadows asked the Union to let him know what it was they had not received, and promised that he would work to obtain any further information. JD 1-63. The basis for this exception is that the record so shows. Tr. 967 (Meadows).

594. To the ALJ's finding of fact that on June 29, 2015, the Union again requested in writing the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan. JD 35, ll. 5-6. The basis for this exception is that the record does not so show. GC Exh. 9(b).

595. To the ALJ's failure to find as fact that the Union's July 29 information request was a request for both information previously requested and additional information. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 9(b).

596. To the ALJ's finding of fact that with respect to the Union's request for information regarding the pension information, Meadows told the Union that the Respondent was not intending to provide such information. JD 35 ll. 6-8. The basis for this exception is that the record does not so show. Tr. 967 (Meadows).

597. To the ALJ's failure to find as fact that Meadows asked the Union to let him know what it was they had not received, and promised that he would work to obtain any further information. JD 1-63. The basis for this exception is that the record so shows. Tr. 967 (Meadows).

598. To the ALJ's finding of fact that with respect to the Union's request for information regarding the pension information, Meadows told the Union that the Respondent was not intending to provide such information as an increase to the pension plan was not part of the Respondent's proposal. JD 35 ll. 6-8. The basis for this exception is that the record does not so show. R. Exh. 67 at 4; Tr. 414 (Eby); GC Exh. 7 at 3.

599. To the ALJ's failure to find as fact that with respect to the Union's request for information regarding the pension information, Meadows said that that particular request was unrelated to what the Respondent was proposing in bargaining. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 4; Tr. 414 (Eby); GC Exh. 7 at 3.

600. To the ALJ's failure to find as fact that on June 29 Meadows explained to the Union that he had reached out to the Respondent's insurance carrier to try to get quotes, and the insurance company had told him that they were not going to be able to get Meadows those quotes until September or October. JD 1-63. The basis for this exception is that the record so shows. Tr. 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

601. To the ALJ's failure to find as fact that on June 29 Meadows told the Union that he would give the Union the vacation cost per hour as soon as he could. JD 1-63. The basis for this exception is that the record so shows. Tr. 968 (Meadows); GC Exh. 7 at 3.

602. To the ALJ's failure to find as fact that Meadows obtained all available information requested in GC Exh. 9(b) from the plant and e-mailed it to Eby that same day. JD 1-63. The basis for this exception is that the record so shows. Tr. 974 (Meadows); Jt. Exh. 19; Tr. 574 (Eby).

603. To the ALJ's finding of fact that Jt. Exh. 19 addressed the Union's information request for the total dollar cost and cents per hour for fringe benefits. JD 35, ll. 8-

10. The basis for this exception is that the record does not so show. Tr. 974 (Meadows); Tr. 574 (Eby); Jt. Exh. 19.

604. To the ALJ's failure to find as fact that Jt. Exh. 19 addressed each of the Union's renewed requests. JD 1-63. The basis for this exception is that the record so shows. Tr. 974 (Meadows); Tr. 574 (Eby); Jt. Exh. 19.

605. To the ALJ's failure to find as fact that Jt. Exh. 19 addressed the Union's request for the total dollar cost and cents per hour for fringe benefits; included information on insurance rates for hourly employees; listed the insurance rates for hourly employees effective January 1, 2014, for Wellmark medical, vision & drug, Delta Dental and Standard Insurance (accident & sickness); listed the total cost of unemployment for calendar year 2014; included a cost per hour of \$6.78 for medical and dental; enumerated the number of employees on each medical and dental plan; stated, "Respondent has no information on new insurance cost for 2016"; and, regarding the requests related to the pension multiplier and direct contribution plan, stated, "Respondent has no info on increase to pension . . ." JD 1-63. The basis for this exception is that the record so shows. Tr. 974 (Meadows); Tr. 574 (Eby); Jt. Exh. 19.

606. To the ALJ's failure to find as fact that from June 29 until July 14 the Union did not mention that it was dissatisfied with the Respondent's responses to its earlier information requests. JD 1-63. The basis for this exception is that the record so shows. Tr. 982 (Meadows).

607. To the ALJ's failure to find as fact that Jt. Exh. 21 did not re-request the information the Union had requested on May 13 and June 29 other than asking for the "cost per hour for 1 year credit/benefit in Pension." JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 21; Jt. Exh. 17; GC Exh. 9(b).

608. To the ALJ's finding of fact that the Respondent replied to the Union's July 14 request regarding pension information by stating "The Respondent is not sure what the actual request is, but in an attempt to meet your request, the Respondent is responding that the cost per hour for the DB pension is \$2.78." JD 35 ll. 17-20. The basis for this exception is that the record does not so show. Tr. 982-83 (Meadows); Jt. Exh. 22.

609. To the ALJ's failure to find as fact that Respondent replied to the Union's July 14 request regarding pension information by providing Eby Jt. Exh. 22, which responded to each part of the Union's July 14 request. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 982-83 (Meadows); Jt. Exh. 22.

610. To the ALJ's failure to find as fact that on July 28, when the Union gave the Respondent another lengthy information request, JD 17, ll. 18-19, it was the first communication from the Union about information requests since July 14. JD 1-63. The basis for this exception is that the record so shows. Tr. 993-94 (Meadows); GC Exh. 7 at 9.

611. To the ALJ's failure to find as fact that on July 28, when the Union gave the Respondent another lengthy information request, JD 17, ll. 18-19, Meadows immediately pointed out that some of the specific data was not available to the Respondent and that some of the information requested had already been provided. JD 1-63. The basis for this exception is that the record so shows. Tr. 993-94 (Meadows); GC Exh. 7 at 9.

612. To the ALJ's failure to find as fact that when the Respondent responded to the Union's July 28 information request, the Union said it would review the documents provided. JD 1-63. The basis for this exception is that the record so shows. Tr. 996 (Meadows); R. Exh. 67 at 16.

613. To the ALJ's finding of fact that on July 30, the Union again requested the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan. JD 35, ll. 22-23. The basis for this exception is that the record does not so show. Tr. 1020 (Meadows); Jt. Exh. 26.

614. To the ALJ's failure to find as fact that the Union's July 30 request also modified its previous requests. JD 1-63. The basis for this exception is that the record so shows. Tr. 1020 (Meadows); Jt. Exh. 26.

615. To the ALJ's failure to find as fact that from the time the Respondent responded to the Union's July 28 information request until the Union presented another written request for information on July 30, the Union said nothing to the Respondent about being dissatisfied with the Respondent's responses thus far. JD 1-63. The basis for this exception is that the record so shows. Tr. 1022 (Meadows).

616. To the ALJ's failure to find as fact that on July 30, when the Union gave the Respondent a request for information, Meadows immediately responded that he thought the Respondent had already provided some of the information requested and that the Respondent would have to research and find some of the information responsive to the Union's request and that there was nothing Blue Cross/Blue Shield could provide and he did not have that data. JD 1-63. The basis for this exception is that the record so shows. Tr. 1020-21 (Meadows).

617. To the ALJ's failure to find as fact that after the Union renewed information requests on June 30, the Respondent again made immediate efforts to look for

further information that could satisfy the Union, and made a successful effort to obtain further information responsive to the requests. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 27, 28; Tr. 1025 (Meadows).

618. To the ALJ's failure to find as fact that on July 30 Meadows also immediately provided the Union R. Exh. 40, a document describing medical insurance rates. JD 1-63. The basis for this exception is that the record so shows. Tr. 1022 (Meadows); R. Exh. 67 at 33; Tr. 477 (Eby).

619. To the ALJ's failure to find as fact that at on June 30 the Respondent had prepared a response to the information request that was over 95% complete, which it offered to the Union, but the Union would not accept it. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 66 at 230; R. Exh. 67 at 33.

620. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent provided information responsive to the Union as quickly as it could obtain it. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

621. To the ALJ's conclusion of law that information that a union requests that is directly related to the wages, hours and working conditions of unit employees, including information regarding employee insurance and pension plans, is presumptively relevant. JD 35, ll. 27-31. The basis for this exception is that the record does not so show, and the law does not so hold. The law does not hold that *all* such information is presumptively relevant. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

622. To the ALJ's conclusion of law that in the instant case, the information sought by the Union is the type of information the Board has determined must be furnished upon

request. JD 35, ll. 31-31. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

623. To the ALJ's failure to conclude as a matter of law that the Respondent was not required to provide on request information that did not exist, that it did not possess, or to which it had already responded. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

624. To the ALJ's finding of fact that after the Union's second request on June 29, that same day the Respondent partially complied with the Union's request by furnishing information sought regarding health insurance. JD 35, ll. 41-43. The basis for this exception is that the record does not so show. Tr. 974 (Meadows); Tr. 574 (Eby); Jt. Exh. 19.

625. To the ALJ's failure to find as fact that the Respondent's June 29 response addressed each of the Union's renewed requests. JD 1-63. The basis for this exception is that the record so shows. Tr. 974 (Meadows); Tr. 574 (Eby); Jt. Exh. 19.

626. To the ALJ's finding of fact that on June 29 Meadows stated that the Respondent was not intending to provide information regarding any increase to the pension plan as a pension plan was not part of the Respondent's proposal. JD 35-36, ll. 43-2. The basis for this exception is that the record does not so show. Tr. 967 (Meadows); Jt. Exh. 19.

627. To the ALJ's inferential conclusion of law that the Respondent has the burden to show that the information sought by the Union was complex to assemble or difficult to retrieve. JD 36, ll. 18-20. The basis for this exception is that the record does not so show, and the law does not so hold.

628. To the ALJ's failure to conclude as a matter of law that the burden lies on the General Counsel to show that the information was not was complex to assemble or difficult

to retrieve. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

629. To the ALJ's finding of fact or conclusion of law that the Respondent has not established that the information sought by the Union was complex to assemble or difficult to retrieve. JD 36, ll. 18-19. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 161-63, 171 (Drahos); Tr. 191 (Junge); Tr. 414-15 (Eby); Tr. 955, 968 (Meadows); Jt. Exh. 18; R. Exh. 67 at 4; GC Exh. 7 at 3; GC Ex 72.

630. To the ALJ's failure to find as fact and conclude as a matter of law that the information sought by the Union was complex to assemble or difficult to retrieve. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 161-63, 171 (Drahos); Tr. 191 (Junge); Tr. 414-15 (Eby); Tr. 955, 968 (Meadows); Jt. Exh. 18; R. Exh. 67 at 4; GC Exh. 7 at 3; GC Ex 72.

631. To the ALJ's finding of fact or conclusion of law that with respect to information that may have not been within its possession when requested, the Respondent gave no explanation to the Union during bargaining regarding any difficulties it may have experienced in retrieving it. JD 36, ll. 19-22. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 19; 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

632. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows explained the reasons for the continued unavailability of the information the Union had requested, gave an estimate of when it might be available, promised to provide the information as soon as he could, and stated that the Respondent had no information on new insurance cost for 2016 or any increase to pension. JD 1-63. The basis for this exception is that

the record so shows, and the law so holds. Jt. Exh. 19; 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

633. To the ALJ's finding of fact or conclusion of law that the Respondent provided some cost information regarding insurance and unemployment on June 29. JD 36, ll. 25-28. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 574 (Eby); Tr. 974 (Meadows); Jt. Exh. 19.

634. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's June 29 e-mail provided all responsive information it then had in its possession. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 574 (Eby); Tr. 974 (Meadows); Jt. Exh. 19.

635. To the ALJ's finding of fact or conclusion of law that the Respondent did not provide information relating to the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan until July 31. JD 36, ll. 28-30. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 574 (Eby); Tr. 974, 978-79, 982-83 (Meadows); Jt. Exh. 22; R. Exh. 67 at 10.

636. To the ALJ's finding of fact or conclusion of law that the Respondent gave no explanation for the delay in providing the information. JD 36, l. 30. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 19; 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

637. To the ALJ's finding of fact or conclusion of law that the information requested was time sensitive. JD 36, ll. 30-31. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 967, 982, 993-94, 1022 (Meadows).

638. To the ALJ's failure to find as fact and conclude as a matter of law that the Union itself delayed in raising perceived problems with the Respondent's responses. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 967, 982, 993-94, 1022 (Meadows).

639. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's July 14 information request largely did not re-request the other information the Union had requested on May 13 and June 29. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. 982 (Meadows); Jt. Exh. 21; Jt. Exh. 17; GC Exh. 9(b).

640. To the ALJ's failure to find as fact and conclude as a matter of law that the Union itself delayed bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 964-65, 980, 1007-08, 1017, 1024, 1047, 1071, 1114 (Meadows); R. Exh. 35; R. Exh. 67 at 3, 20, 31, 33, 51; R. Exh. 66 at 195; GC Exh. 8 at 2.

641. To the ALJ's conclusion of law that the Board has consistently found that similar delays in providing relevant information, without a legitimate explanation, to be violative of Section 8(a)(5) and (1) of the Act. JD 36, ll. 33-37. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

642. To the ALJ's failure to find as fact that the information in question is a tiny fraction of a large information request that resulted in over 1,000 pages of responsive

documents. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 18, 19, 20, 24, 25, 27, 28.

643. To the ALJ's failure to find as fact that the Respondent and Union were in continuous discussion regarding the legitimate concerns about availability of information. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 18, 19, 20, 24, 25, 27, 28; 968, 979 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

644. To the ALJ's failure to find as fact that the Union did not clarify its requests in any way until June 29, thereafter continued to present unclear requests, and the production of the information in question was not unreasonably delayed. JD 1-63. The basis for this exception is that the record so shows. Tr. 967 (Meadows); Jt. Exh. 22; GC Exh. 7 at 9.

645. To the ALJ's conclusion of law that the cases relied on by the Respondent are distinguishable from the instant case. JD 36-37, ll. 39-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

646. To the ALJ's conclusion of law that *West Penn Power* is distinguishable because in that case, the information that was delayed was part of a much larger information request, and the employer had periodically advised the union that it was gathering the requested information. JD 36-37, ll. 39-2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

647. To the ALJ's failure to conclude as a matter of law that *West Penn Power* is not distinguishable from the instant case because the information in question is a tiny fraction of a large information request that resulted in over 1,000 pages of responsive documents, and Meadows also periodically advised the Union that Respondent was gathering the requested

information. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exhs. 18, 19, 20, 24, 25, 27, 28; 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

648. To the ALJ's conclusion of law that *Dallas & Mavis Forwarding Co.* is distinguishable because in that case, during the period from the union's request until the employer provided the information, the employer and the union were in continuous discussions regarding the employer's legitimate confidentiality concerns addressing how, and under what circumstances, the information would be provided. JD 37, ll. 4-10. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 18, 19, 20, 24, 25, 27, 28; 968, 979 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

649. To the ALJ's failure to conclude as a matter of law that *Dallas & Mavis Forwarding* is not distinguishable from the instant case because during any delays in providing information the Respondent and Union were in continuous discussion regarding the legitimate concerns about availability of information. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exhs. 18, 19, 20, 24, 25, 27, 28; 968, 979 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

650. To the ALJ's conclusion of law that *Dupont Dow Elastomers LLC* is distinguishable because in that case, the union did not clarify its requests, the delay was attributable to a good-faith misunderstanding regarding precisely what was sought and, under the circumstances, the production of the agreement was not unreasonably delayed. JD 37, ll. 12-20. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 967 (Meadows); Jt. Exh. 22; GC Exh. 7 at 9.

651. To the ALJ's failure to conclude as a matter of law that *Dupont Dow Elastomers LLC* is not distinguishable from the instant case because the Union also did not clarify its requests in any way until June 29, thereafter continued to present unclear requests, and the production of the information in question was not unreasonably delayed. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 967 (Meadows); Jt. Exh. 22; GC Exh. 7 at 9.

652. To the ALJ's implied finding of fact or conclusion of law that the requested information was presumptively relevant. JD 37, ll. 22-25. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 19; 968 (Meadows); R. Exh. 67 at 4; Tr. 414-15 (Eby); GC Exh. 7 at 3.

653. To the ALJ's failure to find as fact and conclude as a matter of law that requested information was not presumptively relevant. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

654. To the ALJ's finding of fact or conclusion of law that the Respondent never gave the Union an explanation for the delay in providing the requested presumptively relevant information. JD 37, ll. 22-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

655. To the ALJ's conclusion of law that Respondent's delay in providing information requested violated Section 8(a)(5) and (1) of the Act. JD 37, ll. 25-27. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

656. To the ALJ's failure to conclude as a matter of law that the Respondent did not unlawfully delay in providing information. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

657. To the ALJ's failure to conclude as a matter of law that there is no duty to provide information that does not exist. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

658. To the ALJ's failure to find as fact that Meadows did not say that he was unwilling to provide "[t]he cents per hour per individual cost for each dollar increase to the pension multiplier." JD 1-63. The basis for this exception is that the record so shows. R. Exh. 67 at 4; Tr. 414 (Eby); GC Exh. 7 at 3.

659. To the ALJ's failure to conclude as a matter of law that in determining whether an employer has unlawfully delayed responding to an information request, the Board considers the totality of the circumstances surrounding the incident. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

660. To the ALJ's failure to conclude as a matter of law that the Respondent fulfilled its obligations to provide information as promptly as the circumstances allowed, considering the complexity and extent of information sought, its availability and the difficulty in retrieving the information. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

661. To the ALJ's failure to conclude as a matter of law that an employer cannot give union information that employer did not possess. The basis for this exception is that

the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

662. To the ALJ's failure to conclude as a matter of law that the Respondent did not unlawfully provide information to the Union because that information did not exist or was not in its possession. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

663. To the ALJ's failure to conclude as a matter of law that when an employer does not have relevant information requested by the union, it must make a reasonable effort to secure that information from third parties and, if it is thereafter unable to do so, it must then explain the reasons for its continued unavailability. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

664. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent handled the Union's information request exactly as the Act requires. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

665. To the ALJ's failure to conclude as a matter of law that the Respondent did not possess the total dollar cost and the cents per hour cost for each fringe benefit during the period of May 1, 2014, through May 1, 2015, the company's accounting method costs on a per hour basis for each benefit, the cents per hour per individual cost for each dollar increase to the pension multiplier, and the cents per hour per individual cost for each 1% increase in direct contribution plan until July 30, but that it timely provided all information in its possession that was relevant to the renewed information requests, explained the reasons for the continued

unavailability of further information responsive to the requests, and gave an estimate of when further information might be available. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

666. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent did not understand what else the Union could still be requesting when on July 14 the Union provided another request that asked again for the "cost per hour for 1 year credit/benefit in Pension," but otherwise did not re-request the other information the Union had requested on May 13 and June 29; because the Respondent had already told the Union that it had no information about a potential increase to the pension; so the Respondent shared this concern with the Union in a letter on July 23, in which it also provided the *current* cost per hour for the pension in an effort to satisfy the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 21; Jt. Exh. 17; GC Exh. 9(b); Tr. 982-83 (Meadows). Jt. Exh. 22.

667. To the ALJ's failure to find as fact and conclude as a matter of law that since June 29, the Union had made a number of other requests for information, but of the three requests at issue in the Complaint, it had renewed only one of them, and that the Respondent had immediately responded to that renewed request. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 982-83 (Meadows); Jt. Exhs. 21- 22.

668. To the ALJ's failure to conclude as a matter of law that the Respondent was not required to reprovide information it had already provided to the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

669. To the ALJ's failure to conclude as a matter of law that courts must consider whether discovery is duplicative. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

670. To the ALJ's failure to conclude as a matter of law that the Respondent sufficiently made all information requested available in a manner not so burdensome or time consuming as to impede the process of bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

671. To the ALJ's failure to conclude as a matter of law that the Respondent fulfilled its obligation to respond to the Union's voluminous and highly complex information requests because it consistently made diligent efforts to obtain requested information, provided that information, requested responsive information from third parties, explained the status of temporarily unavailable information, and shared with the Union when it did not understand what else the Union was requesting and when it thought it had already provided relevant information, ultimately providing over 1,000 pages of responsive documents to the Union's requests for voluminous information. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

672. To the ALJ's failure to conclude as a matter of law that although the Union delayed in informing the Respondent that it was dissatisfied with its requests, upon being so informed, the Respondent consistently responded by providing all information under its control that it thought might be responsive. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

673. To the ALJ's failure to conclude as a matter of law that any delay in responding to the Union's information requests on the part of the Respondent was not so long as to be unlawful. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

674. To the ALJ's failure to conclude as a matter of law that by its own delay the Union waived its right to obtain the information earlier than the Respondent was able to provide it. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

675. To the ALJ's failure to conclude as a matter of law that Counsel for the General Counsel has failed in its burden to prove that the Respondent violated the Act by virtue of its information request responses. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

676. To the ALJ's conclusion of law that the totality of the Respondent's conduct through September 14, 2015 demonstrated that it negotiated with a closed mind and would only reach an agreement on its own terms, and thus failed to comply with its obligation to negotiate with an intent to settle differences and arrive at a mutually satisfactory agreement. JD 37, ll. 31-35. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

677. To the ALJ's failure to conclude as a matter of law that in determining good faith, the Board should examine the totality of the circumstances. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

678. To the ALJ's failure to conclude as a matter of law that it is the total picture shown by the factual evidence that either supports the complaint or falls short of the quantum of affirmative proof required by law. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

679. To the ALJ's failure to conclude as a matter of law that the Respondent has at all times bargained in good faith with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

680. To the ALJ's finding of fact or conclusion of law that Meadows made a number of comments reflecting that the Respondent would only reach an agreement on its own terms. JD 37, ll. 37-39. The basis for this exception is that the law does not so hold and the record does not so show. Tr. 940-42 (Meadows).

681. To the ALJ's finding of fact that on April 6, 2015, before bargaining began, Meadows met with some members of the union bargaining committee and gave them a preview of the Respondent's proposals. JD 37, ll. 39-40. The basis for this exception is that the record does not so show. Tr. 940-42 (Meadows).

682. To the ALJ's failure to find as fact that on April 6 Eby asked where the Respondent "may be coming from" in negotiations, and Meadows only highlighted a couple of issues, saying that the coming Cadillac tax had implications for medical insurance and that pensions were something the Respondent wanted to discuss. When Meadows saw the conversation about medical insurance becoming more detailed than he was prepared for, he interrupted Drahos as she discussed such details by raising and waving his hand at her to signal

her to stop. JD 1-63. The basis for this exception is that the record so shows. Tr. 940-42 (Meadows).

683. To the ALJ's finding of fact that while discussing employee insurance, Drahos mentioned that the current insurance had \$200 and \$400 deductible amounts and Meadows waived his hand and said "bye-bye." JD 37, ll. 40-42. The basis for this exception is that the record does not so show. Tr. 941-42.

684. To the ALJ's finding of fact that when the existing pension plan was raised, Meadows again waived his hand and said "bye-bye." JD 37, ll. 42-43. The basis for this exception is that the record does not so show. Tr. 941-42.

685. To the ALJ's failure to find as fact that when the existing pension plan was raised, Meadows raised and waved his hand at Drahos to signal her to stop when he saw the conversation becoming more detailed than he was prepared for. JD 1-63. The basis for this exception is that the record so shows. Tr. 941-42.

686. To the ALJ's conclusion of law that Meadows engaged in direct dealing with a number of employees by questioning them about what they wanted to see in a contract and telling them some of the positions that the Respondent would take in the upcoming negotiations. JD 37, ll. 45-47. The basis for this exception is that the law does not so hold and the record does not so show. Tr. 34-35, 43 (Bishop); Tr. 57-58, 74-75 (Rausch); 827 (Wood); 946 (Meadows); Tr. 672 (Kuddes); 867 (Kluetz).

687. To the ALJ's finding of fact or conclusion of law that Meadows engaged in direct dealing with a number of employees by stating that a wage increase would be offered in the range of 2 to 2.5 percent. JD 37-38, ll. 47-1. The basis for this exception is that the record

does not so show, and the law does not so hold. Tr. 672 (Kuddes); 58, 74 (Rausch); 867 (Kluetz).

688. To the ALJ's finding of fact or conclusion of law that Meadows also told employees that he did not think that the existing insurance was that good and a "Cadillac" tax would be placed on the Respondent for having an insurance policy like that. JD 38, ll. 1-3. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 60-61, 78 (Rausch); 85 (Fuchs).

689. To the ALJ's finding of fact or conclusion of law that Meadows told employees that the current pension and insurance would be gone and that the employees would have the Respondent's insurance. JD 38, ll. 3-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 57-58, 75 (Rausch); 827 (Wood); 946 (Meadows).

690. To the ALJ's failure to find as fact and conclude as a matter of law that during the April 6 tour the only discussion of insurance was about gap insurance. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 57-58, 75 (Rausch); 827 (Wood); 946 (Meadows).

691. To the ALJ's finding of fact or conclusion of law that Meadows told Bishop that he was not going to see an increase in his pension multiplier and that he did not need gap insurance unless he was sure he was going to be retiring soon. JD 38, ll. 5-7. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 34-35, 43 (Bishop).

692. To the ALJ's finding of fact or conclusion of law that once bargaining began, Meadows continued to make statements reflecting the Respondent's desire to only enter

into an agreement on its own terms. JD 38, ll. 5-8. The basis for this exception is that law does not so hold, and the record does not so show. Tr. 977, 979, 1059-60 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

693. To the ALJ's finding of fact or conclusion of law that at only at the third bargaining session held on June 30, Meadows told the Union that if the parties did not come to an agreement he could give the Union a last, best, and final offer and he was going to prepare accordingly. JD 38, ll. 11-13. The basis for this exception is that the law does not so hold, and the record does not so show. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

694. To the ALJ's finding of fact or conclusion of law that on September 28 Meadows discussed the pending unfair labor practice charges in the instant case with Eby and stated that if the NLRB ruled against the Respondent, he would come back to the table and do the exact same thing. JD 38, ll. 13-16. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1059-60 (Meadows).

695. To the ALJ's conclusion of law that Meadows' statements establish that the Respondent had no real intent to adjust the differences between it and the Union but rather sought agreement on its own terms and none other. JD 38, ll. 16-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

696. To the ALJ's conclusion of law that the Respondent made statements that established that it had no real intent to adjust the differences between it and the Union but rather sought agreement on its own terms and none other. JD 38, ll. 16-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

697. To the ALJ's failure to find as fact that at no point did Meadows threaten the Union with impasse. JD 1-63. The basis for this exception is that the record so shows. Tr. 957, 966-65 (Meadows); R. Exh. 67 at 2; R. Exh. 66 at 210.

698. To the ALJ's failure to find as fact that Meadows never sought to impose deadlines on negotiations. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 3 at 8; Tr. 977 (Meadows); R. Exh. 67 at 8; GC Exh. 8 at 4; Tr. 427 (Eby).

699. To the ALJ's failure to find as fact that in the course of the parties' bargaining Meadows never personally attacked anyone on the Union bargaining committee, even when Head personally attacked him and threatened him with violence. JD 1-63. The basis for this exception is that the record so shows. Tr. 999, 1007, 1035 (Meadows); R. Exh. 67 at 41.

700. To the ALJ's failure to find as fact that after bargaining about the flower fund became emotional, Meadows took the initiative to discuss the issue with a conciliatory tone. JD 1-63. The basis for this exception is that the record so shows. Tr. 999 (Meadows); Tr. 455 (Eby); Tr. 289 (Shannon).

701. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought significant reductions in many of the terms and conditions of employment set forth in the existing contract. JD 38, ll. 20-22. The basis for this exception is that the record does not so show. Jt. Exh. 1; Jt. Exh. 16.

702. To the ALJ's failure to find as fact that the Respondent's initial proposal made on June 1, 2015 proposed significant improvements in many of the terms and conditions of employment set forth in the existing contract. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1; Jt. Exh. 16.

703. To the ALJ's finding of fact that both the format and the substantive terms of the Respondent's June 1, 2015 proposed collective-bargaining agreement was new and bore no resemblance to the provisions of the existing contract. JD 38, ll. 22-24. The basis for this exception is that the record does not so show. Jt. Exh 1; Jt. Exh 16.

704. To the ALJ's finding of fact that in presenting his proposal on June 1, 2015, Meadows stated that while his goal was to get a contract, Ingredion was not Penford and his proposal contained radical changes that would not necessarily make people happy. JD 38, ll. 24-26. The basis for this exception is that the record does not so show. Tr. 956 (Meadows); R. Exh. 67 at 1.

705. To the ALJ's failure to find as fact that in presenting his proposal on June 1 Meadows acknowledged that some people would consider the Respondent's proposals to be "radical changes," but explained that they were necessary for the operational modifications the Respondent sought to make. JD 1-63. The basis for this exception is that the record so shows. Tr. 956 (Meadows); R. Exh. 67 at 1.

706. To the ALJ's finding of fact that Meadows further indicated that the Respondent intended to make operational changes at the plant in order to integrate the structure of the Cedar Rapids facility with the Respondent's other operations. JD 38, ll. 26-28. The basis for this exception is that the record does not so show. Tr. 956-57, 960, 1074 (Meadows); R. Exh. 67 at 1; R. Exh. 66 at 210.

707. To the ALJ's failure to find as fact that on June 1, Meadows explained the operational changes the Respondent sought to make and that the intent of the Respondent's proposal was to maintain consistency with the Respondent's other unionized facilities. JD 1-63.

The basis for this exception is that the record so shows. Tr. 956-57, 960, 1074 (Meadows); R. Exh. 67 at 1; R. Exh. 66 at 210.

708. To the ALJ's finding of fact that near the conclusion of the June 1 meeting, Meadows reiterated that he was proposing a brand-new contract and if the parties reached an impasse on an issue he suggested that they move on and discuss other issues. JD 38, ll. 28-30. The basis for this exception is that the record does not so show. Tr. 964 (Meadows).

709. To the ALJ's failure to find as fact that near the conclusion of the June 1 meeting, Meadows said "Guys, you know, if we are blocked on a certain item, we hit a brick wall, and basically we are at impasse on that item, we just need to move on and keep talking and getting the other stuff done. JD 1-63. The basis for this exception is that the record so shows. Tr. 964 (Meadows).

710. To the ALJ's failure to find as fact that Meadows never stated that he was proposing a brand new contract. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

711. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions in paid vacations. JD 38, ll. 32. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1982-83; Jt. Exh. 16 at 9624-25.

712. To the ALJ's failure to find as fact that the Respondent's proposal maintained the same vacation structure for many employees and even sought to increase vacations for some employees. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1982-83; Jt. Exh. 16 at 9624-25.

713. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions in premium pay. JD 38, ll. 32. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1989; Jt. Exh. 16 at 9606.

714. To the ALJ's failure to find as fact that the Respondent's initial proposal sought to maintain the same premium pay for second shift, increase premium pay for third shift to forty-five (45) cents from forty-three (43) cents per hour, and to add a new category of premium pay for twelve (12)-hour shifts. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1989; Jt. Exh. 16 at 9606.

715. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions in paid holidays. JD 38, ll. 32. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1979; Jt. Exh. 16 at 9622.

716. To the ALJ's failure to find as fact that the Respondent's initial proposal maintained most holidays and added a new holiday on the day after Thanksgiving. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1979; Jt. Exh. 16 at 9622.

717. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions in paid funeral leave. JD 38, ll. 32. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1981; Jt. Exh. 16 at 9610.

718. To the ALJ's failure to find as fact that the Respondent's initial proposal improved funeral leave for employees by removing the requirement that funeral leave be taken on consecutive days. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1981; Jt. Exh. 16 at 9610.

719. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought to have employees use vacation days while the plant was on shutdown.

JD 38, ll. 33-34. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1983.

720. To the ALJ's failure to find as fact that the Respondent's initial proposal did not seek to require that employees use vacation days during shutdowns. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1983.

721. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought to have the existing two tier wage scale be made permanent, rather than having the newly hired employees work at the second-tier level for 4 years and then being brought up to the first tier wage level. JD 38, ll. 34-37. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1986-88.

722. To the ALJ's failure to find as fact that the Respondent's initial proposal did not include a wage proposal. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1986-88.

723. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought to have employees use vacation days while the employees were on FMLA. JD 38, ll. 33-34. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1984.

724. To the ALJ's failure to find as fact that the Respondent's initial proposal did not seek to require that employees use vacation while on FMLA unless for "intermittent" FMLA. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1984.

725. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought a reduction in short-term disability benefits. JD 38, ll. 37. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1991; Jt. Exh. 16.

726. To the ALJ's failure to find as fact that the previous benefit was not more than the \$325 weekly benefit that the Respondent proposed. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1991; Jt. Exh. 16.

727. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought a reduction in employee life insurance. JD 38, ll. 37-38. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1992; Jt. Exh. 16.

728. To the ALJ's failure to find as fact that there was no previous contractual life insurance benefit for all employees. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 16.

729. To the ALJ's failure to find as fact that the Respondent's initial proposal proposed a benefit for all employees plus an employer-funded benefit for spouses and/or dependents of all employees that previously did not exist under the terms of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1992; Jt. Exh. 16.

730. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 reduced gap insurance benefits. JD 38, ll. 38-41. The basis for this exception is that the record does not so show. Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 16 at 9636; Tr. 786 (Froehlich); Tr. 984 (Meadows).

731. To the ALJ's failure to find as fact that the gap insurance premium proposed by the Respondent would not be higher than the previous premium. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 16 at 9636.

732. To the ALJ's failure to find as fact that the Respondent sought to extend gap insurance benefits to all employees, whereas in the past only employees with 60 points as of

August 1, 2004 qualified for this benefit. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1, Art. XX, § 3 at 1994; Jt. Exh. 16 at 9636; Tr. 786 (Froehlich); Tr. 984 (Meadows).

733. To the ALJ's failure to find as fact that the Respondent was not attempting to eliminate gap insurance; in fact, it sought to maintain gap insurance for employees who already were eligible for it under the Red Book and aimed to extend gap insurance to less-tenured employees who were previously not eligible for it. JD 1-63. The basis for this exception is that the record so shows. Tr. 786 (Froehlich); Tr. 984 (Meadows); 435 (Eby).

734. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions to existing rights by providing that it have discretion with respect to establishing plant rules. JD 38, ll. 41-43. The basis for this exception is that the record does not so show. Jt. Exh. 16 at 9630.

735. To the ALJ's failure to find as fact that the Red Book provided that "[t]he Respondent may implement new plant rules as necessary." JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 16 at 9630.

736. To the ALJ's finding of fact or conclusion of law that the Respondent's initial proposal made on June 1, 2015 sought reductions by not providing for a progressive discipline procedure. JD 38, ll. 41-43. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1; Jt. Exh. 16.

737. To the ALJ's failure to find as fact that Respondent's proposal did not actively seek to remove progressive discipline. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1; Jt. Exh. 16.

738. To the ALJ's failure to find as fact and conclude as a matter of law that removing progressive discipline would not have been a reduction in terms and conditions of employment. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 1; Jt. Exh. 16.

739. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought reductions by greatly expanding the Respondent's ability to subcontract maintenance work. JD 38, ll. 43-44. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1996; Jt. Exh. 16 at 9607, 9664.

740. To the ALJ's failure to find as fact that under the Red Book the Respondent could subcontract as long as it gave notice to the Union, and in the case of maintenance work, explicitly permitted subcontracting; under the Respondent's initial proposal, the Respondent would not have been permitted to subcontract if current employees were not already scheduled for forty (40) hours, and the Respondent would have been explicitly required to make employees whole for any such adverse impact. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1996; Jt. Exh. 16 at 9607, 9664.

741. To the ALJ's finding of fact that the Respondent's initial proposal made on June 1, 2015 sought to eliminate several joint labor-management committees, including the labor relations committee. JD 38, ll. 44-45. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1967-68, 1969, 1985, 1998.

742. To the ALJ's failure to find as fact that the Respondent's initial proposal sought to maintain both pre-existing committees (Labor Relations and Safety), establish a Grievance Committee, and explicitly provide a procedure for forming other committees. JD 1-

63. The basis for this exception is that the record so shows. Jt. Exh. 1 at 1967-68, 1969, 1985, 1998.

743. To the ALJ's finding of fact or conclusion of law that the Respondent's initial proposal made on June 1, 2015 sought reductions by not containing a provision regarding substance abuse. JD 38, ll. 45-46. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1; Jt. Exh. 16 at 9640-49.

744. To the ALJ's failure to find as fact and conclude as a matter of law that removing the substance abuse provisions would have been an improvement in terms and conditions of employment; the purpose of the substance abuse policy was "to establish the Respondent's prohibition on the use of illegal substances and alcohol in the workplace and its procedures for substance abuse testing," and provided discipline, up to and including discharge, for violations of that policy. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 1; Jt. Exh. 16 at 9640-49.

745. To the ALJ's finding of fact or conclusion of law that the Respondent's initial proposal made on June 1, 2015 sought reductions by not containing a successor clause. JD 39, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1.

746. To the ALJ's failure to find as fact and conclude as a matter of law that removing a successor clause would have been a reduction in terms and conditions of employment; under the Act, in the absence of a successor clause a successor employer with a bargaining obligation would have to bargain a contract upon request of the union, and could not avoid such an obligation by means of a successor clause. JD 1-63. The basis for this exception

is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

747. To the ALJ's finding of fact or conclusion of law that the Respondent's initial proposal made on June 1, 2015 sought reductions by not containing a provision for severance benefits. JD 39, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1.

748. To the ALJ's failure to find as fact and conclude as a matter of law that removing a provision for severance benefits would have been a reduction in terms and conditions of employment; under the Act, such a provision serves as a waiver of the Union's right to engage in effects bargaining regarding severance benefits. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

749. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's initial proposal made on June 1, 2015 primarily proposed to improve or maintain terms and conditions of employment compared to those of the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 1; Jt. Exh. 16.

750. To the ALJ's finding of fact or conclusion of law that the Respondent failed to provide a legitimate explanation to justify significant differences between the proposals it advanced and the terms and conditions of employment in the existing contract it assumed. JD 39, ll. 10-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

751. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent always provided legitimate explanations of all of its proposals, including any

differences between its proposals and the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

752. To the ALJ's finding of fact or conclusion of law that the Respondent failed to give a reasonable explanation for its refusal to consider proposals made by the Union based on the format of the contract that expired by its terms on August 1, 2015. JD 39, ll. 13-14. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

753. To the ALJ's finding of fact that during the June 29 meeting, Meadows replied for the most part that he was "not interested" in the proposal. JD 39, ll. 16-18. The basis for this exception is that the record does not so show. Tr. 970 (Meadows).

754. To the ALJ's finding of fact that on June 29 the parties discussed the new non-economic proposal presented by the Union that would increase the number of union representatives on the labor relations committee from 3 to 4. JD 39, ll. 21-23. The basis for this exception is that the record does not so show. Tr. 969-70 (Meadows); R. Exh. 67 at 4; R. Exh. 66 at 217; Tr. 261 (Shannon); GC Exh. 7 at 3; Tr. 415 (Eby); GC Exh. 8 at 3.

755. To the ALJ's failure to find as fact that on June 29 Meadows went through the Union's proposal, line by line, and responded to every item. JD 1-63. The basis for this

exception is that the record so shows. Tr. 969-70 (Meadows); R. Exh. 67 at 4; R. Exh. 66 at 217; Tr. 261 (Shannon); GC Exh. 7 at 3; Tr. 415 (Eby); GC Exh. 8 at 3.

756. To the ALJ's finding of fact that on June 29 Meadows stated that his proposal did not provide for labor relations committee, the Union tried to explain the benefits of the labor relations committee, and Meadows replied that such a committee was not necessary because of the Respondent's open door policy. JD 39, ll. 24-26. The basis for this exception is that the record does not so show. Jt. Exh. 1 at 1967.

757. To the ALJ's finding of fact that at the conclusion of June 29 meeting, both parties indicated they were going to continue making proposals based on the format of their initial proposals. JD 39, ll. 27-28. The basis for this exception is that the record does not so show. Tr. 972-73 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218.

758. To the ALJ's finding of fact that on June 30 Head stated that the Union was not going to move from presenting proposals based upon the language of the existing agreement. JD 39, ll. 32-34. The basis for this exception is that the record does not so show. Tr. 425 (Eby); 976 (Meadows).

759. To the ALJ's finding of fact that on June 30 Meadows said that he was not going to accept the contract as it was written and that he tried to put some of the existing contract provisions in his proposal but that it was not Penford anymore and the Respondent was not going to continue to operate in the same manner. JD 39, ll. 34-35. The basis for this exception is that the record does not so show. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

760. To the ALJ's finding of fact that on June 30 Meadows stated that if the parties did not come to an agreement, he could give the Union a last, best, and final offer and that

he was going to prepare accordingly. JD 13, ll. 45-47, 14, ll. 1-4. The basis for this exception is that the record does not so show. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

761. To the ALJ's finding of fact that on June 30 after Head stated that August 1 was not a drop dead date, he stated that the Union was prepared to negotiate beyond that date. JD 39, ll. 39-40. The basis for this exception is that the record does not so show. Tr. 977 (Meadows).

762. To the ALJ's finding of fact that on June 30, Meadows initially replied that August 1 may be drop dead date for him. JD 39, ll. 40-41. The basis for this exception is that the record does not so show. Tr. 977 (Meadows); R. Exh. 67 at 8; GC Exh. 8 at 4; Tr. 427 (Eby).

763. To the ALJ's finding of fact that on July 27 Head asked why the existing contract did not allow the Respondent to grow, and Meadows did not respond. JD 40, ll. 1-2. The basis for this exception is that the record does not so show. Tr. 986 (Meadows).

764. To the ALJ's failure to conclude as a matter of law that Counsel for the General Counsel bears the burden for showing surface bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

765. To the ALJ's finding of fact that on July 28 the only explanation given by the Respondent for its proposal containing a permanent two tier wage structure was a vague statement that an overall economic adjustment was needed. JD 40, ll. 2-4. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

766. To the ALJ's failure to find as fact and conclude as a matter of law that Counsel for the General Counsel introduced no evidence regarding the explanation given by the Respondent for its proposal for a two-tier wage structure. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

767. To the ALJ's finding of fact that on August 18 Meadows said that he had no interest in returning to the language of the expired contract. JD 40, ll. 7-9. The basis for this exception is that the record does not so show. Tr. 1044-45 (Meadows).

768. To the ALJ's finding of fact that when on August 18 the Union presented a wage proposal that day based on the wage provisions contained in the expired contract, Meadows said that he was not interested in going through the Union's wage proposal step-by-step. JD 40, ll. 9-12. The basis for this exception is that the record does not so show. Tr. 1047, 1114 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 50-51.

769. To the ALJ's finding of fact that on September 9, when Head stated he was going to go through the Union's proposal article by article, Meadows said he had given the Union a last, best, and final offer and that he was not interested in going through the Union's proposal article by article. JD 40, ll. 15-17. The basis for this exception is that the record does not so show. Tr. 514 (Eby); 1049-50, 1117 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

770. To the ALJ's finding of fact that on September 10, the Union presented a proposal based on the provisions of the expired contract which contained movement by the Union toward the Respondent's position. JD 40, ll. 17-19. The basis for this exception is that the record does not so show. Jt. Exh. 15 at 608, Article II, Section 2.

771. To the ALJ's failure to find as fact that the Union's September 10 proposal retained the Labor Relations Committee while simply eliminating the reference to that committee as "Joint Labor Relations." JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 15 at 608, Article II, Section 2.

772. To the ALJ's finding of fact that on September 11, Meadows stated that he was disappointed in the Union's latest proposal and that the Respondent was not interested in it. JD 40, ll. 23-34. The basis for this exception is that the record does not so show. Tr. 525 (Eby); 1056 (Meadows); R. Exh. 66 at 200; R. Exh. 67 at 57.

773. To the ALJ's finding of fact that the Respondent admitted at the first bargaining session on June 1 that its proposal contained radical changes that would not necessarily make people happy. JD 40, ll. 26-27. The basis for this exception is that the record does not so show. Tr. 956 (Meadows); R. Exh. 67 at 1.

774. To the ALJ's failure to find as fact that Respondent concluded that presenting a proposal that merely revised the Red Book was not possible because the terms of the Red Book were drastically inconsistent with other Respondent contracts, and did not "fit" with the Respondent's operational needs for the Cedar Rapids plant. JD 1-63. The basis for this exception is that the record so shows. Tr. 948 (Meadows).

775. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent drafted its initial proposal to attempt to achieve its legitimate goals of obtaining a contract that was consistent with its contracts at other facilities and that allowed the Respondent to grow its business. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 948-49 (Meadows).

776. To the ALJ's finding of fact that the only reason given by the Respondent to the Union during negotiations regarding the basis for its proposal was that it intended to make operational changes at the Cedar Rapids facility in order to integrate its structure into the rest of the Respondent's operations. JD 40, ll. 27-30. The basis for this exception is that the record does not so show. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

777. To the ALJ's failure to find as fact and conclude as a matter of law that Counsel for the General Counsel, who bears the burden for showing surface bargaining, introduced no evidence regarding the bases for the Respondent's proposals or the Respondent's statements at the table regarding those bases. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

778. To the ALJ's finding of fact that on July 27, Head asked Meadows why the existing contract did not allow the Respondent to grow and Meadows did not respond. JD 40, ll. 34-36. The basis for this exception is that the record does not so show. Tr. 986 (Meadows).

779. To the ALJ's implied finding of fact that by the end of July, the Respondent had still not explained to the Union specifically what provisions and language in the existing agreement limited its ability to grow. JD 40, ll. 36-38. The basis for this exception is that the record does not so show. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10,

1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

780. To the ALJ's finding of fact that on July 28 the only explanation given by the Respondent for its proposal containing a permanent two tier wage structure was a vague statement that an overall economic adjustment was needed. JD 40, ll. 39-41. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

781. To the ALJ's finding of fact that even at the trial, the only explanation given by Meadows for the nature of the Respondent's proposals was a generalized statement that the terms of the existing collective-bargaining agreement at the Cedar Rapids facility were inconsistent with that of other collective-bargaining agreements that the Respondent was party to and that it did not "fit" the Respondent's operational needs for the plant. JD 40, ll. 43-47. The basis for this exception is that the record does not so show. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

782. To the ALJ's finding of fact or conclusion of law that the Respondent failed to give any meaningful reasons to the Union for its proposals. JD 41, l. 1. The basis for

this exception is that the record does not so show, and the law does not so hold. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

783. To the ALJ's finding of fact or conclusion of law that the Respondent's proposal was regressive. JD 41, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1; Jt. Exh. 16.

784. To the ALJ's finding of fact or conclusion of law that the Respondent failed to give a meaningful explanation as to why it did not agree with the Union's proposals. JD 41, ll. 2-3. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

785. To the ALJ's finding of fact or conclusion of law that the Union's proposals consisted of enhancements to the existing terms and conditions of employment. JD 41, ll. 3-4. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 11-16.

786. To the ALJ's finding of fact or conclusion of law that the Respondent did not comport with the Respondent's obligation to make some effort to effectuate a compromise in order to reach a common ground by merely rejecting the Union's proposals without a reasonable explanation for doing so. JD 41, ll. 7-8. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263; Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

787. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent made at least forty-six (46) modifications to its proposals that responded to the Union's bargaining positions and were counterproposals to the Union's proposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263; Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82,

1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

788. To the ALJ's finding of fact or conclusion of law that the Respondent intended to reach an agreement only on its own terms because it lacked of an explanation for its own proposal, coupled with its failure to explain its rejection of the Union's proposals based on the format of the existing contract. JD 41, ll. 9-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

789. To the ALJ's finding of fact or conclusion of law that during the bargaining the Respondent refused to give a meaningful explanation for rejecting the Union's proposals. JD 41, ll. 14-15. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

790. To the ALJ's finding of fact or conclusion of law the Respondent's series of concessions resulted in its last, best and final offer containing some of the terms and conditions of employment of the expired agreement. JD 41, ll. 14-17. The basis for this

exception is that the record does not so show, and the law does not so hold. Tr. 1037-38 (Meadows).

791. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's series of proposals culminating with its last, best, and final offer contained movement based not only on the Red Book but also the Union's 21 issues and list of concessions, media events in which he had seen the Union make statements on television, and all bargaining to-date. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1037-38 (Meadows).

792. To the ALJ's implied finding of fact or conclusion of law that the Respondent's movement during bargaining consisted of a wage increase for all employees while instituting a permanent two-tiered wage system with approximately a 20 percent difference between the two tiers. JD 41, ll. 17-19. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263.

793. To the ALJ's conclusion of law that, viewed under the totality of circumstances test, the Respondent's movement from its initial proposal is insufficient to outweigh other factors establishing that it failed to engage in good faith bargaining. JD 41, ll. 19-21. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

794. To the ALJ's failure to conclude as a matter of law that the Respondent's movement from its initial proposal is sufficient to outweigh any other factors establishing that it failed to engage in good faith bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

795. To the ALJ's finding of fact or conclusion of law that the Respondent reverted to a bargaining position that was at or near the terms and conditions of the Red Book by making the following changes: providing double time pay for Sunday work; providing two additional personal holidays; increasing the top level of vacation to 6 weeks for 25 year employees; increasing vacation pay to 45 hours per week; providing, time and a half pay for work over 8 hours in a day and double time for over 12 hours in a day; providing double time pay for day shift maintenance employees working at night, removing a holiday pay exclusion for probationary employees; removing the requirement that employees be scheduled in a holiday week to receive holiday pay; the bereavement leave jury duty leave policies; allowing senior employees to bank vacation days to use as single days; removing the requirement to use vacation leave before using FMLA leave; raising the temporary disability benefit from \$325 a week to \$375 a week, raising the group life insurance benefits from \$25,000\$50,000; adding a progressive discipline system; and increasing the number of days of unexcused absences before an employee loses seniority from 2 to 3. JD 41, ll. 23-38. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 3 at 2052; Jt. Exh. 16 at 9618; Jt. Exh. 3 at 2064; Jt. Exh. 16 at 9609; Jt. Exh. 4 at 2093; Jt. Exh. 23 at 588 (#15); Jt. Exh. 4 at 2103; Jt. Exh. 23 at 588 (#12); Jt. Exh. 5 at 2117; R. Exh. 39 at 560; Jt. Exh. 5 at 2124-25; R. Exh. 39 at 559; R. Exh. 39 at 559; Jt. Exh. 6 at 2184; R. Exh. 39 at 559; Jt. Exh. 16 at 9636; Jt. Exh. 6 at 2188; Jt. Exh. 5 at 2125; R. Exh. 39 at 559; Jt. Exh. 5 at 2126; R. Exh. 39 at 559,

561; Jt. Exh. 5 at 2135; R. Exh. 39 at 560; Jt. Exh. 7 at 432; R. Exh. 39 at 559; R. Exh. 39 at 560; Jt. Exh. 8 at 2230; Jt. Exh. 16; Jt. Exh. 8 at 2233-34; R. Exh. 39 at 559; Jt. Exh. 8 at 2240-41; R. Exh. 39 at 560; Jt. Exh. 8 at 2250; Jt. Exh. 16; Jt. Exh. 8 at 2253; R. Exh. 39 at 560; Jt. Exh. 8 at 2260-61; R. Exh. 39 at 562; Jt. Exh. 9 at 2263; R. Exh. 39 at 559; Jt. Exh. 6 at 2182; Jt. Exh. 8 at 2228.

796. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent also reverted to a bargaining position that was at or near the terms and conditions of the Red Book by making the following additional changes: Art. X, § 4, Overtime Rule #2, added that employees may not be forced more than two (2) consecutive days of overtime; Art. XV, § 2 added a twenty-seven (27) cent differential for 4<sup>th</sup> shift; Art. X, § 7(e) and (f) provided two-and-a-half-time pay for working on a holiday if an employee was not scheduled but nonetheless worked, and specified that employees will not be penalized for a holiday falling on a Sunday; Art. XVII, § 1(A) specified that the Respondent would pay for temporary disability benefits; Art. I, § 2 reduced the probationary period to four (4) months; Art. VI, § 1(D) (2) and (E) reduced the bid restriction to eighteen (18) months from twenty-four (24) months; Art. XVIII, § 6 added a long-term disability benefit; Art. XXI, § 1 unlinked the bargaining unit's benefit plans from those of the salaried employees; Art. XX, § 3 delayed proposed changes to the gap insurance benefit until January 1, 2016; Art. XXVII required the Respondent to discuss plant rules with the Union before implementing them. Art. VII, § 1(3) changed to plant-wide seniority instead of classification seniority for layoffs; Art. VII, § 1(6) exempted only Maintenance, not Lab employees, from general layoffs; Art. XIII, § 1 provided for vacation increases after 12 and 18 years of service; Art. VII, § 1 changed bidding to be by department and plant seniority; Art. I, § 2 reverted to the Red Book's bargaining unit description; Art. III, § 1 removed the requirement

that bargaining committee members be employees of the Respondent; Art. V added provisions about how long discipline stays in the file and reduced the first step to an undocumented warning; Art. XI, § 4 removed a proposal to make employees responsible for overtime; Art. XVI, § 1 removed the requirement that employees accept paychecks via direct deposit; Art. XVIII, § 1(F) removed language about discontinuing benefits payments during a work stoppage; Art. XXV, § 2 contractually required effects bargaining for layoffs; and the Addendum provided offsets for HSP medical plans. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 3 at 2052; Jt. Exh. 16 at 9618; Jt. Exh. 3 at 2064; Jt. Exh. 16 at 9609; Jt. Exh. 4 at 2093; Jt. Exh. 23 at 588 (#15); Jt. Exh. 4 at 2103; Jt. Exh. 23 at 588 (#12); Jt. Exh. 5 at 2117; R. Exh. 39 at 560; Jt. Exh. 5 at 2124-25; R. Exh. 39 at 559; R. Exh. 39 at 559; Jt. Exh. 6 at 2184; R. Exh. 39 at 559; Jt. Exh. 16 at 9636; Jt. Exh. 6 at 2188; Jt. Exh. 5 at 2125; R. Exh. 39 at 559; Jt. Exh. 5 at 2126; R. Exh. 39 at 559, 561; Jt. Exh. 5 at 2135; R. Exh. 39 at 560; Jt. Exh. 7 at 432; R. Exh. 39 at 559; R. Exh. 39 at 560; Jt. Exh. 8 at 2230; Jt. Exh. 16; Jt. Exh. 8 at 2233-34; R. Exh. 39 at 559; Jt. Exh. 8 at 2240-41; R. Exh. 39 at 560; Jt. Exh. 8 at 2250; Jt. Exh. 16; Jt. Exh. 8 at 2253; R. Exh. 39 at 560; Jt. Exh. 8 at 2260-61; R. Exh. 39 at 562; Jt. Exh. 9 at 2263; R. Exh. 39 at 559; Jt. Exh. 6 at 2182; Jt. Exh. 8 at 2228.

797. To the ALJ's finding of fact that the Respondent's response to an information request by the Union on July 28 establishes that many of the items that the Respondent withdrew from its initial proposal were either low-cost or no cost items. JD 41, fn 29. The basis for this exception is that the record does not so show. Jt. Exh. 24, pp. 912-14.

798. To the ALJ's finding of fact that in its last, best, and final offer, the Respondent withdrew from its proposal a proposal regarding scope of the bargaining unit. JD 41, ll. 40-41. The basis for this exception is that the record does not so show. Tr. 786-87,

791, 803 (Froehlich); Tr. 119, 984-85 (Meadows); Tr. 456 (Eby); Jt. Exh. 16 at 9594; Jt. Exh. 1 at 1965; Jt. Exh. 2 at 2002; R. Exhs. 31, 32.

799. To the ALJ's failure to find as fact that the Respondent never proposed to change the scope of the bargaining unit. JD 1-63. The basis for this exception is that the record so shows. Tr. 786-87, 791, 803 (Froehlich); Tr. 119, 984-85 (Meadows); Tr. 456 (Eby); Jt. Exh. 16 at 9594; Jt. Exh. 1 at 1965; Jt. Exh. 2 at 2002; R. Exhs. 31, 32.

800. To the ALJ's conclusion of law that the Respondent's proposals regarding the bargaining committee were nonmandatory subjects of bargaining. JD 41-42, ll. 40-1. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

801. To the ALJ's conclusion of law that Respondent's bargaining position contributes to a finding that it engaged in surface bargaining. JD 42, l. 4. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

802. To the ALJ's finding of fact or conclusion of law that the Respondent did not explain its legitimate need for changes to terms and conditions of employment at the Cedar Rapids plant. JD 42, ll. 4-6. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

803. To the ALJ's implied finding of fact or conclusion of law that the Respondent sought to dramatically alter the terms and conditions of employment at the Cedar Rapids facility. JD 42, ll. 5-6. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 1; Jt. Exh. 16.

804. To the ALJ's finding of fact or conclusion of law that the Respondent failed to address the Union's proposals in a meaningful way. JD 42, l. 6. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263; Tr. 948-49; 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43, 1046, 1074, 1077, 1081-82, 1106-12 (Meadows); Tr. 833 (Wood); Tr. 287, 289, 311-12, 321 (Shannon); Tr. 411-12, 424-25, 433, 436, 439, 451, 481, 485, 469-98 (Eby); Jt. Exh. 1 at 1966, 1971, 1975, 1976, 1978 (Wood notations); Jt. Exh. 2-6; R. Exh. 67 at 1-3, 7, 12, 19, 21-22, 36-37, 42-43; R. Exh. 66 at 192, 210, 219, 225, 231; R. Exh. 36; GC Exh. 7 at 2, 13, 24.

805. To the ALJ's conclusion of law that the Respondent failed in its obligation to bargain in good faith, but rather bargained in a manner designed to reach agreement on its own terms and none other. JD 42, ll. 4-8. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

806. To the ALJ's failure to conclude as a matter of law that the Board does not sit in judgment upon the substantive terms of collective bargaining agreements. JD 1-63. The

basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

807. To the ALJ's failure to find as fact that during the period from about June 1 through September 11, the parties held as many as four (4) bargaining sessions on each day of bargaining, and held a total of twenty-five (25) sessions. JD 1-63. The basis for this exception is that the record so shows. Tr. 987, 992, and 995-96 (Meadows).

808. To the ALJ's failure to find as fact that during the period from about June 1 through September 11, the Respondent asked the Union to bargain *even more* frequently. JD 1-63. The basis for this exception is that the record so shows. Tr. 965, 1071 (Meadows); R. Exh. 67 at 3; GC Exh. 8 at 2; R. Exh. 66 at 210.

809. To the ALJ's failure to find as fact that the Respondent was also willing to extend bargaining on the days when the parties bargained. JD 1-63. The basis for this exception is that the record so shows. Tr. 1017 and 1024 (Meadows); R. Exh. 67 at 31, 33.

810. To the ALJ's failure to find as fact that it is undisputed that the Respondent never rejected bargaining dates proposed by the Union, never asked to end any session prematurely, and never cancelled any bargaining session. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

811. To the ALJ's failure to find as fact that the Respondent diligently prepared for bargaining to ensure efficiency during bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 100, 947-49 (Meadows); Tr. 767 (Froehlich).

812. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent was more than willing to meet and bargain with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 100, 947-49; 965, 987, 992,

995-96, 1017, 1024, 1071 (Meadows); Tr. 767 (Froehlich); R. Exh. 67 at 3, 31, 33; GC Exh. 8 at 2; R. Exh. 66 at 210.

813. To the ALJ's failure to find as fact that consistent with his past practice, Meadows reviewed the Red Book in advance of bargaining and considered working from it. JD 1-63. The basis for this exception is that the record so shows. Tr. 948-49 (Meadows).

814. To the ALJ's failure to find as fact that Meadows attempted to draft a Respondent proposal based on the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 949, 1085 (Meadows); R. Exh. 16.

815. To the ALJ's failure to find as fact that Meadows ultimately concluded that presenting a proposal that merely revised the Red Book was not possible because the terms of the Red Book were drastically inconsistent with other Respondent contracts, and did not "fit" with the Respondent's operational needs for the Cedar Rapids plant, and he therefore proposed a contract that did not share the form of the Red Book and did not contain its package of terms. JD 1-63. The basis for this exception is that the record so shows. Tr. 948 (Meadows).

816. To the ALJ's failure to conclude as a matter of law that the Respondent proposed a contract that did not share the form of the Red Book and did not contain its package of terms not to frustrate agreement, but to attempt to achieve its legitimate goals of obtaining a contract that was consistent with its contracts at other facilities and that allowed the Respondent to grow its business. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 948-49 (Meadows).

817. To the ALJ's failure to find as fact that the Respondent sincerely held the belief that it could not go back to the Red Book after it expired, and consistently communicated that belief throughout bargaining, including at the final session before it implemented the terms

of its last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1056 (Meadows).

818. To the ALJ's failure to find as fact and conclude as a matter of law that the package of terms proposed by the Respondent was not designed to frustrate bargaining because it proposed: a recognition clause that kept all classifications in the bargaining unit, dues checkoff., contractually establishing a negotiating committee, a generally-applicable grievance procedure ending with final and binding arbitration, and a no strike clause that was balanced by a no-lockout clause. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 1 at 1965-70; Tr. 786, 803 (Froehlich); Tr. 984 (Meadows).

819. To the ALJ's failure to find as fact and conclude as a matter of law that the package of terms proposed by the Respondent was not designed to frustrate bargaining because the Respondent proposed a number of objective improvements over the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2230, 2234-35, 2243-46, 2250-51, 2255, 2257; Jt. Exh. 16 at 9604, 9636, 9676; GC Exh. 32; R. Exh. 40.

820. To the ALJ's failure to conclude as a matter of law that the Respondent drafted its proposals in good faith. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

821. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows dealt with the Union in a collaborative and respectful way, communicating the Respondent's interests in bargaining and asking the Union to do the same. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 935, 956-57, 959-60,

1074, 1076, 1087 (Meadows); Tr. 255 (Shannon); Tr. 410-11 (Eby); R. Exh. 29; GC Exh. 15; R. Exh. 67 at 1; R. Exh. 66 at 210.

822. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows expressed to the Union his intentions of reaching a contract. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 957, 980, 992-93, 1071 (Meadows); R. Exh. 67 at 1, 3; GC Exh. 7 at 1; GC Exh. 8 at 1-2; R. Exh. 35; R. Exh. 66 at 210, 225; R. Exh. 66 at 225; R. Exh. 38.

823. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows tried to steer the parties toward substantive bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 986-87, 1017, 1045, 1049, 1051, 1115 (Meadows); R. Exh. 67 at 31, 46-47, 50-51, 52; R. Exh. 66 at 195, 197-98, 224.

824. To the ALJ's failure to conclude as a matter of law that at no point did Meadows threaten the Union with impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 957, 966-65 (Meadows); R. Exh. 67 at 2; R. Exh. 66 at 210.

825. To the ALJ's failure to conclude as a matter of law that at no point did the Respondent tell the Union that it intended to prepare a last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 3 at 8; Tr. 979 (Meadows); R. Exh. 67 at 7-9; R. Exh. 66 at 219.

826. To the ALJ's failure to conclude as a matter of law that Meadows never sought to impose deadlines on negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 3 at 8; Tr. 977 (Meadows); R. Exh. 67 at 8; GC Exh. 8 at 4; Tr. 427 (Eby).

827. To the ALJ's failure to conclude as a matter of law that in the course of the parties' bargaining Meadows never personally attacked anyone on the Union bargaining committee, even when Head personally attacked him and threatened him with violence. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 999, 1007, 1035 (Meadows); R. Exh. 67 at 41.

828. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent did not "[r]epeatedly declar[e] to the Union that it was presenting 'final offers' that the Respondent would thereafter repeatedly amend and/or improve after declaring them to be final." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1029-30, 1082 (Meadows); R. Exh. 67 at 36.

829. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent did not insist to the point of impasse on a proposal to change the scope of the bargaining unit. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2228; Jt. 16 at 9593.

830. To the ALJ's failure to find as fact and conclude as a matter of law that in its last, best, and final offer the Respondent reverted to the exact unit description contained in the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2228; Jt. 16 at 9593.

831. To the ALJ's failure to conclude as a matter of law that the conduct and statements of Respondent's bargaining representatives demonstrated their intention to reach agreement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

832. To the ALJ's failure to conclude as a matter of law that it is the total picture shown by the factual evidence that either supports the complaint or falls short of the quantum of affirmative proof required by law. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

833. To the ALJ's failure to find as fact and conclude as a matter of law that to lend too close an ear to the bluster and banter of negotiations would frustrate the Act's strong policy of fostering free and open communications between the parties. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

834. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel has not presented evidence of *any* instance of the Respondent refusing to consider a Union proposal. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

835. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent always considered proposals made by the Union and gave reasonable explanations for all of its bargaining positions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 958-59, 969-70, 996, 998, 1010, 1012-13, 1031, 1044, 1047, 1052, 1077, 1114, 1119 (Meadows); Tr. 261, 292, 295 (Shannon); Tr. 415-16, 453, 486, 501-02 (Eby); Tr. 833 (Wood); Jt. Exh. 10 at 572, 574 (Wood note in margin); Jt. Exh. 24 at 913; R. Exh. 67 at 2, 4, 16-19, 21-28, 37, 47-51; R. Exh. 66 at 195, 210, 217, 227; GC Exh. 7 at 1, 3, 9, 13-17; GC Exh. 8 at 1, 3.

836. To the ALJ's failure to conclude as a matter of law that an employer's willingness to consider Union's proposals and willingness to explain and modify own proposals

is evidence of good faith. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

837. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent went to extraordinary lengths to plainly present and explain its proposals and its rationales for those proposals, frequently pointing out how its proposals compared and contrasted with the Red Book and the Union's proposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 956-57, 960-64, 975-76, 988-91, 997-98, 1009-10, 1023, 1026, 1029-31, 1039-43; 1046; 1074, 1077, 1081-82; 1106-12 (Meadows).

838. To the ALJ's failure to conclude as a matter of law that an employer's willingness to consider the union's proposals and willingness to explain and modify its own proposals is evidence of good faith. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

839. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent made numerous proposals, modifying proposals and withdrawing others based on the course of negotiations, engaging in a give-and-take that is indicative of the Respondent's good faith bargaining with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263.

840. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows frequently adjusted the Respondent's proposals directly in response to the Union's

stated positions in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 2 at 2008, 2018, 2019; Jt. Exh. 3 at 2051, 2052, 2054, 2058, 2062, 2063, 2064, 2069; Jt. Exh. 4 at 2089-90, 2091, 2092, 2093, 2095, 2098, 2103, 2104, 2106; Jt. Exh. 5 at 2117, 2122, 2123, 2124-25, 2126, 2135; Jt. Exh. 6 at 2182, 2184, 2188; Jt. Exh. 7 at 432, 447, 448, 454; Jt. Exh. 8 at 2228, 2230, 2233, 2234, 2240, 2241, 2250, 2253, 2260, 2261; Jt. Exh 9 at 2263.

841. To the ALJ's failure to conclude as a matter of law that the Respondent's adjustments to its proposals directly responded to proposals in the Union's June 1<sup>st</sup> and June 29<sup>th</sup> proposals, the twenty-one (21) items the Union raised as part of a request for information, the Union's list of concessions, and the terms of the Red Book (to which the Union had repeatedly asked the Respondent to revert). JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh 10 at 571, 572, 573; Jt. Exh. 11 at 568, 569; Jt. Exh. 16 at 9609, 9618, 9622, 9625, 9629, 9636; Jt. Exh. 23 at 588-91; R. Exh. 39 at 559, 560, 561.

842. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent enlisted the help of a federal mediator. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 979 (Meadows); R. Exh. 34.

843. To the ALJ's conclusion of law that the Respondent also engaged in conduct away from the table demonstrating a lack of good faith in the manner it conducted the negotiations. JD 42, 10-11. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

844. To the ALJ's conclusion of law that even before negotiations began, the Respondent demonstrated an intent not to resolve differences when Meadows told members of the union committee that the existing health insurance with low deductibles and the defined

benefit pension plan for senior employees would be gone. JD 42, ll. 11-15. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

845. To the ALJ's conclusion of law that during negotiations the Respondent bypassed the Union and engaged in direct dealing with employees in violation of Section 8(a)(5) and (1). JD 42, ll. 15-16. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

846. To the ALJ's conclusion of law that the Respondent delayed in providing presumptively relevant information sought by the Union in violation of Section 8(a)(5) and (1). JD 42, ll. 16-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

847. To the ALJ's conclusion of law that any away from the table unfair labor practices had a direct nexus with the Respondent's bargaining position and therefore further establish its intent not to bargain in good faith. JD 42, ll. 18-20. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

848. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's conduct prior to June 1 helps show that the circumstances in which bargaining occurred were marked by good faith on the part of the Respondent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 931-32, 934-35, 940-43, 947-48, 1087 (Meadows); Tr. 173 (Drahos); Tr. 74 (Rausch); Tr. 396, 399, 559 (Eby); Tr. 858-59 (Kluetz); Tr. 227-28 (Shannon); GC Exh. 13, 40; R. Exh. 12; GC Exh. 11, 13, and 40; R. Exh. 12.

849. To the ALJ's failure to conclude as a matter of law that to the extent unlawful statements were directed to union stewards and officials, they cannot serve as evidence of undercutting the Union's status as collective-bargaining representative. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

850. To the ALJ's failure to conclude as a matter of law that any showing that the Respondent undermined and denigrated the Union, delayed in providing information, and dealt directly with employees does not support a finding that the Respondent engaged in surface bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

851. To the ALJ's conclusion of law that the Respondent, by its overall course of conduct during the bargaining through September 14, 2015, failed to bargain in good faith in violation of Section 8(a)(5) and (1) of the Act. JD 42, ll. 20-22. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

852. To the ALJ's failure to conclude as a matter of law that the Respondent did not bargain in bad faith as alleged by the Complaint. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

853. To the ALJ's failure to conclude as a matter of law that the Respondent cannot be found to have bargained in bad faith because the Union has, in fact, engaged in bad-faith bargaining. JD 42, ll. 24-27. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

854. To the ALJ's finding of fact or conclusion of law that that in support of its position that the Union bargained in bad faith the Respondent principally contends that the Union adopted a take it or leave it approach and refused to consider the Respondent's proposals unless it "bargained from the Red Book." JD 42, ll. 33-35. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

855. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's principal contention in support of its position that the Union bargained in bad faith is that the "totality of the circumstances" shows that the Union bargained in bad faith. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

856. To the ALJ's finding of fact that the Respondent presented an entirely new proposed collective-bargaining agreement in both the substantive provisions and the format. JD 42, ll. 42-43. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 16.

857. To the ALJ's finding of fact that at the second meeting the Respondent indicated it was going to continue to work from the new contract format it had proposed. JD 42, ll. 44-46. The basis for this exception is that the record does not so show. Tr. 972-73 (Meadows); R. Exh. 67 at 6; R. Exh. 66 at 218.

858. To the ALJ's finding of fact that at the third meeting held on June 30, Head raised the issue of how the parties were going to proceed, stated that they needed to have an agreed-upon process for negotiations, and asked Meadows to take his proposals and submit them in relation to the existing contract language and red line suggested changes. JD 42-43,

ll. 46-2. The basis for this exception is that the record does not so show. Tr. 425 (Eby); 976 (Meadows).

859. To the ALJ's finding of fact that Meadows added that he had tried to put some of the existing contract provisions in his proposal but that the facility was no longer operated by Penford and that the Respondent was not going to continue to operate in the same manner. JD 43, 4-6. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

860. To the ALJ's finding of fact that Meadows also threatened the Union that if the parties did not come to an agreement he could give the Union a last, best, and final offer and that he was going to prepare accordingly. JD 43, ll. 7-8. The basis for this exception is that the record does not so show. Tr. 977, 979 (Meadows); R. Exh. 66 at 219; R. Exh. 67 at 7-9.

861. To the ALJ's finding of fact that when Head asked why the current contract did not allow for growth, he did not receive a response from Meadows, and that Meadows did not explain why it was necessary to bargain in the format of the Respondent's agreement. JD 43, ll. 12-14. The basis for this exception is that the record does not so show. Tr. 986 (Meadows).

862. To the ALJ's finding of fact that the Respondent was proposing an entirely new agreement. JD 43, l. 14. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 16.

863. To the ALJ's finding of fact that Head told Meadows that the Union was sticking with its proposal. JD 43, ll. 14-15. The basis for this exception is that the record does not so show. Tr. 986 (Meadows); R. Exh. 66 at 224.

864. To the ALJ's finding of fact that at the bargaining meeting held on July 31, Head stated that, given where the parties were in the bargaining process, if Meadows wanted to prepare a final offer, the Union would present it to the membership for a vote. JD 43, ll. 19-22. The basis for this exception is that the record does not so show. Tr. 1029 (Meadows); R. Exh. 67 at 36.

865. To the ALJ's finding of fact that Head indicated that in order to advance the negotiation process, the Respondent had to respect the contract that it had "bought" and had to make proposals based on the terms of that contract in order to have a path for meaningful discussion. JD 43, ll. 30-32. The basis for this exception is that the record does not so show. Tr. 1035 (Meadows); R. Exh. 66 at 189, 191; R. Exh. 67 at 39; GC Exh. 7 at 22-23.

866. To the ALJ's finding of fact that the Union was willing to move. JD 43, ll. 32-34. The basis for this exception is that the record does not so show. R. Exh. 67 at 41.

867. To the ALJ's finding of fact that the Union's August 18 proposal was a counteroffer. JD 43, ll. 37-38. The basis for this exception is that the record does not so show. Jt. Exhs. 8, 13.

868. To the ALJ's finding of fact that the Union's August 18 proposal was based on the format of the expired agreement. JD 43, ll. 37-38. The basis for this exception is that the record does not so show. Jt. Exhs. 13, 16.

869. To the ALJ's failure to find as fact that after the Respondent presented its last, best, and final offer the Union's proposals slightly revised the Red Book while maintaining its form and substance. JD 1-63. The basis for this exception is that the record so shows. Jt. Exhs. 13, 14, 15, 16; Tr. 1044, 1046-47, 1054, 1114 (Meadows).

870. To the ALJ's finding of fact that on August 18, Meadows indicated that he would address some of the provisions of the last, best, and final if the Union wanted to address provisions. JD 43, ll. 41. The basis for this exception is that the record does not so show. Tr. 1045 (Meadows); R. Exh. 67 at 46-47.

871. To the ALJ's finding of fact that the Union's wage proposal was based on the format of the expired agreement. JD 43, ll. 41-42. The basis for this exception is that the record does not so show. Jt. Exhs. 14, 16.

872. To the ALJ's finding of fact that Meadows refused to go through the Union's wage proposal. JD 43, l. 42. The basis for this exception is that the record does not so show. Tr. 1047, 1114 (Meadows); R. Exh. 66 at 195; R. Exh. 67 at 50-51.

873. To the ALJ's implied finding of fact that the Union's wage proposal was based on the format of the expired agreement. JD 43, l. 47. The basis for this exception is that the record does not so show. Jt. Exhs. 14, 16.

874. To the ALJ's finding of fact that Meadows indicated he was not interested in going through the Union's proposal article by article as the Respondent had given the Union in its last, best, and final offer. JD 43-44, ll. 47-2. The basis for this exception is that the record does not so show. Tr. 514 (Eby); 1049-50, 1117 (Meadows); R. Exhs. 66 at 196, 67 at 52.

875. To the ALJ's finding of fact that the Union's September 10 proposal was based on the format of the expired agreement. JD 44, ll. 2-3. The basis for this exception is that the record does not so show. Jt. Exhs. 15, 16.

876. To the ALJ's finding of fact that Union's September 10 proposal made substantive movement toward the Respondent's position on certain issues. JD 44, ll. 2-4. The

basis for this exception is that the record does not so show. Jt. Exh. 15 at 608, Article II, Section 2.

877. To the ALJ's failure to find as fact that throughout bargaining, Head consistently insisted that the parties had to bargain from the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 973, 976, 986, 991, 1014, 1017, 1019, 1035, 1044, 1047, 1049 (Meadows); Tr. 425, 439, 514 (Eby); R. Exh. 67 at 6, 13, 23, 26, 39, 46, 51, 52.

878. To the ALJ's failure to find as fact that the Union refused to consider any proposals from the Respondent until they had the form and substance of the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 961, 973, 976, 986-87, 991, 1014, 1017, 1019, 1035, 1044, 1045, 1049, 1056, 1119 (Meadows); Tr. 425, 439 (Eby); R. Exh. 67 at 2, 6, 13, 23, 26, 46, 52; R. Exh. 66 at 218, 219, 224, 193, 191, 196; Jt. Exh 15.

879. To the ALJ's failure to find as fact that the Union did not respond to the Respondent's proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 957 (Meadows); R. Exh. 67 at 1.

880. To the ALJ's failure to find as fact that even when the Union analyzed the Respondent's proposals and generated an extensive list of what it considered to be concessions, it did not share that information with the Respondent until weeks later, even though the parties had bargained during that time and communicated via e-mail between bargaining sessions. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 39; Tr. 429-31, 461, 575-76 (Eby).

881. To the ALJ's failure to find as fact that the Union did not explain its proposals to the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 971-72, 1054 (Meadows); R. Exh. 67 at 55; R. Exh. 66 at 199.

882. To the ALJ's failure to conclude as a matter of law that if a party is so adamant concerning its own initial positions on significant bargaining subjects, the Board may find bad faith by way of that party's "take it or leave it" approach to bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

883. To the ALJ's failure to conclude as a matter of law that the Act prevents employee representatives from putting forth the same 'take it or leave it' attitude that is condemned in management. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

884. To the ALJ's failure to find as fact and conclude as a matter of law that the Union adopted a "take it or leave it approach," unwilling to even consider Respondent proposals unless the Respondent bargained from the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

885. To the ALJ's conclusion of law that the analysis of the Board's decision in *88 Transit Lines* is applicable to the instant case. JD 44, ll. 23-24. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

886. To the ALJ's failure to conclude as a matter of law that *88 Transit Lines* is distinguishable from the instant case. In that case the holding relied on the fact that the other party insisted on acceptance of the exact language of its proposal, the Respondent had reached agreement on a number of other issues that reflected movement, and the other party was partly to blame for limiting bargaining. Here, the Respondent was not asking the Union to agree to

specific language, the Union had agreed only to the *de minimus* proposal regarding herbal tea and stirrer sticks, and the Respondent never limited bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

887. To the ALJ's finding of fact or conclusion of law that the Union's position was that it wanted the Respondent to make proposals based upon the structure and format of the red book. JD 44, ll. 24-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

888. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's position was that it wanted the Respondent to make proposals based upon the structure, format, and substance of the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exhs. 10, 11, 12, 13, 14, 15, 16; Tr. 1044, 1046-47, 1054, 1114 (Meadows); R. Exh. 66 at 193; R. Exh. 67 at 46.

889. To the ALJ's conclusion of law that the Union's position that it wanted the Respondent to make proposals based upon the structure and format of the red book is not indicative of bad faith on the part of the Union. JD 44, ll. 24-26. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

890. To the ALJ's implied conclusion of law that the Union was attempting to reach a common ground on modifications of language contained in parties' initial proposals. JD 44, ll. 26-28. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

891. To the ALJ's implied conclusion of law that a finding of bad faith on the part of the Union relies on a finding that the Union insisted that the Respondent accept all of the provisions of the Red Book. JD 44, ll. 28-29. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

892. To the ALJ's finding of fact or conclusion of law that the Union's position was that negotiations for a new agreement should be based on the structural format of the Red Book. JD 44, ll. 29-30. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

893. To the ALJ's implied conclusion of law that a Union's insistence to impasse on its position that negotiations for a new agreement should be based on the structural format of the previous agreement would not be unlawful. JD 44, ll. 24-26. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

894. To the ALJ's failure to conclude as a matter of law that a Union's insistence to impasse on its position that negotiations for a new agreement should be based on the structural format of the previous agreement would be unlawful, because it is a permissive subject of bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

895. To the ALJ's failure to conclude as a matter of law that insistence on a proposal to narrow the procedures for negotiations is evidence of bad faith bargaining because it puts a procedural straightjacket on bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

896. To the ALJ's conclusion of law that the Union's position was not so adamant concerning the mandatory subjects of bargaining contained in its initial proposal so as to establish a take it or leave it approach to bargaining. JD 44, ll. 30-32. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

897. To the ALJ's failure to conclude as a matter of law that the Union's position was so adamant concerning mandatory or permissive subjects of bargaining contained in its initial and subsequent proposals so as to establish a take it or leave it approach to bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

898. To the ALJ's implied finding of fact or conclusion of law that the parties' disagreement over the format of the proposals that were to serve as a basis for negotiating a new collective-bargaining agreement was only an initial disagreement, in June. JD 44, ll. 34-35. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

899. To the ALJ's failure to find as fact and conclude as a matter of law that the parties' disagreement over the format of the proposals that were to serve as a basis for negotiating a new collective-bargaining agreement persisted even beyond impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

900. To the ALJ's finding of fact that or conclusion of law that the Respondent was proposing revisions to an entirely new collective-bargaining agreement. JD 44, 36-37. The

basis for this exception is that the record does not so show, and the law does not so hold.

Jt. Exhs. 1, 16.

901. To the ALJ's finding of fact that the Union again indicated on August 17 that in order for the bargaining process to move forward, the Respondent needed to make proposals based upon the format of the existing agreement. JD 44, 38-40. The basis for this exception is that the record does not so show. Tr. 1035 (Meadows); R. Exh. 66 at 189, 191; R. Exh. 67 at 39; GC Exh. 7 at 22-23.

902. To the ALJ's finding of fact that or conclusion of law that the Union's position was that it wanted to discuss its proposals based on the format of the expired contract. JD 44, ll. 41-42. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

903. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's position was that it insisted that the parties bargain based upon the structure, format, and substance of the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 7 at 22-23; Jt. Exhs. 10, 11, 12, 13, 14, 15, 16; Tr. 1044, 1046-47, 1054, 1114 (Meadows); R. Exh. 66 at 193; R. Exh. 67 at 46.

904. To the ALJ's finding of fact that the Union indicated it was willing to move in order to reach the terms of a new collective agreement. JD 44, ll. 42-43. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

905. To the ALJ's conclusion of law that viewed in its totality, the Union's conduct does not demonstrate that it was so adamant regarding its initial proposal that it constitutes a take it or leave it approach to bargaining. JD 44, ll. 44-45. The basis for this

exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

906. To the ALJ's conclusion of law that the instant case is distinguishable from *Teamsters Local 418*. JD 45, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

907. To the ALJ's implied conclusion of law that the Board's holding in *Teamsters Local 418* was that the union's insistence on a contract of its own composition, combined with an intransigent attitude toward proposals made by the employer, constituted bargaining in bad faith in violation of Section 8(b)(3). JD 45, ll. 4-7. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

908. To the ALJ's failure to conclude as a matter of law that *Teamsters Local 418* the Board relied on the union's intransigent attitude on a single clause, and also relied on the fact that the union in that case initially refused to meet or bargain with or even send proposals to the employer and made little movement from the start to the end of negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

909. To the ALJ's finding of fact or conclusion of law that the Union demonstrated its willingness to consider the Respondent's substantive proposals. JD 45, ll. 7-8. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

910. To the ALJ's implied finding of fact or conclusion of law that the Union considered the Respondent's substantive proposals because much of the time spent in bargaining

was devoted to a discussion of those proposals. JD 45, ll. 8-10. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

911. To the ALJ's finding of fact or conclusion of law that there is no evidence that the Union insisted that it would only reach a contract on its own terms. JD 45, ll. 9-10. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

912. To the ALJ's failure to find as fact and conclude as a matter of law that the Union insisted that it would only reach a contract on its own terms. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

913. To the ALJ's finding of fact that the Respondent did not object to the cancellation meetings scheduled for July 13-15. JD 45, ll. 14-15. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

914. To the ALJ's finding of fact or conclusion of law that the Respondent refused to consider the two proposals made by the Union on August 18. JD 45, ll. 16-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

915. To the ALJ's finding of fact or conclusion of law that the Union's cancellation of four meetings was its only delay in bargaining. JD 45, l. 22. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

916. To the ALJ's failure to find as fact that while Meadows offered on June 1 to meet the following week, Head was not willing to meet until June 27 and 28. JD 1-63. The basis for this exception is that the record so shows. Tr. 965 (Meadows); R. Exh. 67 at 3; GC Exh. 8 at 2; R. Exh. 66 at 210.

917. To the ALJ's failure to find as fact that the parties were scheduled to meet on August 19, but the day before Head said, "There's no use in . . . There's no reason for us to meet anymore. We're not going to meet tomorrow," so the parties did not meet again until September 9. JD 1-63. The basis for this exception is that the record so shows. Tr. 1047 (Meadows); R. Exh. 67 at 51; R. Exh. 66 at 195

918. To the ALJ's failure to find as fact that the Union also called many bargaining sessions to an end, even when the Respondent had asked to continue meeting. JD 1-63. The basis for this exception is that the record so shows. Tr. 964, 1007, 1008, 1017, 1024 (Meadows); R. Exh. 67 at 3, 20, 31, 33.

919. To the ALJ's failure to find as fact that the Respondent, by contrast, engaged in no delay tactics. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

920. To the ALJ's conclusion of law that the Union's conduct is insufficient to establish that its conduct amounted to an unlawful unwillingness to meet with the Respondent. JD 45, ll. 22-23. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

921. To the ALJ's failure to conclude as a matter of law that delay tactics such as scheduling limited meetings, canceling meetings, and last minute changes to meeting dates

and times are evidence of bad faith bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

922. To the ALJ's failure to conclude as a matter of law that the Union demonstrated an unwillingness to meet with the Respondent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

923. To the ALJ's finding of fact or conclusion of law that beyond the cancellation of four meetings, there is no other conduct that the Union engaged in that demonstrated a lack of diligence in fulfilling its bargaining obligation. JD 45, ll. 25-26. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

924. To the ALJ's conclusion of law that the Union's conduct is far different from that of the employers in the cases relied on by the Respondent in support of its position. JD 45, ll. 26-28. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

925. To the ALJ's implied finding of fact or conclusion of law that the Union did not engage in a series of delaying tactics or a course of conduct including scheduling limited meetings, canceling meetings and making changes to meeting times and dates at the last minute, ignoring the Respondent's requests for longer and more frequent meetings, failing to reply in a timely manner to proposals made by the Respondent, and failing to provide written proposals until late in bargaining. JD 45, ll. 28-34. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

926. To the ALJ's implied conclusion of law that the Union's bad faith bargaining consisted only of adopting a take it or leave it approach to bargaining, refusing to consider the Respondent's proposals unless it "bargained from the Red Book," and cancelling bargaining meetings. JD 45, 1. 36. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

927. To the ALJ's failure to find as fact that the Union resisted inviting a mediator to bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 978 (Meadows); R. Exh. 67 at 8.

928. To the ALJ's failure to conclude as a matter of law that the Union's lack of desire to reach agreement is further underscored by its resistance to inviting a mediator to bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

929. To the ALJ's failure to find as fact and conclude as a matter of law that Head created an atmosphere that frustrated bargaining by personally attacking Meadows and threatening violence against him. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 454 (Eby); Tr. 999, 1035 (Meadows); R. Exh. 67 at 41.

930. To the ALJ's failure to find as fact that the Union, for its part, withdrew only one (1), minor, proposal for herbal tea and stirrer sticks. JD 1-63. The basis for this exception is that the record so shows. Tr. 564 (Eby).

931. To the ALJ's failure to find as fact and conclude as a matter of law that the Union only accepted the handful of Respondent proposals that benefited the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 8 at 3.

932. To the ALJ's failure to find as fact and conclude as a matter of law that from the start of bargaining until the Respondent presented its last, best, and final offer, the Union presented only two (2) comprehensive proposals, and the second proposal contained a number of terms that were regressive compared to its first. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 10; Jt. Exh. 11 at 567 and 569.

933. To the ALJ's failure to find as fact that the Union researched and reviewed the Respondent's contracts at other facilities before bargaining began because its bargaining committee fully expected that the Respondent would seek to align the Cedar Rapids contract with other Respondent contracts and to meet its operational plans for the facility. JD 1-63. The basis for this exception is that the record so shows. Tr. 389-91, 554 (Eby); Tr. 226 (Shannon).

934. To the ALJ's failure to find as fact and conclude as a matter of law that although the Union should have understood how to engage in the give-and-take of bargaining to reach agreement, it "dug in its heels," aiming to frustrate bargaining in the hopes that it could maintain the Red Book, and it maintained that stance until after the parties reached impasse and the Respondent implemented the terms of its last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 425, 557 (Eby).

935. To the ALJ's failure to conclude as a matter of law that the Union frustrated bargaining by design, not by accident. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

936. To the ALJ's failure to conclude as a matter of law that in addition to showing its bad faith by its words and actions in bargaining, the Union demonstrated its intention to frustrate bargaining through its proposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

937. To the ALJ's failure to conclude as a matter of law that the Union's take-it-or-leave-it approach sharply contrasts with the Respondent's consideration of the Union's proposals and efforts to explain its proposals to the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

938. To the ALJ's failure to conclude as a matter of law that in the present case, the Union's negotiating record demonstrates the very types of behavior and bad faith bargaining proscribed by Board precedent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

939. To the ALJ's conclusion of law that there is insufficient evidence to establish that the Union bargained in bad faith in this matter and that its conduct serves as a defense to the conclusion that the Respondent engaged in surface bargaining in violation of Section 8(a)(5) and (1) of the Act. JD 45, ll. 36-39. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

940. To the ALJ's failure to conclude as a matter of law that determining whether an employer is bargaining in good faith first requires the Board to look at the union's conduct. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

941. To the ALJ's failure to conclude as a matter of law that an employer's compliance with its duty under the Act cannot be challenged if the union has engaged in unlawful bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

942. To the ALJ's failure to conclude as a matter of law that the Board considers include willingness to meet, consideration of proposals, making counterproposals, responses to information requests, explanations given for proposals, and sincerity with which a party's positions are taken and held in applying a "totality of the circumstances" analysis to the union's conduct. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

943. To the ALJ's failure to conclude as a matter of law that the Union's own bad faith bargaining released the Respondent from its duty to bargain in good faith. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

944. To the ALJ's finding of fact that on August 18, Meadows stated that neither the Respondent nor the Union was going to move on their proposals and that the parties were at an impasse. JD 46, ll. 29-30. The basis for this exception is that the record does not so show. Tr. 1038-39 (Meadows); R. Exh. 67 at 42.

945. To the ALJ's finding of fact on September 9 Meadows replied that he was there to listen but that he was not interested in going through the Union's proposal article by article, to which Head responded "then we're done," and the meeting ended. JD 46, ll. 33-36. The basis for this exception is that the record does not so show. Tr. 514 (Eby); 1049-50, 1117 (Meadows); R. Exh. 66 at 196; R. Exh. 67 at 52.

946. To the ALJ's finding of fact that on September 10, Head asked if Meadows was willing to consider issues that the Union came up with. JD 46, ll. 38-39. The basis for this exception is that the record does not so show. Tr. 1117-18 (Meadows).

947. To the ALJ's finding of fact that on September 10, Meadows replied that he was going to keep an open mind and if there was a proposed modification to the Respondent last, best and final offer he would to consider it. JD 46, ll. 39-41. The basis for this exception is that the record does not so show. Tr. 1117-18 (Meadows).

948. To the ALJ's finding of fact that on September 10, Head presented the "Union Offer of Settlement." JD 46, ll. 41-42. The basis for this exception is that the record does not so show. Tr. 1054 (Meadows); R. Exh. 66 at 199; R. Exh. 67 at 55.

949. To the ALJ's finding of fact that the "Union Offer of Settlement" was based on the format of the expired contract. JD 46, l. 44. The basis for this exception is that the record does not so show. Jt. Exhs. 15, 16.

950. To the ALJ's finding of fact that after Meadows quickly reviewed the "Union Offer of Settlement" he added that he would review the proposal and get back to the Union that evening. JD 46-47, ll. 47-1. The basis for this exception is that the record does not so show. Tr. 1054 (Meadows).

951. To the ALJ's finding of fact that on September 11 Meadows stated that he was not interested in the Union's proposal of September 10. JD 47, ll. 5-6. The basis for this exception is that the record does not so show. Tr. 525 (Eby); 1056 (Meadows); R. Exh. 66 at 200; R. Exh. 67 at 57.

952. To the ALJ's finding of fact that on September 11 Meadows stated he would respond to the Union's request for a meeting by email. JD 47, ll. 10-11. The basis for this exception is that the record does not so show. R. Exh. 67 at 58.

953. To the ALJ's conclusion of law that the Respondent's overall conduct in bargaining demonstrated a lack of good faith. JD 47, ll. 14-15. The basis for this exception is

that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

954. To the ALJ's failure to conclude as a matter of law that because the Respondent bargained in good faith with the Union, including by its willingness to meet, favors a finding of impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

955. To the ALJ's conclusion of law that the Respondent engaged in direct dealing in violation of Section 8(a)(5) and (1). JD 47, ll. 15-16. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

956. To the ALJ's conclusion of law that the Respondent had failed to produce relevant and necessary information in a timely fashion in violation of Section 8(a)(5) and (1). JD 47, 16-17. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

957. To the ALJ's failure to find as fact that from the time the Respondent presented its last, best, and final offer on August 18 until it implemented any of its provisions on September 14, the Respondent continued to meet with the Union. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 29.

958. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel has not shown that any delay, even an unlawful one, prevented the parties from reaching a genuine impasse that privileged the Respondent to implement the terms of its last, best, and final offer. JD 1-63. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

959. To the ALJ's conclusion of law that the Respondent committed other independent violations of Section 8(a)(1). JD 47, ll. 17-18. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

960. To the ALJ's implied conclusion of law that the alleged impasse did not occur as a result of good-faith negotiations on the part of the Respondent. JD 47, 18-19. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

961. To the ALJ's conclusion of law that the impasse occurred in the context of serious remedied unfair labor practices. JD 47, ll. 18-20. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

962. To the ALJ's implied conclusion of law that the record and law concerning the Respondent's overall conduct in bargaining, alleged direct dealing, information requests, and independent allegations of 8(a)(1); and the context of the foregoing and the facts regarding impasse alone are sufficient to establish that the parties were not at a valid impasse at the time that the Respondent unilaterally implemented its last, best and final offer on September 14. JD 47, ll. 14-22. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

963. To the ALJ's conclusion of law that other factors that are relevant under the standards set forth in *Taft Broadcasting* support a conclusion that the parties were not at a valid impasse at the time the Respondent implemented its last, best, and final offer. JD 47,

ll. 22-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

964. To the ALJ's finding of fact or conclusion of law that the negotiations between the parties in 2015 involved bargaining over their initial independently negotiated collective-bargaining agreement. JD 47, ll. 30-31. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 767 (Froehlich); Tr. 818 (Wood); Tr. 222 (Shannon); Tr. 381-83, 396 (Eby); Tr. 934-35 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); GC Exhs. 13, 40; R. Exh. 12.

965. To the ALJ's failure to find as fact and conclude as a matter of law that the parties' bargaining that began in summer 2015 was for a *successor* contract. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 767 (Froehlich); Tr. 818 (Wood); Tr. 222 (Shannon); Tr. 381-83, 396 (Eby); Tr. 934-35 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); GC Exhs. 13, 40; R. Exh. 12.

966. To the ALJ's failure to find as fact and conclude as a matter of law that the parties benefited in negotiations from their bargaining history. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 767 (Froehlich); Tr. 818 (Wood); Tr. 222 (Shannon); Tr. 381-83, 396 (Eby); Tr. 934-35, 554-56 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); Tr. 74 (Rausch); GC Exhs. 13, 40; R. Exh. 12.

967. To the ALJ's finding of fact or conclusion of law that the Respondent proposed an entirely new collective-bargaining agreement, in both its substantive terms and the language and format. JD 47, ll. 34-45. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 1, 16.

968. To the ALJ's finding of fact that at the first bargaining session on June 1, 2015, Meadows acknowledged that the Respondent was seeking radical changes in the existing terms and conditions of employment from those contained in the existing collective-bargaining agreement. JD 47, ll. 35-38. The basis for this exception is that the record does not so show. Tr. 956 (Meadows); R. Exh. 67 at 1.

969. To the ALJ's implied finding of fact or conclusion of law that the bargaining between the parties in 2015 was for an initial contract. JD 47, l. 38. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 767 (Froehlich); Tr. 818 (Wood); Tr. 222 (Shannon); Tr. 381-83, 396 (Eby); Tr. 934-35 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); GC Exhs. 13, 40; R. Exh. 12.

970. To the ALJ's finding of fact or conclusion of law that the bargaining between the parties involved the Respondent seeking to make radical changes in terms and conditions of employment. JD 47, ll. 38-39. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 1, 16.

971. To the ALJ's conclusion of law that under the circumstances, it is reasonable to expect that it may have taken a substantial amount of time for the parties to arrive at either an agreement or a lawful impasse. JD 47, ll. 41-43. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

972. To the ALJ's finding of fact that from the first bargaining meeting on June 1 until the Respondent declared the parties were at an impasse on August 18 the parties met 10 times. JD 48, ll. 1-2. The basis for this exception is that the record does not so show. Jt. Exh. 29; Tr. 955-1063 (Meadows).

973. To the ALJ's implied conclusion of law that the period of bargaining that is relevant to lawful implementation is from the start of bargaining until the declaration of impasse. JD 48, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

974. To the ALJ's failure to conclude as a matter of law that the period of bargaining that is relevant to lawful implementation is from the start of bargaining until implementation. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

975. To the ALJ's failure to find as fact that at the time the Respondent implemented its last, best, and final offer the parties had bargained for three (3) and a half months on thirteen (13) separate days, holding as many as four (4) bargaining sessions on each of these days and a total of twenty-five (25) distinct bargaining sessions. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 29; Tr. 955-1063 (Meadows).

976. To the ALJ's failure to conclude as a matter of law that the longer the period of bargaining, and the more meetings between the parties, the more likely impasse will be found. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

977. To the ALJ's failure to conclude as a matter of law that among the factors the Board considers in evaluating the existence of an impasse are the length of the negotiations. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

978. To the ALJ's failure to find as fact that from the time bargaining started until implementation the Respondent had asked the Union to bargain *even more* frequently.

JD 1-63. The basis for this exception is that the record so shows. Tr. 965, 1071 (Meadows); R. Exh. 67 at 3; GC Exh. 8 at 2; R. Exh. 66 at 210.

979. To the ALJ's finding of fact that after the declaration of impasse on August 18, the parties met three (3) more times before the Respondent implemented its last, best and final offer on September 14. JD 48, ll. 2-5. The basis for this exception is that the record does not so show. Tr. 1051-52 (Meadows); R. Exh. 67.

980. To the ALJ's failure to find as fact that the parties met on September 9, September 10, and September 11, and that on September 10 the parties held more than one bargaining session. JD 1-63. The basis for this exception is that the record so shows. Tr. 1051-52 (Meadows); R. Exh. 67.

981. To the ALJ's finding of fact or conclusion of law that the parties were negotiating an initial agreement. JD 48, l. 4. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 767 (Froehlich); Tr. 818 (Wood); Tr. 222 (Shannon); Tr. 381-83, 396 (Eby); Tr. 934-35 (Meadows); Tr. 396 (Eby); Tr. 859 (Kluetz); GC Exhs. 13, 40; R. Exh. 12.

982. To the ALJ's finding of fact or conclusion of law that Respondent was seeking to make radical changes to existing terms and conditions of employment. JD 48, l. 5-6. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 1, 16.

983. To the ALJ's conclusion of law that there was a relatively low number of meetings held before the Respondent declared impasse and implemented its final offer. JD 48, ll. 6-7. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

984. To the ALJ's conclusion of law that the bargaining history between the parties and the length of negotiation weighs in favor of finding that a lawful impasse was not established. JD 48, ll. 7-9. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

985. To the ALJ's failure to conclude as a matter of law that some indication that the bargaining had reached a general bedrock area was the fact that a federal mediator was called in. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

986. To the ALJ's failure to conclude as a matter of law that the bargaining history between the parties and the length of negotiation weighs in favor of finding that a lawful impasse was established. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

987. To the ALJ's finding of fact that Respondent proposed an entirely new agreement, both with regard to the format and substance. JD 48, ll. 13-14. The basis for this exception is that the record does not so show. Jt. Exhs. 1, 16.

988. To the ALJ's finding of fact that Union proposed that the parties use the format of the existing agreement in order to reach a new agreement. JD 48, ll. 14-15. The basis for this exception is that the record does not so show. Jt. Exhs. 10, 11, 12, 13, 14, 15, 16; Tr. 1044, 1046-47, 1054, 1114 (Meadows); R. Exh. 66 at 193; R. Exh. 67 at 46.

989. To the ALJ's finding of fact that in its proposal of July 28, the Respondent incorporated provisions from the existing agreement regarding gap insurance in its proposal. JD 48, ll. 18-19. The basis for this exception is that the record does not so show. Jt. Exhs. 2 and 3.

990. To the ALJ's finding of fact that on August 17, the Union indicated that it felt that the path to reaching an agreement would be on the basis of utilizing the format of the then expired agreement. JD 48, ll. 27-28. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

991. To the ALJ's finding of fact that the Respondent declared impasse after the Respondent had made only one wage proposal. JD 48, ll. 29-30. The basis for this exception is that the record does not so show. Jt. Exhs. 1-10, incl. Jt. Exh. 7 at 447-48 and Jt. Exh. 9 at 2263.

992. To the ALJ's finding of fact or conclusion of law that at the time the Respondent declared impasse there had been relatively little discussion regarding important economic issues such as health insurance and retirement benefits. JD 48, ll. 32-33. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

993. To the ALJ's failure to find as fact and conclude as a matter of law that at the time the Respondent declared impasse there had been significant bargaining, both through written proposals and in discussions at the table, regarding important economic issues such as health insurance and retirement benefits. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

994. To the ALJ's finding of fact or conclusion of law that the Union's position was that the way to reach a new agreement was by having the Respondent formulate its proposals in the format of the existing agreement. JD 48, ll. 34-36. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 10, 11, 12, 13, 14, 15, 16; Tr. 1044, 1046-47, 1054, 1114 (Meadows); R. Exh. 66 at 193; R. Exh. 67 at 46.

995. To the ALJ's implied finding of fact or conclusion of law that the Respondent was not attempting to reach a common ground on modifications of the language contained in initial proposals. JD 48, ll. 36-38. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

996. To the ALJ's finding of fact or conclusion of law that the Respondent's declaration was that the dispute between the parties over the format in which each side would make proposals was intractable. JD 48, ll. 38-40. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 976 (Meadows); R. Exh. 66 at 219; Tr. 424 (Eby).

997. To the ALJ's failure to find as fact and conclude as a matter of law that at the time they reached impasse, the parties disagreed about *every* issue in bargaining, including all the most important terms and conditions of employment. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 976 (Meadows); R. Exh. 66 at 219; Tr. 424 (Eby).

998. To the ALJ's failure to find as fact and conclude as a matter of law that at the time they reached impasse the parties had no agreements at all. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 976 (Meadows); R. Exh. 66 at 219; Tr. 424 (Eby).

999. To the ALJ's conclusion of law that the Respondent's declaration of impasse was premature. JD 48, ll. 38-40. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1000. To the ALJ's finding of fact or conclusion of law that further discussion of substantive terms may very well have resulted in the parties compromising with respect to the format and language of a new agreement. JD 48, ll. 40-42. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1001. To the ALJ's finding of fact that on August 17, Head stated that the Union was willing to make movement. JD 48, ll. 45-46. The basis for this exception is that the record does not so show. R. Exh. 67 at 41.

1002. To the ALJ's finding of fact or conclusion of law that the Union's conduct demonstrated that it did not believe that the parties were at an impasse. JD 48-49, ll. 47-1. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1003. To the ALJ's finding of fact or conclusion of law that the Union made movement from its position in order to attempt to reach an agreement. JD 49, ll. 1-2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1004. To the ALJ's finding as fact or concluding as a matter of law that the Union made some movement in its August 18 noneconomic proposal, including because it adopted some of the Respondent's proposed language regarding dues checkoff and the grievance procedure. JD 49, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1005. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's August 18 proposal did not make movement because it only adopted the Respondent's

proposed language that benefited the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 9 at 1966, 1969-70; Jt. Exh. 13 at 549, 551-52.

1006. To the ALJ's implied finding of fact or conclusion of law that the Union made movement in its wage proposal by removing a premium pay for training and a cost of living clause for wages. JD 49, ll. 5-7. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 10-14.

1007. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's changes in its September 10 wage proposal did nothing to move the Union's proposals closer to those of the Respondent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exhs 8, 9, and 14.

1008. To the ALJ's finding of fact or conclusion of law that on September 10 the Union proposed to eliminate the labor relations committee and thus acquiesced in much of the Respondent's proposal regarding a new grievance procedure. JD 49, ll. 7-8. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 15 at 608-611, 625.

1009. To the ALJ's failure to find as fact that on September 10 the Union eliminated references to the labor relations committee but effectively maintained that committee by preserving its functions in its proposal. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 15 at 608-611, 625.

1010. To the ALJ's implied finding of fact or conclusion of law that the Union made movement by eliminating the labor relations committee, incorporating the Respondent's proposal regarding an extra crew, and eliminating many of the letters of understanding that were

part of the expired agreement. JD 49, ll. 7-11. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exhs. 10-15.

1011. To the ALJ's failure to find as fact and conclude as a matter of law that the Union's proposal to incorporate the Respondent's proposal regarding an extra crew did not make movement because it only adopted the Respondent's proposed language that benefited the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exhs. 8, 9, and 15.

1012. To the ALJ's failure to find as fact and conclude as a matter of law that eliminating references to the labor relations committee while keeping its functions in place, incorporating the Respondent's proposal regarding an extra crew, and eliminating many of the letters of understanding that were part of the expired agreement that the Union's changes in its September 10 wage proposal did nothing to move the Union's proposals to those of the Respondent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1013. To the ALJ's conclusion of law that the Union's conduct at the August 18 and September 10 meetings reflects a willingness to compromise on major issues. JD 49, ll. 11-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1014. To the ALJ's finding of fact or conclusion of law that on August 18 and September 10 the Union indicated a willingness to compromise on major issues. JD 49, ll. 11-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1015. To the ALJ's conclusion of law that had the Respondent been willing to continue to bargain, the give and take of bargaining may have led the parties closer to an agreement. JD 49, 13-15. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1016. To the ALJ's failure to find as fact that the Respondent consistently told the Union that it was not interested in bargaining from the Red Book. JD 1-63. The basis for this exception is that the record so shows. Tr. 977, 1014 (Meadows); R. Exh. 67 at 7; R. Exh. 66 at 219.

1017. To the ALJ's failure to find as fact and conclude as a matter of law that the parties demonstrated a mutual understanding of their inability to reach agreement throughout negotiations and when they ultimately reached overall impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 961, 973, 976-77, 986-87, 991-93, 1014, 1017, 1019, 1029-30, 1034-36, 1044, 1045, 1047, 1049, 1056, 1119 (Meadows); Tr. 424-25, 439, 441, 514 (Eby); R. Exh. 38; R. Exh. 66 at 189, 191, 193, 196, 218-19, 224-25; R. Exh. 67 at 6-8, 13-14, 23, 26, 36, 38-40, 42, 46, 51, 52; GC Exh. 7 at 9, 22-23.

1018. To the ALJ's failure to find as fact and conclude as a matter of law that after the parties reached impasse, they understood that they remained at impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1047, 1049-50, 1054-56, 1117, 1119; R. Exh. 67 at 51-52, 55, 57-58; R. Exh. 66 at 195-96, 200; R. Exh. 45.

1019. To the ALJ's failure to conclude as a matter of law that one factor at which the Board will look in determining whether parties have actually reached an impasse is whether the parties involved a federal mediator. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1020. To the ALJ's failure to find as fact that from the time Meadows invited a mediator to attend bargaining after the June 30 session until the Respondent implemented the terms of its last, best, and final offer the mediator was present on all but one (1) day of bargaining. JD 1-63. The basis for this exception is that the record so shows. Tr. 979 (Meadows); R. Exh. 34; Jt. Exh. 29.

1021. To the ALJ's failure to conclude as a matter of law that requesting the help of a mediator is evidence of good faith in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1022. To the ALJ's failure to conclude as a matter of law that the involvement of the mediator weighs in favor of finding impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1023. To the ALJ's failure to conclude as a matter of law that one factor at which the Board will look in determining whether parties have actually reached an impasse is the firmness of the employer's position. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1024. To the ALJ's failure to find as fact that on August 17 the parties made no proposals and showed no willingness whatsoever to adjust their proposals. JD 1-63. The basis for this exception is that the record so shows. Tr. 1035 (Meadows).

1025. To the ALJ's failure to find as fact that Meadows prepared the Respondent's last, best, and final offer on the night of August 17. JD 1-63. The basis for this exception is that the record so shows. Tr. 1037-38 (Meadows).

1026. To the ALJ's failure to conclude as a matter of law that after impasse had been reached the employer was required to meet and bargain with the union because there was always the possibility that either Respondent or the Union might retreat from its strong position. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1027. To the ALJ's failure to conclude as a matter of law the very doctrine that allows an employer to unilaterally implement terms and conditions of employment is legitimated only as a method for breaking the impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1028. To the ALJ's failure to find as fact and conclude as a matter of law that after the parties reached impasse, the Respondent continued to meet with the Union not because it was no longer firm in its position, but to see if a change in the Union's bargaining position might renew the possibility of reaching agreement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1029. To the ALJ's failure to find as fact and conclude as a matter of law that in post-last, best, and final offer bargaining Meadows asked the Union only to let him know whether there were mistakes in the last, best, and final offer that needed to be corrected because he had already presented the best package of terms he could. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1045, 1115; R. Exh. 67 at 46-47, 50-51; R. Exh. 66 at 195.

1030. To the ALJ's failure to find as fact and conclude as a matter of law that by continuing to meet after it presented its last, best, and final offer, the Respondent gave the

Union the opportunity to respond to the Respondent's notice that it intended to unilaterally implement the terms of its last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1031. To the ALJ's failure to find as fact and conclude as a matter of law that after the Respondent presented its last, best, and final offer, the Union did not renew the possibility of reaching agreement by changing its bargaining position. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1032. To the ALJ's failure to find as fact and conclude as a matter of law that once the Respondent saw that the Union was continued to refuse to change its bargaining position that had caused the impasse, it had every reason to believe that these were "empty offers." JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1033. To the ALJ's failure to find as fact and conclude as a matter of law that Meadows made clear after impasse that the Respondent remained firm in its position that the Respondent would not agree to the Union's demands that the parties negotiate from the Red Book. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1045, 1047, 1049-52, 1055-56, 1114-15, 1117-19 (Meadows); Tr. 525 (Eby); R. Exh. 67 at 50-51, 52, 57; R. Exh. 66 at 195-98, 200.

1034. To the ALJ's failure to find as fact that by the time the Respondent presented its last, best, and final offer, Head had made it very clear that the Union was not going to move forward if Meadows did not go back to the Red Book, and Meadows knew that doing so

was impossible for the Respondent. JD 1-63. The basis for this exception is that the record so shows. Tr. 1038 (Meadows).

1035. To the ALJ's failure to conclude as a matter of law that all of the factors at which the Board will look in determining whether parties have actually reached an impasse show that the parties reached impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1036. To the ALJ's conclusion of law that the General Counsel and the Union contend that an additional basis to find that the parties were not at a valid impasse at the time the Respondent implemented its last, best, and final offer on September 14 was the fact that the Respondent' implemented offer contained a nonmandatory subject of bargaining. JD 49, ll. 18-21. The basis for this exception is that the record does not so show, and the law does not so hold. GC Exh. 3.

1037. To the ALJ's failure to conclude as a matter of law that the Complaint alleges that an additional basis to find that the parties were not at a valid impasse is that the Respondent insisted to the point of impasse on a nonmandatory subject of bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 3.

1038. To the ALJ's finding of fact or conclusion of law that the Respondent's proposal regarding employee votes on shift schedules differed substantially from the process set forth in the expired agreement. JD 49, ll. 25-26. The basis for this exception is that the record does not so show, and the law does not so hold. Jt. Exh. 8 at 2239; Jt. Exh. 16 at 9661-62.

1039. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's proposal regarding employee votes on shift schedules did not differ substantially

from the process set forth in the expired agreement. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8 at 2239; Jt. Exh. 16 at 9661-62.

1040. To the ALJ's finding of fact or conclusion of law that the Respondent's proposal regarding employee votes on shift schedules provided no role to the Union in the process. JD 50, ll. 1-3. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1041. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's proposal regarding employee votes on shift schedules did not remove the statutory and contractual role of the Union in the process. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1042. To the ALJ's conclusion of law that the effect of the Respondent's unilaterally implemented proposal was that it could deal directly with employees and conduct a vote with respect to the change in the hours of a scheduled shift. JD 50, ll. 3-6. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1043. To the ALJ's failure to conclude as a matter of law that the Respondent's unilaterally implemented proposal did not have the effect of allowing it to deal directly with employees. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1044. To the ALJ's implied conclusion of law that *Service Net, Inc.* and *Retlaw Broadcasting Co.* are appropriate precedent for the instant case. JD 50, ll. 8-31. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1045. To the ALJ's failure to conclude as a matter of law that *Service Net, Inc.* and *Retlaw Broadcasting Co.* are distinguishable from the instant case. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. In *Service Net, Inc.*, “[t]he Union refused to enter into an agreement containing” the permissive issue, “made it clear it would not accept” the permissive proposal, and the Respondent insisted that such a proposal remain in any deal. *Id.* at 1245, 1253. Similarly, in *Retlaw Broadcasting Co.*, there was “no basis for concluding that the deadlock [the permissive subject] had not been an element of the overall deadlock . . . .” *Id.* at 144. In the instant case, there is no evidence in the record that the provision in question contributed in any way to the parties’ impasse. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1046. To the ALJ's failure to find as fact and conclude as a matter of law that there is no evidence in the record that the provision in question contributed in any way to the parties’ impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1047. To the ALJ's failure to find as fact and conclude as a matter of law that there is no evidence in the record that the Union objected to the provision or that the parties even discussed it in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1048. To the ALJ's finding of fact or conclusion of law that the Respondent's implemented offer included a nonmandatory subject of bargaining. JD 50, ll. 36-38. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1049. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent's implemented offer contained no permissive subjects of bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1050. To the ALJ's conclusion of law that the presence of a permissive subject of bargaining in an implemented offer precludes the existence of a valid impasse and a lawful implementation of its last, best, and final offer. JD 50, ll. 36-39. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1051. To the ALJ's conclusion of law that the cases relied on by the Respondent to support its position that the Union's conduct frustrated bargaining to the extent that it was privileged to implement its final offer even in the absence of a valid impasse are distinguishable. JD 50-51, ll. 44-4. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1052. To the ALJ's failure to conclude as a matter of law that when a union, in response to an employer's diligent and earnest efforts to engage in bargaining, insists on continually avoiding or delaying bargaining, an employer may be justified in implementing unilateral changes in the terms and conditions of employment. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1053. To the ALJ's implied finding of fact or conclusion of law that the Union frustrated bargaining only by making proposals based on the format of the prior agreement between the parties and canceling four bargaining meetings. JD 51, ll. 7-8. The basis for this

exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1054. To the ALJ's failure to find as fact and conclude as a matter of law that the Union frustrated bargaining by the totality of its behavior, including demonstrating an unwillingness to meet with the Respondent, adopting a "take it or leave it" approach to bargaining, not responding to the Respondent's proposals, not explaining its proposals to the Respondent; resisting inviting a mediator to bargaining, creating an atmosphere that frustrated bargaining by personally attacking Meadows and threatening violence against him, and frustrating bargaining through its proposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1055. To the ALJ's conclusion of law that the Union's conduct does not constitute conduct that has impaired the collective-bargaining process to the extent that the Respondent was privileged to implement its final offer. JD 51, ll. 4-10. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1056. To the ALJ's failure to conclude as a matter of law that the Respondent was privileged to implement the terms of its last, best, and final offer even if the parties had not reached a genuine impasse, because the Union frustrated bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1057. To the ALJ's conclusion of law that Respondent had not bargained to a valid impasse at the time it implemented its September 14 last, best and final offer and therefore has violated Section 8(a)(5) and (1) of the Act. JD 51, ll. 12-14. The basis for this exception is

that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1058. To the ALJ's conclusion of law that the Respondent implemented its last, best, and final offer on September 14, 2015, without reaching a valid impasse in violation of Section 8(a)(5) and (1) of the Act. JD 51, ll. 23-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1059. To the ALJ's failure to find as fact and conclude as a matter of law that for over two and a half months the Respondent essentially bargained against itself, adjusting its proposals until it no longer had further room to adjust them. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1060. To the ALJ's failure to find as fact and conclude as a matter of law that by August 18 and continuing until September 14, the parties remained helplessly deadlocked over the Union's proposal for how to approach bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1061. To the ALJ's failure to find as fact and conclude as a matter of law that the parties saw that they were at impasse when the Respondent had nothing left to give the Union, but the Union still refused to adjust its positions. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1062. To the ALJ's failure to find as fact and conclude as a matter of law that after the Respondent presented its last, best, and final offer, it waited for nearly another month to see if the Union would change its position and break the stalemate, but the Union continued to insist on the very issue that had caused the deadlock in the first place. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1063. To the ALJ's failure to find as fact and conclude as a matter of law that when the Respondent saw that there was no chance that a change in the Union's bargaining position might renew the possibility of reaching agreement, it implemented the terms of its last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1064. To the ALJ's failure to find as fact and conclude as a matter of law that after the Respondent implemented its last, best, and final offer, it continued to bargain in good faith with the Union in the hope that a change in circumstances would break the impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1065. To the ALJ's failure to find as fact and conclude as a matter of law that neither party was poorly represented at the bargaining table. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 389-91, 425, 554, 557 (Eby); Tr. 226 (Shannon); Tr. 947-48 (Meadows).

1066. To the ALJ's failure to conclude as a matter of law that the totality of the record evidence demonstrates that the parties reached a genuine impasse and, therefore, that the Respondent's implementation of its last, best, and final offer was entirely appropriate and lawful.

JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1067. To the ALJ's failure to conclude as a matter of law that analyzing impasse requires examining the totality of the record evidence. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1068. To the ALJ's failure to find as fact and conclude as law that even if the parties had not reached a genuine impasse, the Respondent was privileged to implement the terms of its last, best, and final offer because the Union frustrated bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1069. To the ALJ's conclusion of law that it is appropriate to impose a remedy requiring the Respondent to rescind, upon the Union's request, the unilateral changes instituted by the Respondent on September 14, 2015. JD 51, ll. 25-27. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1070. To the ALJ's conclusion of law that it is appropriate to impose a remedy requiring the Respondent to make employees whole for any loss of earnings and other benefits they may have incurred because of the unilateral changes instituted on September 14, 2015. JD 51, ll. 27-34. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1071. To the ALJ's conclusion of law that the remedial order in this case for the unlawful unilateral changes implemented on September 14, 2015, will, of necessity, remedy the

allegations of paragraph 16 of the complaint. JD 51, ll. 34-37. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1072. To the ALJ's conclusion of law that if the Union were to request rescission of the unilaterally implemented provisions of the Respondent's proposed contract, the terms and conditions of employment would revert back to those of the expired agreement. JD 51, ll. 37-39. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1073. To the ALJ's conclusion of law that when an employer unilaterally changes a terms and condition of employment which constitutes a mandatory subject of bargaining, without giving notice and an opportunity to bargain to a union, representing the employees, it violates Section 8(a)(5) and (1) of the Act. JD 52, ll. 5-8. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1074. To the ALJ's failure to conclude as a matter of law that an employer will not violate the Act if it can show one of many defenses, including that its implemented policies were reasonably comprehended within its pre-impasse proposals and that it did not deviate from those policies. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1075. To the ALJ's finding of fact that the record establishes that Beitz was required to work 3 days of forced overtime the week of October 19, 2015. JD 53, ll. 32-33. The basis for this exception is that the record does not so show. GC Exh. 79.

1076. To the ALJ's failure to find as fact that Beitz did not work overtime on October 21, 2015. JD 1-63. The basis for this exception is that the record so shows. GC Exh. 79.

1077. To the ALJ's finding of fact that Ed Coverdill had been assigned to work 8 hours of overtime and perform not only his job but another job outside of his classification. JD 53, ll. 37-38. The basis for this exception is that the record does not so show. Tr. 627-28 (Heath).

1078. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony that Ed Coverdill had been assigned to work 8 hours of overtime and perform not only his job but another job outside of his classification is hearsay. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 627-28 (Heath).

1079. To the ALJ's finding of fact that Coverdill told his supervisor, Greg Schmidt, that he was going to run only one of the jobs, and Schmidt told Coverdill that if he did not run both jobs, it would be insubordination and he would risk discipline up through termination. JD 53, ll. 39-41. The basis for this exception is that the record shows that record does not so show. Tr. 628 (Heath).

1080. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony that Coverdill told his supervisor, Greg Schmidt, that he was going to run only one of the jobs, and Schmidt told Coverdill that if he did not run both jobs, it would be insubordination and he would risk discipline up through termination, is hearsay. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 628 (Heath).

1081. To the ALJ's finding of fact that Schmidt spoke to Wood and Wood told Schmidt to tell Cloverdill that he had to stay over and perform both jobs. JD 53, ll. 42-44. The basis for this exception is that the record does not so show. Tr. 628 (Health).

1082. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony that Schmidt spoke to Wood and Wood told Schmidt to tell Cloverdill that he had to stay over and perform both jobs is hearsay. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 628 (Health).

1083. To the ALJ's finding of fact that the Respondent knew they were going against the rules but that Coverdill would still have to work overtime. JD 53, ll. 44-45. The basis for this exception is that the record does not so show. Tr. 628 (Health).

1084. To the ALJ's failure to find as fact and conclude as a matter of law that the testimony that the Respondent knew they were going against the rules but that Coverdill would still have to work overtime is hearsay. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 628 (Health).

1085. To the ALJ's finding of fact that several employees were forced to work overtime outside of their classification on various dates in September and November 2015. JD 54, ll. 1-2. The basis for this exception is that the record does not so show. Tr. 616-624 (Heath); GC Exhs. 80, 82, 83, 85, and 86).

1086. To the ALJ's failure to find as fact that the record does not establish that several employees were forced to work overtime outside of their classification on various dates in September and November 2015. JD 1-63. The basis for this exception is that the record so shows. The record does not show whether the employees who worked overtime volunteered for

the overtime under Overtime Rule 3 or 4, or were the junior person forced under Overtime Rule 5. Tr. 616-624 (Heath); GC Exhs. 80, 82, 83, 85, and 86).

1087. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference against the testimony of Heath regarding overtime. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. The General Counsel did not present testimony from any of the other employees or supervisors involved. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1088. To the ALJ's finding of fact that article XI, section 4 of the Respondent's last, best, and final offer admitted on September 14, 2015 provides that management is responsible for maintaining and scheduling of overtime in accordance with the overtime rules set forth in that section. JD 54, ll. 8-10. The basis for this exception is that the record does not so show. Jt. Exh. 8 at 2240.

1089. To the ALJ's failure to find as fact that article XI, section 4 of the Respondent's last, best, and final offer implemented on September 14, 2015 provides that management is responsible for maintaining and *calling for* overtime in accordance with the overtime rules set forth in that section. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 8 at 2240.

1090. To the ALJ's finding of fact that at the October meeting the parties discussed the Respondent's difficulty in implementing the overtime procedures of its final offer but that no agreements were reached. JD 54, ll. 26-28. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1091. To the ALJ's failure to find as fact that in bargaining the Respondent brought up overtime on October 8. JD 1-63. The basis for this exception is that the record so shows. Tr. 533 (Eby).

1092. To the ALJ's implied conclusion of law that the Respondent defends against the claim that it made unilateral changes to its last, best, and final offer regarding the assignment of overtime on the basis of impasse. JD 1-63. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1093. To the ALJ's failure to conclude as a matter of law that one of Respondent's defenses, among others, is that it provided notice and the opportunity to bargain to the Union regarding any changes to terms and conditions of employment. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1094. To the ALJ's failure to find as fact that the Respondent gave the Union notice and the opportunity to bargain about the terms and conditions of employment alleged to have been unilaterally changed. JD 1-63. The basis for this exception is that the record so shows. Tr. 218, 883, 885 (Sullivan); Tr. 532 (Eby); Jt. Exh. 8, Art. IV at 2231-33 (last, best, and final offer); R. Exh. 48; R. Exh. 50; GC Exhs. 38, 64.

1095. To the ALJ's failure to find as fact and conclude as a matter of law that the Union never requested to bargain over the alleged unilateral changes. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1096. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent bargained over the implementation of the overtime procedures through the grievance procedure. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8, Art. IV at 2231-33 (last, best, and final offer); Tr. 883, 885 (Sullivan); R. Exh. 48; R. Exh. 50; GC Exh. 64.

1097. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent bargained over the implementation of the overtime procedures at the bargaining table. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 218 (Sullivan); Tr. 532 (Eby); GC Exh. 38.

1098. To the ALJ's failure to find as fact that the last, best, and final offer contains a grievance procedure that the Respondent has been following since it implemented the terms of the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Jt. Exh. 8, Art. IV at 2231-33 (last, best, and final offer); Tr. 883, 885 (Sullivan); R. Exh. 48; R. Exh. 50; GC Exh. 64.

1099. To the ALJ's failure to find as fact that the Union has the right to file grievances if it disagrees with the way the Respondent interprets the terms of the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 638 (Heath).

1100. To the ALJ's failure to find as fact that the Union has in fact filed grievances when it disagreed with the way the Respondent interprets the terms of the last, best, and final offer, and the Respondent has answered and adjusted the grievances and met with the Union at the various steps of the Grievance procedure. JD 1-63. The basis for this exception is that the record so shows. Tr. 866-87 (Sullivan); R. Exh. 51; R. Exh. 52.

1101. To the ALJ's failure to find as fact that the Respondent has answered and adjusted the grievances and met with the Union at the various steps of the Grievance procedure and processed grievances all the way to the third step of the grievance procedure. JD 1-63. The basis for this exception is that the record so shows. Tr. 887-88, 902-03 (Sullivan); R. Exh. 51 at 2386.

1102. To the ALJ's failure to find as fact that the Respondent has processed untimely grievances filed by the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 885-86 (Sullivan); GC Exh. 64.

1103. To the ALJ's failure to find as fact that after the Respondent implemented the terms of the last, best, and final offer, the Union filed a number of grievances related to the overtime issues alleged to be unilateral changes. JD 1-63. The basis for this exception is that the record so shows. Tr. 879 (Sullivan); Tr. 578 (Eby); R. Exh. 48.

1104. To the ALJ's failure to find as fact that the last, best, and final offer contemplated that the Respondent would not always be able to follow the last, best, and final offer's overtime provisions perfectly. JD 1-63. The basis for this exception is that the record so shows. Tr. 881 (Sullivan); Jt. Exh. 8, Art. XI, § 4 at 2241.

1105. To the ALJ's failure to find as fact that the Respondent resolved overtime grievances by agreeing to change its interpretation of the relevant terms of the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. R. Exh. 51 at 2357, 2358, and 2359.

1106. To the ALJ's failure to find as fact that the Respondent had interpreted last, best, and final offer Articles VI and XV as permitting it to work employees out of their

classifications. JD 1-63. The basis for this exception is that the record so shows. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235.

1107. To the ALJ's failure to find as fact that the Respondent has not changed whether it can force an employee for overtime more than two (2) days in a row. JD 1-63. The basis for this exception is that the record so shows. Tr. 881 (Sullivan); Jt. Exh. 8 at 2240; Tr. 592 (Railsback).

1108. To the ALJ's failure to find as fact that the Respondent has interpreted the last, best, and final offer language regarding forcing employees for more than two (2) consecutive days of overtime as applying only when the Respondent forces employees to work overtime, not when employees volunteer to work overtime. JD 1-63. The basis for this exception is that the record so shows. Tr. 592 (Railsback).

1109. To the ALJ's failure to find as fact that the Respondent had interpreted last, best, and final offer Article XI, § 4 as permitting it to force employees to work four (4) hours of overtime both before and after their shifts where necessary. JD 1-63. The basis for this exception is that the record so shows. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XI, § 4, Overtime Rules 3 and 4, at 2240.

1110. To the ALJ's failure to find as fact that the Respondent had interpreted the last, best, and final offer Article XI, §§ 3 and 4 as permitting it to not inform employees of overtime scheduled more than nine (9) days in advance, schedule employees for overtime less than nine (9) days in advance, and use the rotational basis for scheduling overtime. JD 1-63. The basis for this exception is that the record so shows. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XI, § 3 and § 4, Overtime Rules 3 and 4 at 2239-40; R. Exh. 48 at 2360.

1111. To the ALJ's failure to find as fact that ever since it implemented the terms of the last, best, and final offer, the Respondent has been using rotational overtime "nine days out," and notifying employees if a need for overtime arises within forty-eight (48) hours. JD 1-63. The basis for this exception is that the record so shows. Tr. 590 (Railsback).

1112. To the ALJ's finding of fact that after the Respondent implemented the provisions of its last, best, and final offer, it asked employees to work significant overtime, because over twenty (20) long-tenured employees retired, which put significant strain on the facility. JD 1-63. The basis for this exception is that the record does not so show. Tr. 881 (Sullivan).

1113. To the ALJ's failure to conclude as a matter of law that forcing employees to work four (4) hours of overtime both before and after their shifts is reasonably comprehended within last, best, and final offer Article XI, § 4. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XI, § 4, Overtime Rules 3 and 4, at 2240.

1114. To the ALJ's failure to conclude as a matter of law that assigning employees to work overtime out of their classifications is reasonably comprehended within last, best, and final offer Articles VI and XV. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235.

1115. To the ALJ's failure to conclude as a matter of law that not informing employees of overtime scheduled more than nine (9) days in advance, scheduling employees for overtime less than nine (9) days in advance, and using the rotational basis for scheduling overtime are reasonably comprehended within last, best, and final offer Article XI, §§ 3 and 4.

JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XI, § 3 and § 4, Overtime Rules 3 and 4 at 2239-40.

1116. To the ALJ's failure to conclude as a matter of law that the disputes regarding overtime are further comprehended within the last, best, and final offer because the last, best, and final offer contemplates that the Respondent would not always be able to follow the last, best, and final offer's overtime provisions perfectly and provides a specific remedy in those cases. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 881 (Sullivan); Jt. Exh. 8, Art. XI, § 4 at 2241.

1117. To the ALJ's finding of fact or conclusion of law that the record establishes that there were breaches of the Respondent's unilaterally implemented policy with respect to Overtime Rules 1 and 2. JD 54, ll. 35-37. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1118. To the ALJ's finding of fact or conclusion of law that articles VI and XV of the last, best, and final offer generally discuss the Respondent's ability to transfer employees outside of their classification. JD 54, ll. 42-44. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235.

1119. To the ALJ's failure to find as fact and conclude as a matter of law that articles VI and XV of the last, best, and final offer specifically discuss the Respondent's ability to transfer employees outside of their classification, and interact with the Overtime Rules by specific cross-reference. JD 1-63. The basis for this exception is that the record so shows, and

the law so holds. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235.

1120. To the ALJ's implied finding of fact that or conclusion of law that the overtime rule set forth in article XI section 4 alone addresses the manner in which overtime is to be assigned. JD 54, ll. 44-45. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235; Jt. Exh. 8, Art. XI, § 4 at 2240-41.

1121. To the ALJ's failure to find as fact and conclude as a matter of law that the overtime rule set forth in article XI section 4 incompletely addresses the manner in which overtime is to be assigned, and must be read in conjunction with other provisions of the last, best, and final offer, including articles VI and XV. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 880-81 (Sullivan); Jt. Exh. 8, Art. XV, § 6 at 2235; Jt. Exh. 8, Art. VI, § 3 at 2235; Jt. Exh. 8, Art. XI, § 4 at 2240-41.

1122. To the ALJ's implied conclusion of law that the record did not establish that the overtime assignments outside of an employee's classification discussed above were, in fact, performed in accordance with the provisions of article 11, sections 3, 4, and 5. JD 54, ll. 45-47. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1123. To the ALJ's implied conclusion of law that it was the Respondent's burden to show that the overtime assignments outside of an employee's classification discussed above were, in fact, performed in accordance with the provisions of article 11, sections 3, 4, and 5. JD 54, ll. 45-47. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1124. To the ALJ's failure to conclude as a matter of law that it was the General Counsel's burden to show that the overtime assignments outside of an employee's classification discussed above were, in fact, not performed in accordance with the provisions of article 11, sections 3, 4, and 5. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1125. To the ALJ's finding of fact or conclusion of law that article IX (Non-traditional Work) of the Respondent's implemented offer is the only provision that supports the Respondent's right to create and fill a temporary position for an overtime administrator. JD 55, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 219, 883, 888 (Sullivan); *see* Jt. Exh. 8 at 2235-36, 2239-43; GC Exh. 42; Tr. 371 (Shannon).

1126. To the ALJ's finding of fact that prior to its last, best, and final offer, the Respondent had consistently proposed that bargaining unit employees be responsible for monitoring overtime. JD 55, ll. 10-11. The basis for this exception is that the record does not so show. Tr. 1041 (Meadows); Jt. Exh. 1, Art. X, § 4, Jt. Exhs. 2-7.

1127. To the ALJ's failure to find as fact that early Respondent bargaining proposals proposed a method for scheduling overtime that it uses at many of its other facilities, whereby each team of employees is responsible for managing its own overtime. JD 1-63. The basis for this exception is that the record so shows. Tr. 1041 (Meadows); Jt. Exh. 1, Art. X, § 4.

1128. To the ALJ's failure to find as fact that under the Respondent's early proposals regarding management of overtime, an individual hourly employee notifies the other employees on his or her team if he or she will not be coming in, and those employees must call

another employee to come in. JD 1-63. The basis for this exception is that the record so shows. Tr. 1041 (Meadows).

1129. To the ALJ's finding of fact that in its implemented proposal, the Respondent indicated that management has the responsibility to schedule and maintain the overtime provisions. JD 55, ll. 11-13. The basis for this exception is that the record does not so show. Tr. 1041 (Meadows); Jt. Exh. 8, Art. XI, § 4 at 2240.

1130. To the ALJ's failure to find as fact that in the last, best, and final offer Meadows removed the Respondent's early proposal regarding management of overtime it and specified that management, not individual teams of union employees, would be responsible for administering overtime because Head had rejected it. JD 1-63. The basis for this exception is that the record so shows. Tr. 1041 (Meadows); Jt. Exh. 8, Art. XI, § 4 at 2240.

1131. To the ALJ's failure to find as fact that the reason the Respondent posted an overtime administrator non-traditional role was to attempt to alleviate concerns raised by the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 219 (Sullivan).

1132. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent created the overtime administrator position pursuant to Art. VII (Bidding) and Art. IX (Hours of Work; Overtime and Holidays) of the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 219, 883, 888 (Sullivan); Jt. Exh. 8 at 2235-36, 2239-43; GC Exh. 42; Tr. 371 (Shannon).

1133. To the ALJ's failure to conclude as a matter of law that creating an overtime administrator position is reasonably comprehended by last, best, and final offer Art. VII (Bidding) and Art. IX (Hours of Work; Overtime and Holidays). JD 1-63. The basis for this

exception is that the record so shows, and the law so holds. Tr. 219, 883, 888 (Sullivan); Jt. Exh. 8 at 2235-36, 2239-43; GC Exh. 42; Tr. 371 (Shannon).

1134. To the ALJ's conclusion of law that the record establishes that the manner in which the Respondent assigned overtime outside of the employees' classifications constitutes a material, substantial, and significant change from its implemented offer. JD 55, ll. 15-17. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1135. To the ALJ's failure to conclude as a matter of law that the record establishes that the manner in which the Respondent assigned overtime outside of the employees' classifications did not constitute a material, substantial, and significant change from its implemented offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1136. To the ALJ's conclusion of law that posting the position of overtime administrator and filling it with a bargaining unit employee clearly constitutes a material, substantial, and significant change from the Respondent's implemented offer which clearly states, in article XI, section 4, that management has the responsibility of assigning and maintaining overtime. JD 55, ll. 17-21. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1137. To the ALJ's conclusion of law that with respect to the manner in which the Respondent assigned overtime outside of the employees' classifications and posted the position of overtime administrator and filled it with a bargaining unit employee the Respondent unilaterally changed its method for assigning overtime from that contained in its implemented offer and that, the Respondent's unilateral conduct violated Section 8(a)(5) and (1) of the Act.

JD 55, ll. 23-25. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1138. To the ALJ's conclusion of law that Respondent's reliance on *NCR Corp* is misplaced because that case is distinguishable. JD 55, ll. 25-27. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1139. To the ALJ's failure to conclude as a matter of law that *NCR Corp.* is relevant precedent as cited by the Respondent. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1140. To the ALJ's conclusion of law that the *NCR Corp.* Board relied on the fact that the parties were signatory to a contract when the respondent allegedly transferred unit work and eliminated a job classification. JD 55, ll. 27-28. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1141. To the ALJ's failure to conclude as a matter of law that the *NCR Corp.* Board did not rely on fact that the parties were signatory to a contract when the respondent allegedly transferred unit work and eliminated a job classification. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1142. To the ALJ's implied conclusion of law that the Board will enter a dispute to serve the function of arbitrator in determining which party's interpretation is correct if the contract was unilaterally but lawfully implemented. JD 55, ll. 27-27. The basis for this

exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1143. To the ALJ's conclusion of law that the *NCR Corp.* Board relied on the lack of evidence that the respondent had generally acted in bad faith or acted in any way to undermine the union's status as collective-bargaining representative. JD 55, 30-32. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1144. To the ALJ's failure to conclude as a matter of law that the *NCR Corp.* Board relied on the lack of evidence that the respondent had acted in bad faith or acted in any way to undermine the union's status as collective-bargaining representative *through the alleged unilateral change at issue*. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1145. To the ALJ's conclusion of law that the *NCR Corp.* Board relied on the evidence that the contract contained a grievance arbitration provision and that the more appropriate forum for resolving the dispute would have been an arbitration proceeding in determining the unilateral change allegation. JD 55, ll. 32-35. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1146. To the ALJ's failure to conclude as a matter of law that the *NCR Corp.* Board relied on the evidence that the contract contained a grievance arbitration provision and that the more appropriate forum for resolving the dispute would have been an arbitration proceeding in determining the unilateral change allegation only for purposes of determining

whether deferral of the charge was appropriate. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1147. To the ALJ's conclusion of law that the Respondent acted in bad faith and sought to undermine the Union's status as the collective-bargaining representative. JD 55, ll. 35-36. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1148. To the ALJ's implied conclusion of law that the lack of binding arbitration affects the analysis of a unilateral change allegation. JD 55, ll. 36-40. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1149. To the ALJ's failure to find as fact and conclude as a matter of law that allegations regarding the creation of the overtime administrator position are not reasonably encompassed by the Complaint. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exh. 3.

1150. To the ALJ's finding of fact that in approximately the first week October 2015, Maintenance Supervisor Chad Reid presented to the maintenance employees a proposal (GC Exh. 88), indicating that using 10 and 12 hour shifts would meet the Respondent's current needs and containing a "voting form." JD 56, ll. 11-16. The basis for this exception is that the record does not so show. Tr. 711-12 (Kuddes); GC Exh. 88

1151. To the ALJ's failure to find as fact that the Respondent distributed only the "voting form" to employees, and not the remainder of GC Exh. 88. The basis for this exception is that the record so shows. Tr. 711-12 (Kuddes); GC Exh. 88.

1152. To the ALJ's finding of fact that Reid presented another proposal to the maintenance employees (GC Exh. 89); that indicated that using 8 and 12-hour shifts in the maintenance department would meet the Respondent's "current needs" and attaching a voting form. JD 56, ll. 26-28. The basis for this exception is that the record does not so show. Tr. 711-13 (Kuddes); GC Exh. 89.

1153. To the ALJ's failure to find as fact that the Respondent distributed only the "voting form" to employees, and not the remainder of GC Exh. 89. JD 1-63. The basis for this exception is that the record so shows. Tr. 711-13 (Kuddes); GC Exh. 89.

1154. To the ALJ's finding of fact that no one from the Union was present when either of the two proposals were presented to the maintenance employees or when the voting was conducted. JD 56, ll. 34-35. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1155. To the ALJ's finding of fact that the maintenance department employees are working a "hybrid" schedule. JD 56, ll. 37-38. The basis for this exception is that the record does not so show. Tr. 881, 883 (Sullivan); Tr. 713 (Beitz); Jt. Exh. 8, Art. XI, § 1, 2239.

1156. To the ALJ's failure to find as fact that the maintenance department employees are working a combination of 8- and 12-hour schedules. JD 1-63. The basis for this exception is that the record so shows. Tr. 881, 883 (Sullivan); Tr. 713 (Beitz); Jt. Exh. 8, Art. XI, § 1, 2239.

1157. To the ALJ's failure to find as fact that maintenance employees initially voted to implement ten (10) hour shifts, but the Union filed a grievance against it. JD 1-63. The basis for this exception is that the record so shows. Tr. 702-03, 717 (Beitz).

1158. To the ALJ's failure to find as fact that the Respondent settled the grievance over ten (10)-hour shifts, and, as a result, did not implement that schedule. JD 1-63. The basis for this exception is that the record so shows. Tr. 703-04, 717 (Beitz).

1159. To the ALJ's failure to find as fact that the Union filed a grievance stating that last, best, and final offer Art. XI, § 1 allowed the Respondent to implement eight (8) or twelve (12) hour shifts, but alleging that the Respondent had implemented a combination of eight (8) and twelve (12) hour shifts that was not allowed by the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 882 (Sullivan); GC Exh. 64.

1160. To the ALJ's failure to find as fact that the Respondent interpreted the provisions of Art. XI of the last, best, and final offer as giving employees the right to vote on whether to have twelve (12) hour shifts. JD 1-63. The basis for this exception is that the record so shows. Tr. 883 (Sullivan); Tr. 713 (Beitz).

1161. To the ALJ's implied conclusion of law that the language of the implemented proposal must explicitly refer to a combination of 8 and 12 hour shifts within one classification in order to reasonably comprehend the Respondent's interpretation of that language. JD 56-57, ll. 47-2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1162. To the ALJ's failure to find as fact that allowing maintenance employees to vote regarding whether their schedules should be changed was the only time the Respondent implemented the provisions of Art. XI, § 1. JD 1-63. The basis for this exception is that the record so shows. Tr. 881 (Sullivan); Jt. Exh. 8, Art. XI, § 1, 2239

1163. To the ALJ's conclusion of law that presenting a proposal to maintenance employees to vote on that provides for a combination of 8 and 12 shifts is a material, substantial,

and significant change from the provision set forth Respondent's last, best, and final offer. JD 57, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1164. To the ALJ's conclusion of law that presenting a proposal to maintenance employees to vote on that provides for a combination of 8 and 12 shifts constitutes a unilateral change in violation of Section 8(a)(5) and (1) of the Act. JD 57, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1165. To the ALJ's failure to conclude as a matter of law that allowing maintenance employees to vote to change their schedule and thereafter implementing a combination of eight (8) and twelve (12) hour shifts is reasonably comprehended within last, best, and final offer Art. XI, § 1. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 881, 883 (Sullivan); Tr. 713 (Beitz); Jt. Exh. 8, Art. XI, § 1, 2239.

1166. To the ALJ's failure to conclude as a matter of law that the conduct that the Complaint alleges is evidence of unilateral changes is, instead, only evidence of contract interpretation disputes. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1167. To the ALJ's failure to find as fact and conclude as a matter of law that the record does not show that the Respondent unilaterally changed terms and conditions of employment after it implemented the terms of its last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1168. To the ALJ's failure to conclude as a matter of law that an employer does not violate the Act by making unilateral changes that are reasonably comprehended within his pre-impasse proposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1169. To the ALJ's failure to conclude as a matter of law that when an employer has a sound arguable basis for ascribing a particular meaning to his contract and his action is in accordance with the terms of the contract as he construes it, the Board will not enter the dispute to serve the function of arbitrator in determining which party's interpretation is correct. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1170. To the ALJ's failure to find as fact and conclude as a matter of law that the record shows that the Respondent did not deviate from its last, best, and final offer after implementation. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 890 (Sullivan).

1171. To the ALJ's failure to conclude as a matter of law that isolated breaches of existing practices are insufficient to show a unilateral repudiation of that practice. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1172. To the ALJ's failure to conclude as a matter of law that isolated action does not constitute a *change or alteration* of established Respondent policy so as to trigger the duty to bargain with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1173. To the ALJ's failure to conclude as a matter of law that even if the actions alleged to be unilateral changes were not reasonably comprehended within the terms of the last, best, and final offer, the General Counsel has failed to show that any such deviations were changes to policies themselves rather than isolated departures from the lawful policies. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1174. To the ALJ's implied finding of fact or conclusion of law that the Respondent allowed maintenance employees to vote on their schedule without the involvement of the Union. JD 57, ll. 7-8. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1175. To the ALJ's conclusion of law that allowing maintenance employees to vote on their schedule without the involvement of the Union, constituted direct dealing in violation of Section 8(a)(5) and (1). JD 57, ll. 2-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1176. To the ALJ's conclusion of law that an employer's involvement in a vote by employees regarding a change in their working conditions that is not sanctioned by the union representing the employees constitutes direct dealing in violation of Section 8(a)(5) and (1) of the Act. JD 57, ll. 9-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1177. To the ALJ's failure to conclude as a matter of law that an employer may survey employees about their shift preferences where the collective bargaining agreement allows

the employer to make shift changes. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1178. To the ALJ's failure to find as fact and conclude as a matter of law that the last, best, and final offer allows the Respondent to make shift changes. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8, Art. II, 2230; Jt. Exh. 8, Art. XI, § 1, 2239.

1179. To the ALJ's failure to conclude as a matter of law that because the Respondent had the right to determine work schedules, it was not required to notify the Union before conducting the survey of maintenance employees on that topic. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1180. To the ALJ's failure to conclude as a matter of law that the Respondent did not delegate its right to determine work schedules directly to employees because the language of the last, best, and final offer provided that the Respondent would *consider* 12 hour shifts based on the results of the survey. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Jt. Exh. 8, Art. XI, § 1, 2239.

1181. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent had an operational interest in adding twelve (12)-hour shifts in the maintenance department. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 702 (Kuddes).

1182. To the ALJ's failure to find as fact that the Respondent has not abolished eight (8)-hour shifts, and there is no evidence that any employee has been involuntarily switched

to a twelve (12)-hour shift. JD 1-63. The basis for this exception is that the record so shows. Tr. 149 (Meadows).

1183. To the ALJ's failure to find as fact that employees were given the option to volunteer for the twelve (12)-hour shifts. JD 1-63. The basis for this exception is that the record so shows. Tr. 714 (Kuddes).

1184. To the ALJ's failure to find as fact and conclude as a matter of law that there is no evidence that the Respondent surveyed employees for the purpose of developing its positions in bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1185. To the ALJ's failure to conclude as a matter of law that the Respondent did not engage in direct dealing by surveying the maintenance employees about their work schedules. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1186. To the ALJ's failure to find as fact that the vacation policy took effect immediately upon implementation of the last, best, and final offer, but those same provisions specified that the new vacation year did not begin until January 1, 2016. JD 1-63. The basis for this exception is that the record so shows. Tr. 890 (Sullivan).

1187. To the ALJ's finding of fact that on January 1, 2016, Respondent was going to start a new vacation policy based upon a calendar year. JD 57, 28-29. The basis for this exception is that the record does not so show. Tr. 890 (Sullivan).

1188. To the ALJ's failure to find as fact that on January 1, 2016, Respondent was going to start a new vacation *year* based upon a calendar year. JD 1-63. The basis for this exception is that the record so shows. Tr. 890 (Sullivan).

1189. To the ALJ's implied finding of fact that the Respondent informed Todd Railsback that after the offer was implemented on September 14, he had to use his accrued vacation by the end of the year or he would get accrued vacation pay. JD 57, ll. 37-39. The basis for this exception is that the record does not so show. Tr. 593-94 (Railsback).

1190. To the ALJ's failure to find as fact that the record does not identify anyone who informed Railsback that after the offer was implemented on September 14, he had to use his accrued vacation by the end of the year or he would get accrued vacation pay. JD 1-63. The basis for this exception is that the record so shows. Tr. 593-94 (Railsback).

1191. To the ALJ's finding of fact that when the last, best, and final offer was implemented in September 2015, Supervisor Scott Maki informed Railsback that the Respondent would permit employees to go on vacation above the quota. JD 57, ll. 39-41. The basis for this exception is that the record does not so show. Tr. 598 (Railsback).

1192. To the ALJ's failure to find as fact that the record does not identify anyone who informed Railsback that the Respondent would permit employees to go on vacation above the quota. JD 1-63. The basis for this exception is that the record so shows. Tr. 598 (Railsback).

1193. To the ALJ's finding of fact that when Railsback requested Thanksgiving and Christmas as vacation days, Wood told him that he could not have them because it was above the quota. JD 57, ll. 41-43. The basis for this exception is that the record does not so show. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1194. To the ALJ's failure to find as fact and conclude as a matter of law to draw an adverse inference against the testimony of Railsback regarding his alleged conversation with Wood. JD 1-63. The basis for this exception is that the record so shows, and the law so

holds. The General Counsel did not present testimony Wood, although he otherwise testified in the proceeding. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1195. To the ALJ's failure to find as fact that formerly, under the Red Book, an employee's vacation year was based on the employee's anniversary, not the calendar year. JD 1-63. The basis for this exception is that the record so shows. Tr. 890 (Sullivan); Jt. Exh. 16, Art. VII, § 4 at 9625-26.

1196. To the ALJ's failure to find as fact and conclude as a matter of law that to make the transition from the Red Book to the last, best, and final offer the Respondent paid out all accrued vacation before the end of 2015. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 890 (Sullivan); Tr. 594 (Railsback).

1197. To the ALJ's finding of fact or conclusion of law that the Respondent may have been somewhat inconsistent in the manner in which it allowed employees to schedule the accrued vacation they had earned under the terms of the expired agreement. JD 57, ll. 1-3. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1198. To the ALJ's failure to conclude as a matter of law that establishing "freeze dates" by which employees may apply for vacation they wish to take and using quotas as the method for allotting vacations is reasonably comprehended by last, best, and final offer Art. XIV. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 889 (Sullivan); Jt. Exh. 8 at 2246-48.

1199. To the ALJ's failure to find as fact and conclude as a matter of law that the Respondent bargained over the implementation of the vacation procedures at the bargaining table

in October. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 532 (Eby).

1200. To the ALJ's conclusion of law that the Respondent instituted unilateral changes from its implemented final offer with respect to the method in which it assigned overtime and the method for scheduling of hours in violation of Section 8 (a)(5) and (1) of the Act. JD 58, ll. 9-12. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1201. To the ALJ's failure to find as fact and conclude as a matter of law that the April 16, 2016 amendment to the Complaint left the Respondent insufficient time to prepare subpoenas, gather evidence, or prepare defenses. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1202. To the ALJ's failure to find as fact that on the last day of the first week of the trial the General Counsel impermissibly raised a new theory regarding discipline that he viewed "as flowing from" the unlawful implementation. JD 1-63. The basis for this exception is that the record so shows. Tr. 682.

1203. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel impermissibly introduced discipline records related to attendance, drug screens, production errors, environmental procedures, and other plant rules that were wholly unrelated to any conduct previously alleged to be unlawful or to any other theory previously advanced. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Exh. 67.

1204. To the ALJ's failure to find as fact and conclude as a matter of law that the General Counsel improperly never moved to amend the Complaint to add the "flowing from"

theory. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1205. To the ALJ's failure to find as fact and conclude as a matter of law that advancing the "flowing from" theory at that stage of the lengthy proceeding left the Respondent insufficient time to prepare, and, because most of the employee witnesses had already testified (and, in one case, returned to watch other witnesses testify); frustrated its ability to question witnesses about the theory and GC Exh. 67. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 348-49.

1206. To the ALJ's failure to conclude as a matter of law that the April 16, 2016 amendment and subsequent procedural steps violate the Respondent's due process rights. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1207. To the ALJ's failure to find as fact that only on April 21, 2016, the last day of the first week of the hearing and after much of his case-in-chief was complete, did the General Counsel introduce a demonstrative Consolidated Complaint that represented the totality of the various changes in the Complaint. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; GC Exh. 3.

1208. To the ALJ's failure to find as fact and conclude as a matter of law that the late-hour additions to the General Counsel's theories were especially prejudicial in light of the incredible number of documents and motions filed by the General Counsel that changed the allegations and theories of this case while not presenting the entire new theory of the case, but merely editing select portions of previously-filed documents, often only with citation to sections

of the then-out-of-date documents. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. GC Exhs. 1(c); (h); (j); (k); (m); (o); (p); (r).

1209. To the ALJ's failure to conclude as a matter of law that the allegations of the April 16, 2016 amendment and the theories advanced thereafter should be dismissed. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1210. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act by failing to bargain in good faith with the Union by its overall conduct. JD 58, ll. 26-29. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1211. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act by unilaterally implementing its last, best, and final offer, which included the non-mandatory subject of bargaining of permitting employees to vote regarding a change in their schedule without the involvement of the Union, at a time when the parties were not at a valid impasse in bargaining. JD 58, ll. 31-34. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1212. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act by unilaterally making changes in its implemented, last, best, and final offer regarding the method by which it assigned overtime and the method for scheduling hours. JD 58, ll. 36-37. The basis for this exception is that the

record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1213. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act by bypassing the Union and dealing directly with employees concerning changes in wages, hours and working conditions, including permitting employees to vote regarding a change of the schedule in the maintenance department. JD 58, ll. 39-41. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1214. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act by unreasonably delaying in providing the Union with relevant and necessary information it had requested regarding fringe benefits including the pension plan. JD 58, ll. 43-44. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1215. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act by impliedly threatening employees that they would lose their jobs if they went on strike. JD 59, ll. 2. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1216. To the ALJ's conclusion of law that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act by denigrating the Union by telling employees that the Respondent was willing to offer a better contract but that the Union would

not negotiate. JD 59, ll. 4-5. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1217. To the ALJ's failure to conclude as a matter of law that the Respondent was released from its duty to bargain based upon the Union's bad faith bargaining. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1218. To the ALJ's failure to conclude as a matter of law that any unilaterally implemented changes were done only after the parties had reached impasse. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1219. To the ALJ's failure to conclude as a matter of law that the Union's inaction after the Respondent provided information in response to the Union's information requests constitutes waiver. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1220. To the ALJ's failure to conclude as a matter of law that the allegations of the Second Amendment to Complaint are untimely. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1221. To the ALJ's failure to conclude as a matter of law that the timing of the Second Amendment to Complaint violates the Respondent's due process rights. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1222. To the ALJ's failure to conclude as a matter of law that the statements alleged by the Second Amendment to Complaint to violate Section 8(a)(1) were protected employer free speech under Section 8(c) of the Act. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1223. To the ALJ's failure to conclude as a matter of law that the Complaint should be dismissed in its entirety. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1224. To the ALJ's conclusion of law that the Respondent has engaged in certain unfair labor practices. JD 59, l. 9. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1225. To the ALJ's conclusion of law that it is appropriate to order the Respondent to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. JD 59, ll. 9-11. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1226. To the ALJ's conclusion of law that the Respondent violated Section 8(a)(5) and (1) of the Act. JD 59, l. 13. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1227. To the ALJ's conclusion of law that it is appropriate to order Respondent to cease and desist, and to immediately put into effect all terms and conditions of employment provided by the collective-bargaining agreement that expired by its terms on August 1, 2015, and to maintain those terms in effect until the parties have bargained to an agreement or a valid

impasse. JD 59, ll. 13-17. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1228. To the ALJ's conclusion of law that it is appropriate to order Respondent to make whole the unit employees and former unit employees for any loss of wages or other benefits they suffered as a result of the Respondent's implementation of its, last, best, and final offer on September 14, 2015, as set forth *Ogle Protection Service*, with interest at the rate prescribed in *New Horizons*, compounded daily as prescribed in *Kentucky River Medical Center*. JD 59, ll. 17-22. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1229. To the ALJ's conclusion of law that it is appropriate to order Respondent to reimburse unit employees for any expenses resulting from the Respondent's unlawful changes to their health benefits, as set forth in *Kraft Plumbing & Heating, Inc.*, with interest as prescribed in *New Horizons*, compounded daily as prescribed in *Kentucky River Medical Center*. JD 59, ll. 22-26. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1230. To the ALJ's conclusion of law that it is appropriate to order that Respondent make all contributions to any fund established by the collective-bargaining agreement with the Union which was in existence on August 1, 2015, and which contributions the Respondent would have paid but for the unlawful unilateral changes, including any additional amounts to the funds in accordance with *Merryweather Optical Co.* JD 59, ll. 16-30. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1231. To the ALJ's conclusion of law that it is appropriate to order Respondent to rescind all disciplinary actions that may have resulted from its unilaterally implemented last, best, and final offer on September 14, 2015, and to provide for all employees discharged, suspended, or otherwise denied work opportunities solely as a result of its unilateral implementation of its last, best, and final offer immediate and full reinstatement to their former positions, or if they are not available, to substantially equivalent ones, without prejudice to their seniority or other rights and privileges, and to make whole those employees either discharged, suspended, or otherwise denied work opportunities solely as a result of the unilateral implementation of said rules. JD 59, ll. 32-39. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1232. To the ALJ's conclusion of law that it is appropriate to order Respondent to pay backpay computed in accordance with *F. W. Woolworth Co.*, with interest at the rate prescribed in *New Horizons*, compounded daily as prescribed in *Kentucky River Medical Center*. JD 59, ll. 41-43. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1233. To the ALJ's conclusion of law that it is appropriate to order Respondent to compensate discharged employees for search-for-work and interim employment expenses in accordance with *King Soopers, Inc.* regardless of whether those expenses exceed their interim earnings, and that search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, compounded daily as prescribed in *Kentucky River Medical Center*. JD 59-60, ll. 43-3. The

basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1234. To the ALJ's conclusion of law that it is appropriate to order Respondent to pay backpay for any employees who may have been suspended or otherwise denied work opportunities, computed in accordance with *Ogle Protection Service*, with interest at the rate prescribed in *New Horizons*, compounded daily as prescribed in *Kentucky River Medical Center*. JD 43, ll. 4-7. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1235. To the ALJ's conclusion of law that it is appropriate to order Respondent to compensate employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards in accordance with *Don Chavas, LLC d/b/a Tortillas Don Chavas*, and, in accordance with *AdvoSery of New Jersey, Inc.*, within 21 days of the date the amount of backpay is fixed either by agreement or Board order, to file with the Regional Director for Region 18, a report allocating backpay to the appropriate calendar year for each employee. JD 60, ll. 9-14. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1236. To the ALJ's conclusion of law that the unfair labor practices of the Respondent justify the additional remedy of a notice reading. JD 60, ll. 25-26. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1237. To the ALJ's conclusion of law that a failure on the part of Respondent's failure to bargain in good faith and the implementation of its last, best, and final offer without a reaching valid impasse in violation of Section 8(a)(5) and (1) had a substantial effect on every

unit employee. JD 60, ll. 26-29. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1238. To the ALJ's conclusion of law that the Respondent's violations of the Act are sufficiently serious and widespread such that a reading of the notice is necessary to dissipate as much as possible any lingering effects of the Respondent's unfair labor practices. JD 60, ll. 29-31. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1239. To the ALJ's conclusion of law that Meadows played an important role in effectuating the unfair labor practices committed by it during the bargaining. JD 60, ll. 31-33. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1240. To the ALJ's conclusion of law that Meadows himself engaged in direct dealing in violation of Section 8(a)(5) and (1) and directed Roseberry to also engage in such conduct. JD 60, ll. 33-35. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1241. To the ALJ's conclusion of law that it is appropriate to require that Meadows read the attached remedial notice to the Respondent's assembled employees in the presence of a Board agent, or have a Board agent read the notice to assembled employees in the presence of Meadows. JD 60, ll. 35-37. The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1242. To the ALJ's conclusion of law that it is appropriate to order Respondent to cease and desist in any way, or take any affirmative action. JD 59-63, ll. 40-25; JD Appendix.

The basis for this exception is that the record does not so show, and the law does not so hold. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1243. To the ALJ's failure to conclude as a matter of law that a notice reading may be appropriate in first contract bargaining cases and organizing campaigns involving nip-in-the-bud discharges. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1244. To the ALJ's failure to conclude as a matter of law that even as alleged by the Complaint, there are no violations that justify a notice reading. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1245. To the ALJ's failure to conclude as a matter of law that a notice reading is an extraordinary remedy that is improper in the instant case. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1246. To the ALJ's failure to conclude as a matter of law that an *Am. Standard Companies, Inc.* remedy is improper absent evidence that the alleged unilateral change was not announced to the Union ahead of time or negotiated with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1247. To the ALJ's failure to find as fact that there is insufficient evidence that the disciplines entered as GC Exh. 67 were issued pursuant to any change from the Red Book, that any such change was not announced to the Union in advance, and that they were not first

negotiated with the Union. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1248. To the ALJ's failure to find as fact that the parties continued meeting and bargaining about such subjects after implementation of the last, best, and final offer. JD 1-63. The basis for this exception is that the record so shows. Tr. 1060-63 (Meadows).

1249. To the ALJ's failure to find as fact that the parties met as late as the Monday before the hearing opened, and the General Counsel has introduced no evidence about most of those meetings. JD 1-63. The basis for this exception is that the record so shows. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1250. To the ALJ's failure to conclude as a matter of law that an *Am. Standard Companies, Inc.* remedy is improper in the instant case because the Respondent disputes that the alleged unilateral change was not announced to the Union ahead of time or negotiated with the Union. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

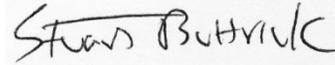
1251. To the ALJ's failure to conclude as a matter of law that no remedy is appropriate. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1252. To the ALJ's failure to find as fact and conclude as a matter of law he impermissibly precluded evidence that would have shown that the Respondent had made numerous proposals in response to Union requests, and that there was a nexus between the Union's proposals and the Respondent's counterproposals. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 366-67.

1253. To the ALJ's failure to conclude as a matter of law that the General Counsel has completely failed in his burden to establish that the Respondent violated the Act in any way. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

1254. To the ALJ's failure to conclude as a matter of law that the Respondent has not violated the Act in any way. JD 1-63. The basis for this exception is that the record so shows, and the law so holds. Tr. 1-1135; Jt. Exhs. 1-29; R. Exhs. 1-89; GC Exhs. 1-98.

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**CERTIFICATE OF SERVICE**

I certify that, on October 14, 2016, a copy of the foregoing was served via electronic mail upon the following:

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