ORAL ARGUMENT NOT YET SCHEDULED

No. 16-1316
[Consolidated with No. 16-1367]

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

KING SOOPERS, INC.,

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent/Cross-Petitioner

PETITION FOR REVIEW AND CROSS-APPLICATION FOR ENFORCEMENT
OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD
NLRB CASE NO. 27-CA-129598

JOINT APPENDIX

VOLUME 1 OF 2
(APP. 1 – APP. 645)

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United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

October 27, 2016

Mark J. Langer, Esquire
Clerk, United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W., Room 5423
Washington, DC 20001-2866

Re: *King Soopers, Inc. v. NLRB*
D.C. Cir. No. 16-1316
Board Case Nos. 27-CA-129598

Dear Mr. Langer:

I am filing electronically a copy of the certified list of the contents of the agency record in this case.

Very truly yours,

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

Encls.
cc: Thomas J. Kennedy, Esq.
Raymond M. Deeny, Esq.
Jonathon M. Watson, Esq.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

KING SOOPERS, INC.	)	
	)	
Petitioner	)	No. 16-1316
	)	
v.	)	Board Case No.
	)	27-CA-129598
NATIONAL LABOR RELATIONS BOARD	)	
	)	
	)	
Respondent	)	

CERTIFIED LIST OF THE NATIONAL LABOR RELATIONS BOARD

Pursuant to authority delegated in Section 102.115 of the National Labor Relations Board's Rules and Regulations, 29 C.F.R. § 102.115, I certify that the list set forth in the attached Index, consisting of three volumes, fully describes all documents, transcripts of testimony, exhibits, and other material constituting the record before the Board in *King Soopers, Inc.*, Case No. 27-CA-129598.

Gary Shinners

Gary W. Shinners
Executive Secretary
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

October 27, 2016

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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

KING SOOPERS, INC.	)	
	)	
Petitioner	)	No. 16-1316
	)	
v.	)	Board Case No.
	)	27-CA-129598
NATIONAL LABOR RELATIONS BOARD	)	
	)	
	)	
Respondent	)	

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2016, I filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for District of Columbia Circuit by using CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, D.C.
this 27th day of October 2016

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249

June 5, 2014

STEPHANIE BOUKNIGHT
King Soopers
65 Tejon St
Denver, CO 80223-1221

Re: King Soopers, Inc.
Case 27-CA-129598

Dear Ms. Bouknight:

I am the agent that has been assigned the above-captioned case for investigation. I am writing this letter to advise you that it is now necessary for me to take evidence from you regarding the allegations raised in the investigation of the above-captioned matter.

Allegations: The allegations for which I am seeking your evidence are as follows. The Charging Party alleges that the Employer has retaliated against employee Wendy Geaslin for asserting her rights under the parties' collective bargaining agreement. The Charging Party alleges that store manager Theresa Pete suspended Ms. Geaslin because she was angry at her for questioning whether she should be doing work for a different work unit. Then on May 21, 2014 Ms. Pete terminated Ms. Geaslin, claiming that she was disrespectful because she asked a question about whether an employee from the Deli Department should be performing Bakery Department and Checker work. The Charging Party alleges that she was terminated in retaliation for asserting her contractual rights and that the Employer's actions violate Section 8(a)(3) of the Act.

Moreover, please provide an evaluation of the merits of this charge under the Board's deferral policy set forth in *Collyer Insulated Wire,* 192 NLRB 837 (1971), and *United Technologies Corp.,* 268 NLRB 557 (1984), to withhold making a final determination on certain arguably meritorious unfair labor practice allegations in the above-referenced charges to enable the parties to resolve these issues through the grievance/arbitration provisions of the applicable collective bargaining agreement. If the Region decides it is appropriate in this matter, in order to effectuate deferral, it will be necessary for the Employer to confirm in writing its willingness to process the pending grievances concerning these allegations and to waive any time limitations on the processing of these grievances in order to ensure that the arbitrator addresses the merits of the dispute. If your position is that this charge is amenable to deferral please provide the above-mentioned confirmation in addition to your evidence on the merits.

Board Affidavits: I am requesting to take affidavits from any individuals you believe have information relevant to the investigation of the above-captioned matter. If you do not allow the Board agent to take sworn affidavits from representatives who may have relevant

information, the Agency will consider that to constitute less than complete cooperation in the investigation of the charge.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you are requested to present your evidence in this matter by **June 13, 2014**. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **File Case Documents,** enter the **NLRB case number,** and follow the detailed instructions. If I have not received all your evidence by that time or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (303)844-0059, or e-mail, isabel.saveland@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

Isabel C. Saveland

ISABEL C. SAVELAND
Field Attorney

[transcript pp. 1 – 260]
(Fed. R. App. P. 30(d))

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 27

In the Matter of:

King Soopers Inc., Case No. 27-CA-129598

and

Wendy Geaslin, An Individual,

Place: Denver, Colorado

Dates: August 11, 2015

Pages: 1 through 260

Volume: 1

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
845 North 3rd Avenue
Phoenix, AZ 85003
(602) 263-0885

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 27

In the Matter of: KING SOOPERS INC., and WENDY GEASLIN, AN INDIVIDUAL,	Case No. 27-CA-129598

The above-entitled matter came on for hearing, pursuant to notice, before **AMITA BAMAN TRACY**, Administrative Law Judge, at the National Labor Relations Board, Region 27, Byron Rogers Federal Office Building, 1961 Stout Street, Suite 13-103, Denver, Colorado 80294 on **Tuesday, August 11, 2015, at 9:02 a.m.**

A P P E A R A N C E S

On behalf of the General Counsel:

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On behalf of the Employer:

RAYMOND M. DEENY
JONATHON WATSON
SHERMAN & HOWARD
633 17th Street
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Tel. 303-299-8286

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
Wendy Geaslin	36	63	137	143	
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1 **P R O C E E D I N G S**

2 JUDGE TRACY: So let's go ahead and go on the record.

3 So the hearing will be in order. This is a formal trial

4 before the National Labor Relations Board in King Soopers

5 Incorporated and Wendy Geaslin, an individual, case 27-CA-

6 129598.

7 The administrative law judge presiding is Amita Baman

8 Tracy. I am assigned to the San Francisco Office of the

9 Division of Judges. Any communication should be addressed to

10 that office, and any requests for extensions of time should be

11 addressed to the associate chief judge in San Francisco in that

12 office.

13 So will counsel and the other representatives of the

14 parties please state their appearances for the record? So

15 we'll start with the General Counsel.

16 MS. SAVELAND: Isabel C. Saveland, and I'm for the

17 Charging Party.

18 MS. GEASLIN: Wendy K. Geaslin.

19 JUDGE TRACY: And for the Respondent?

20 MR. DEENY: Good morning, Your Honor. Raymond M. Deeny

21 and Jonathon Watson of the law firm of Sherman & Howard

22 representing Respondent, King Soopers Inc.

23 JUDGE TRACY: Okay.

24 MS. SAVELAND: And, Your Honor, if I may? I did not

25 introduce Jose Rojas. He's also counsel for the General

1 Counsel.
2 JUDGE TRACY: Oh, okay. Sorry about that. How do you
3 spell your last name?
4 MR. ROJAS: R-O-J-A-S.
5 JUDGE TRACY: Okay. And so you're with the General
6 Counsel's office.
7 MR. ROJAS: Correct.
8 JUDGE TRACY: Okay. All right. All right. So if
9 settlement discussions are desired at any time during the
10 trial, I'll be glad to grant a reasonable recess for that
11 purpose. Trial development sometimes change attitudes and make
12 settlement possible. Accordingly, I'm advising you now before
13 I've heard of any of the testimony that I intend to offer
14 opportunity for settlement at two specific stages of the trial.
15 First, at the conclusion of the General Counsel's case and
16 second, at the conclusion of the trial. If I happen to
17 overlook that, please call it to my attention or if settlement
18 discussions are desired at any point.
19 So at this point, you know, we last spoke a few weeks ago.
20 Are settlement discussions at all possible or have -- do you
21 guys want to take any time for that?
22 MS. SAVELAND: I don't believe Respondent is interested
23 in -- in settlement.
24 JUDGE TRACY: And Mr. Deeny?
25 MR. DEENY: I'll try to choo -- speak on my behalf. We've

not received any settlement proposal, as I've indicated to the Judge before. All we've received is a make-whole remedy, which is not a settlement offer.

JUDGE TRACY: Okay.

MS. SAVELAND: And, Your Honor, I've never been approached with any other offer other than no back pay and no reinstatement quite a long time ago. So we'd be happy to discuss with the Respondent if they have some sort of offer of settlement that would be acceptable to the Regional Director and to Ms. Geaslin. But we always start out with what we want to get at trial.

JUDGE TRACY: Uh-huh.

MR. DEENY: Sure. That's fine. We'll be happy to talk with counsel for the General Counsel.

MS. SAVELAND: Okay.

JUDGE TRACY: All right. So let's go off the record.

(Off the record at 9:05 a.m.)

JUDGE TRACY: Okay. So we're back on the record. All right. So at this point there isn't a settlement. But you know, as I said before, at any point let me know if you'd like to talk about that and off the record.

All right. So, Ms. Saveland, would you please introduce the pleadings and the formal papers?

MS. SAVELAND: Yes, Your Honor. This one, I'd like to introduce the formal papers into evidence. They are 1-a

1 through 1-ll, the index and description -- 1-ll being the index
2 and description of the formal documents. I've shown the
3 documents to all parties involved.
4 JUDGE TRACY: Okay. All right. So any objections to
5 these formal papers being entered into the record; GC Exhibits
6 1-a through 1-ll?
7 MR. DEENY: Your Honor, it includes some documents that
8 have yet to be ruled on so they couldn't possibly be at this
9 point the formal papers, namely the motion to amend and
10 subpoena issued by Respondent and Petition to Revoke the
11 Subpoena.
12 JUDGE TRACY: Uh-huh. Ms. Saveland?
13 MS. SAVELAND: And right now I'll move to amend the
14 complaint, as I have indicated in --
15 JUDGE TRACY: Well --
16 MS. SAVELAND: -- the --
17 JUDGE TRACY: -- well, before -- before you do that, let
18 me -- let me say, Mr. Deeny, you know, I understand what you're
19 saying and what you're going to be arguing. However, in
20 this -- General Counsel's Exhibit 1-ee, that's notice of intent
21 to amend the complaint. So no -- no actual amendment or motion
22 has come before me. So I'm going to overrule the objection.
23 I'll going to admit General Counsel's Exhibits 1-a through 1-ll
24 into the record.
25 **(General Counsel Exhibits 1(a) to 1(ll) received into evidence)**

1 JUDGE TRACY: After this, then we're going to talk about
2 the motion to amend along with the subpoena and the petition to
3 revoke.
4 All right. So, Ms. Saveland, go ahead.
5 MS. SAVELAND: Okay. And now I'm moving to amend the
6 complaint in conformity with what I had stated in the intent to
7 amend.
8 JUDGE TRACY: All right. And so, again, Mr. Deeny, what's
9 your -- any objection to the motion to amend the complaint?
10 MR. DEENY: Many objections to it. First, as to the
11 timeliness of it. There's not explain -- explainable reason as
12 to why this would be amended on the witching hour of trial.
13 As to the substance of it, an enhanced remedy is
14 completely out of place and is designed to do nothing but
15 prejudice the trial judge and the Board in this case.
16 This is a very simple 8(a)(1) allegation at its heart.
17 And allegations that have been made about enhanced remedy under
18 these circumstances are completely inappropriate. They are
19 scurrilous, scandalous allegations, and we will have further
20 things to say about that as it relates to the subpoena and
21 petition to revoke. So we oppose the amendment of the
22 complaint.
23 JUDGE TRACY: All right. So and -- so Ms. Saveland, why
24 now has this amendment occurred?
25 MS. SAVELAND: Unfortunately, Your Honor, it was an

1 oversight, and it wasn't pled originally. However, I don't
2 think it prejudice -- prejudices Respondent in the sense that
3 it's not an allegation of a ULP or an unfair labor practice.
4 As I argued before, this is just simply putting them on notice
5 that this is what we are going to be seeking, should you order
6 a make-whole remedy.
7 JUDGE TRACY: All right. And so, you know, looking at
8 this motion to amend -- you know, I don't really find it to be
9 an amendment in terms of an allegation. I think it seems to me
10 to be more of a clarification of this make-whole remedy that
11 they're seeking, if they are to prevail on the allegations that
12 are already in the original complaint.
13 Are there any amendments to that original complaint in
14 terms of the -- the substantive allegations of what we're going
15 to be hearing today?
16 MS. SAVELAND: In terms of substance, no.
17 JUDGE TRACY: Okay. So I'm going to overrule the
18 objection of the Employer's counsel. I'm going to go ahead and
19 allow the amendment to the complaint. Let's go ahead and then
20 it needs to be, basically, General Counsel's Exhibit 2. I
21 think at --
22 **(General Counsel Exhibit 2 received into evidence)**
23 MR. DEENY: All right --
24 JUDGE TRACY: -- this point.
25 MR. DEENY: -- Your Honor, before you leave that --

1 JUDGE TRACY: Yeah.
2 MR. DEENY: -- if you're going to have that as an
3 amendment, then we want to enter our denial to the
4 allegation --
5 JUDGE TRACY: Okay.
6 MR. DEENY: -- if they're entitled to any such relief.
7 JUDGE TRACY: Go ahead.
8 MR. DEENY: I just did.
9 JUDGE TRACY: Okay.
10 MR. DEENY: May I move to amend our answer --
11 JUDGE TRACY: Yes.
12 MR. DEENY: -- to include the separate defense that we're
13 den -- an answer denying that that is an appropriate amendment
14 and appropriate request for relief and a -- an affirmative
15 defense that she is not entitled to any such relief.
16 JUDGE TRACY: And Ms. Saveland?
17 MS. SAVELAND: I'm just moving to amend. I --
18 JUDGE TRACY: Okay. So you've heard his, though,
19 amendment to his answer to his --
20 MS. SAVELAND: Oh. And we disagree.
21 JUDGE TRACY: -- answer. Okay.
22 MS. SAVELAND: Yeah. We're still seeking that remedy.
23 JUDGE TRACY: Okay. All right. So go ahead and -- this
24 should be General Counsel's Exhibit 2. All right. Now, the
25 next issue, though, was the subpoena that --

1 MS. SAVELAND: Your Honor --
2 JUDGE TRACY: Yeah.
3 MS. SAVELAND: -- if I may?
4 JUDGE TRACY: Uh-huh.
5 MS. SAVELAND: I had a small amendment to the complaint.
6 It's just the state of incorporation is incorrect, and I just
7 wanted to correct that.
8 JUDGE TRACY: Okay.
9 MS. SAVELAND: So I'm moving to amend paragraph 2-A, we
10 stated the Respondent as a Kansas corporation --
11 JUDGE TRACY: Uh-huh.
12 MS. SAVELAND: -- but it's come to our attention they're
13 now a Colorado corporation.
14 JUDGE TRACY: Okay. And, Mr. Deeny, Any objections to
15 that?
16 MR. DEENY: No objection.
17 JUDGE TRACY: Okay. All right. So I'll allow that. So
18 now, let's talk next about the subpoena that is related to
19 this -- to the notice and now to the amended complaint.
20 So, Mr. Deeny, go ahead and explain -- because you are
21 still seeking that -- that information; is that correct?
22 MR. DEENY: Yes, Your Honor.
23 JUDGE TRACY: Okay.
24 MR. DEENY: So when we received the motion to amend the
25 complaint, we immediately served a subpoena regarding subject

1 matter directly related to the allegations in the complaint,
2 that is, that they were seeking this -- the amended
3 allegation -- that they were seeking this remedy -- enhanced
4 remedy because of the Respondent's actions that have apparently
5 impeded her ability to find alternative employment.
6 So the thrust of the subpoena was to have her produce
7 documents that demonstrate that; namely, job search records,
8 availability for work, and -- and the like.
9 And in response to that, belatedly, but before the -- the
10 commencement of this hearing, the response from counsel for the
11 General Counsel is that they were seeking this because, in more
12 outrageous terms, because Respondent had wreaked havoc on her
13 livelihood, and that we could brief all of this post-hearing.
14 We failed to see how we could brief anything post-hearing
15 without the data that supports this so-called wreaking of havoc
16 on her livelihood. It's not a matter of remedy. It is a
17 matter of substantive allegation that the General Counsel has
18 no authority to seek recovery for wreaking havoc, as though
19 that's in the nature of emotional distress damages.
20 JUDGE TRACY: So I just want to clarify that the -- you
21 requested an additional -- there are four different items that
22 you requested --
23 MR. DEENY: Right.
24 JUDGE TRACY: -- right? Okay.
25 MR. DEENY: That's correct.

1 JUDGE TRACY: I just want to make sure that I'm looking at
2 that. All right.
3 And so, Ms. Saveland, what do you have -- I mean, this
4 then now goes to your petition to revoke. What's your response
5 to Mr. Deeny?
6 MS. SAVELAND: Your Honor, these documents plainly go to
7 issues of compliance that can be dealt with in a compliance
8 hearing, should you decide to order a make-whole remedy.
9 We are simply putting the Respondent on notice of the
10 legal issue, and that we are saying that part of a make-whole
11 remedy should include work for -- search-for-work expenses.
12 This is something that they can legally brief, whether it is
13 proper for you, as a matter of law, to order this type of
14 remedy for the ULPs -- for the unfair labor practices that
15 Respondent has allegedly committed.
16 Essentially, what Respondent is doing is conflating the
17 issue of whether it's a proper legal remedy, as a matter of
18 law, with calculating expenses that she spent -- that she may
19 have incurred as a result of their unfair labor practices.
20 And they're very clear. Some of these -- like request
21 number 2 and 3 don't even go to search-for-work expenses.
22 They're simply asking about mitigation and whether she was
23 available to work. That all goes to back pay. That's
24 something that could be properly dealt with in a compliance
25 hearing.

1 JUDGE TRACY: Go ahead.

2 MR. DEENY: Your Honor, let me refresh. I know you do

3 lots of cases, as we all do. We made a motion at one point in

4 this case to continue the trial date because of an

5 unavailability of witness -- denied.

6 Counsel for the General Counsel makes a request to

7 reschedule the hearing that was originally set, I believe, for

8 June.

9 MS. SAVELAND: January.

10 MR. DEENY: Well, in any event, earlier this year. And

11 the reason for that was Charging Party is hospitalized. We

12 had --

13 MS. SAVELAND: Objection, Your Honor. He's now trying to

14 just talk about things that happened after the unfair labor

15 practice.

16 MR. DEENY: I ju --

17 MS. SAVELAND: What we're doing here is discussing his

18 client's actions and the Respondent's actions and Ms. Geaslin's

19 actions back in May of 2014.

20 Mr. Deeny's trying to be cute and try to bring in things

21 that happened months later that are personal and trying to

22 smear the Charging Party before you even get a chance to hear

23 her testimony.

24 MR. DEENY: What I'm trying --

25 MS. SAVELAND: And I object --

JUDGE TRACY: All right --

MS. SAVELAND: -- to what he's doing.

JUDGE TRACY: -- so --

MR. DEENY: What I'm trying --

JUDGE TRACY: So let -- let's --

MR. DEENY: -- to do --

JUDGE TRACY: -- just stop.

MR. DEENY: -- is un -- put the bullet --

JUDGE TRACY: I need you to stop.

MR. DEENY: -- back in the chamber that's --

JUDGE TRACY: Stop.

MR. DEENY: -- already been filed by this individual --

JUDGE TRACY: All right. Let's go off the record -- claiming that there is some sort of damage when she was hospitalized and wasn't even available.

(Off the record at 9:24 a.m.)

JUDGE TRACY: All right. So this is what my ruling is going to be.

MR. DEENY: I want my statement on the record, Your Honor.

JUDGE TRACY: I need you to focus, though. Your statement needs to be addressed to their -- your subpoena request --

MR. DEENY: Right.

JUDGE TRACY: -- their petition to revoke and now she responded. Now you need to address the petition to revoke and these four items.

1 MR. DEENY: I am.
2 JUDGE TRACY: I don't want to go back and talk about the
3 history of how long it's taken to litigate this case. It
4 doesn't matter to me. My focus is on this and ruling on this
5 so we can get to the witnesses' testimony. Time is precious,
6 so let's go ahead -- and if you've got something to say about
7 your subpoena and in response to their petition to revoke, go
8 ahead.
9 MR. DEENY: Specifically, the subpoena goes to this issue
10 about wreaking havoc on her livelihood when, as a matter of
11 record, the counsel for the General Counsel has sought a
12 continuance because she was hospitalized, the charging party.
13 She couldn't possibly be available for looking for work if
14 that's the case, and so if Your Honor is going to allow this
15 amendment in its scurrilous form, there should be a full
16 development of that record to show that there has been, once
17 counsel for the General Counsel has tried to predispose the
18 issues and the judge in this case, we should be allowed to
19 refute those scurrilous allegations.
20 JUDGE TRACY: All right. So again, I've allowed the
21 amendment to the complaint.
22 MR. DEENY: I --
23 JUDGE TRACY: In terms of the subpoena and the petition to
24 revoke, I'm going to grant that, because again, looking at
25 these four items, these all go to any -- the expenses that were

1 incurred, her efforts to try to find work. That's not before
2 me. That will come before a compliance officer, if it gets to
3 that point, if they're able to prove their case.
4 That's the next step. This early in the brief, you can
5 talk about whether that is an appropriate remedy, not whether
6 the remedy, in terms of the numbers, are accurate or not, and I
7 don't want to hear any testimony about it either. I'm not
8 going to take that testimony. You can object to it, you can
9 raise that as exceptions if you wish, but at this point, we're
10 just here to hear the allegations that are set forth in this
11 complaint.
12 This remedy, unfortunately, they should have amended that
13 before, long before, because if they're just spelling out what
14 the General Counsel believes is the back pay and make whole as
15 includes these specific items, well, that I'll let you guys
16 deal with in compliance, if it gets to that point. We haven't
17 even gotten there yet, because I've got to hear this case and
18 I've got to make a decision on the merits of it.
19 The other part of it about the expenses, you know, that
20 the fact that they requested a postponement, they postponed the
21 case, et cetera, which could go to your issue of whether you're
22 obligated, if you are at all any of it, to pay anything. Then
23 you can deal with that later. And you're certainly entitled to
24 that information at that point, but not now and not hear today.
25 MR. DEENY: Okay.

1 JUDGE TRACY: All right. So I've made my ruling, so are
2 there any other motions that we need to make today, or need to
3 deal with?
4 MS. SAVELAND: Not for the General Counsel.
5 JUDGE TRACY: All right. Is there a request for
6 sequestration?
7 MS. SAVELAND: Not from the General Counsel.
8 MR. DEENY: No.
9 JUDGE TRACY: Okay.
10 All right. So let's go ahead and we're going to go ahead and
11 deal with the opening statements, so let's go ahead, Ms.
12 Saveland, with your opening statement.
13 MS. SAVELAND: This is a case that strikes directly at the
14 heart of the National Labor Relations Act and the protections
15 it affords employees in this country.
16 This Respondent's actions are an assault on an employee's
17 right to assert contractual rights, as well as to vehemently
18 defend oneself and one's livelihood in the safety of a
19 collectively bargained grievance meeting.
20 The Charting Party in this matter is Wendy Geaslin. The
21 evidence will show at the time of the events in this charge,
22 Ms. Geaslin was employed at Respondent's Store One as a
23 Starbuck's barista. The store manager was Theresa Pelo.
24 The evidence will show that on May 9th, 2014, Ms. Geaslin
25 was getting ready to take her lunch when Ms. Pelo paged for a

1 Starbuck's employee to help sack groceries. Ms. Geaslin was
2 surprised because she'd never been asked to bag before and was
3 under the impression that sacking was not part of her work
4 duties.
5 Nevertheless, Ms. Geaslin finished helping with the
6 remaining customers and then took off her apron and stepped out
7 of the kiosk. Before she could do or say anything, she heard
8 Ms. Pelo yell at her from the self checkout, "Where do you
9 think you're going?"
10 Wendy was taken aback by her tone, but told Ms. Pelo that
11 she was planning to take her lunch. Pelo told Ms. Geaslin not
12 to worry about lunch. Then Ms. Geaslin asked Ms. Pelo if she
13 was even supposed to be sacking, because she was under a
14 different contract.
15 This question set Pelo off, and instead of answering the
16 question, Pelo told Wendy to obey the order. Wendy was
17 embarrassed by the way Ms. Pelo was treating her and asked Ms.
18 Pelo if they could take any further discussion in the back.
19 Once they were in the office, Ms. Pelo accused Wendy of
20 refusing to bag. Wendy responded to the accusation by trying
21 to explain that she did not refuse to bag, she was simply
22 asking about her lunch and her contract. Tempers began to
23 flare and they went back and forth, Pelo telling Wendy she
24 refused to bag and Wendy denying she was refusing to bag.
25 Ultimately, when Ms. Pelo could not cow Wendy into saying she

1 refused to bag, she sent Wendy home on suspension.
2 The evidence will show that on May 14th, 2014, Ms. Pelo
3 brought in Union Representative Danny Craine and Wendy to
4 document why she had suspended Wendy on the 9th. The evidence
5 will show that as of the beginning of that meeting, Ms. Pelo
6 intended that Ms. Geaslin would continue her employment. That
7 is not ultimately what happened.
8 Ms. Pelo began the meeting by informing Mr. Craine that
9 she had suspended Wendy for refusing to bag groceries. Much as
10 on the 9th, Wendy disagreed with Ms. Pelo and tried to explain
11 she had just asked a question and she had never said she
12 wouldn't sack.
13 Over the course of the disagreement, the discussion became
14 heated again between Wendy and Ms. Pelo. They started talking
15 over each other and Wendy became emotional and raised her
16 voice.
17 The evidence will show that tempers were running high and
18 Mr. Craine decided to diffuse the situation by taking Wendy out
19 of the room to let the two women calm down.
20 When they returned to the meeting, Ms. Pelo stated she
21 wanted to terminate Wendy for her disrespectful behavior,
22 characterizing it as gross misconduct.
23 Mr. Craine tried to smooth over the situation and reminded
24 Ms. Pelo she could not make that decision on her own. At the
25 end of the meeting, Ms. Pelo put Wendy on a second suspension.

1 The evidence will show that on May 21st, Ms. Pelo met with
2 Mr. Craine and Wendy again. This meeting was short. Ms. Pelo
3 immediately gave Wendy her termination papers and specifically
4 listed Wendy's behavior in the grievance meeting of May 14th
5 for her termination.
6 The Respondent may argue that Ms. Geaslin's initial
7 suspension was lawful because she refused a direct order to
8 sack groceries. This is just not true. What is true is that
9 Ms. Pelo resented Wendy's questions about her collectively
10 bargained rights.
11 In fact, this was not the first time that Ms. Pelo reacted
12 with animosity towards Wendy's complaint about contractual
13 issues. That event is probably why she reacted so poorly to
14 Wendy's questions on the 9th.
15 Indeed, instead of briefly answering Wendy's questions and
16 then asking her to bag, despite the fact that it was not a
17 regular contractual duty, she immediately took the questions as
18 an affront to her authority and deemed them a refusal to sack.
19 The Respondent may also try to argue that it suspended
20 Wendy a second time and then terminated her wholly or in part
21 as a result of her actions on May 9th. That is just not true
22 either.
23 The evidence will show that Ms. Pelo stated on at least
24 three occasions, not to mention the termination paperwork
25 itself, that Wendy's actions on the 14th were the reason she

1 wanted Wendy gone.

2 Finally, the Respondent may try to exaggerate Wendy's
3 behavior at the meetings and say she lost protection under the
4 Act. This is just not true either, and any evidence to that
5 effect is simply self-serving hyperbole. This incident
6 happened almost 15 months ago and since then almost all
7 witnesses to the events have provided accounts about what
8 happened.

9 They all consistently state that Wendy was talking about
10 her contractual rights. They all consistently state that Wendy
11 raised her voice. They all consistently state that Wendy was
12 unwilling to accept Ms. Pelo's version of events on May 9th.

13 Some state that Wendy was disrespectful to Ms. Pelo. Some
14 state that Ms. Pelo was disrespectful right back. However,
15 when the incidents were still fresh in their minds, not one
16 person stated that Wendy engaged in such opprobrious behavior
17 as to lose protections of the Act. Indeed, there is not one
18 mention of threats, obscenities or violence.

19 In conclusion, the facts will show that Respondent, by Ms.
20 Pelo, violated the Act by running Store One as if the Act and
21 the protections it affords do not exist. Indeed, the
22 Respondent violated the Act by supporting its manager's
23 retaliation against Wendy Geaslin for her attempts to enforce
24 her understanding of the terms of her collective bargaining
25 agreement and for passionately defending her job during a

1 grievance meeting.
2 JUDGE TRACY: Mr. Deeny, do you want to go ahead and do
3 your opening statement now or do you want to wait for your case
4 in chief?
5 MR. DEENY: No, I think I prefer to proceed presently to
6 try to give you the non-fiction version of this.
7 JUDGE TRACY: And before you do that, do you mind if you
8 introduce your -- the person sitting to your left?
9 MR. DEENY: Yes. To my left is Ms. Stephanie Bouknight,
10 who is a manager of labor and employee relations at King
11 Soopers Company.
12 JUDGE TRACY: And how do you spell your last name?
13 MS. BOUKNIGHT: B-O-U-K-N-I-G-H-T.
14 JUDGE TRACY: Okay. Thank you. I'm sorry. Go ahead,
15 please.
16 MR. DEENY: Thank you, Your Honor.
17 As I said, I would like to give the non-fiction version to
18 these events.
19 King Soopers is the State's largest Employer.
20 Predominantly, its employees are represented by unions, four
21 different unions in its retail operations. The UFCW is one of
22 them, the largest of them.
23 The UFCW has a collective bargaining agreement that covers
24 the store in issue, Store Number One, which is just about five
25 miles from this location. It's an inner-city store, it's part

1 of the Denver Metro Bargaining Unit, which is also our largest
2 bargaining unit.
3 In that store and in the Denver Metro Bargaining Unit,
4 there is a Denver meat supplement agreement to the master
5 agreement of the retail agreement, because UFCW represents meat
6 and deli employees in the Denver Metro area.
7 And to make this even more elaborate, we have Starbuck's
8 locations in our stores, and they are part of the meat and deli
9 supplemental agreement as well. All of that circumscribed by
10 Local 7's jurisdiction.
11 The rules that apply throughout all of King Soopers'
12 stores, policies and procedures, are uniform. Union or non-
13 Union store, the rules, policies and procedures are the same,
14 and the central policies here are behaving in a manner that is
15 respectful and not insubordinate to management directives.
16 This case raises the specter more of, as amply
17 illustrated, of a collective bargaining agreement and not an
18 8(a)(1). This case was a perfect case for Dubeau and Collyer
19 deferral and Ms. Bouknight responded to the charge in exactly
20 that manner.
21 And it remains the case that this so-called dispute that
22 Ms. Geaslin is trying to position about bargaining unit
23 jurisdiction is simply not true. What everybody in a store at
24 King Soopers is obligated to do is to provide customer service.
25 On this particular day, May 9th, 2014, this, which happens

1 to be the Friday before Mother's Day of that year, Store Number
2 One is usually pretty busy on a Friday. Because of its inner-
3 city nature, there are lots of processing of payroll checks and
4 other entitlement program checks at that store. It was
5 exceptionally busy.
6 At approximately noon, it was overflowing in business.
7 The Starbuck's was not. The store manager, Ms. Pelo, as she
8 customarily does, went on the intercom and said, "I need help
9 in the front end." People from produce, from bakery, from
10 meat, from every department responded, came up to help.
11 Ms. Pelo asked specifically, "Could I get help from
12 Starbuck's?"
13 Ms. Geaslin took off her smock at Starbuck's, that's an
14 issue about food contamination, you can't cross apparel in
15 departments because of food contamination. She took off her
16 smock, Starbuck's smock, came walking up to the front end.
17 Ms. Pelo thought, "Good, she's coming to help as I
18 requested." She said, "Thank you for responding." This wasn't
19 acrimonious at all. "Thank you for responding and helping
20 out."
21 And Ms. Geaslin said, "I'm going to lunch."
22 Now the problem with that is she started her shift that
23 morning at 6:00. Ms. Geaslin has been counseled and
24 disciplined in previous stores because she refuses to take
25 lunch or she will delay lunch, which violates our collective

1 bargaining agreement that they are, as a matter of State law
2 supposed to be taking lunches within the middle of the shift or
3 under the collective bargaining agreement, they're supposed to
4 be taking lunches in the middle of the shift, and Ms. Pelo's
5 response to her was, "You can take your lunch as soon as we get
6 this front end cleared out, so please help, get in and sack
7 groceries."
8 Ms. Geaslin then responds with, not that it's not in my
9 contract, "It's not my Union." It is her Union. It's Local 7.
10 And just like the assistant deli manager who was up in the
11 front end who is a member of local 7 under the meat supplement
12 agreement was also up there trying to help out, Ms. Geaslin is
13 expected to do the same thing. She refused. Not going to do
14 it.
15 And then says, "I'm calling my manager, my Starbuck's
16 lead." We don't -- Starbuck's people are not our employees.
17 That is their management group. We provide a service in our
18 stores, our baristas are trained by Starbuck's, but they're not
19 her Employer.
20 Ms. Pelo tells her, that's not your manager. I'm your
21 manager. I'm giving you a direct order to get into the stands
22 and help out.
23 "No." Refuses. It is definitely escalating with voices,
24 in front of the guests who are trying to get out of the store.
25 Ms. Pelo says, we're taking this off the floor, we're

1 going to the office, and we're going to talk about this. She
2 says to her, "You can work now and grieve later," maybe the
3 longest-standing instruction in labor relations parlance.
4 By the way, there never was a grievance about working
5 across jurisdictions, working out of my department, any of
6 these laudable things that counsel for General Counsel now
7 thinks was the motivation for this discipline.
8 Make no mistake about it. The motivation for this
9 discipline in the first instance on May 9th is her
10 insubordination.
11 They go into the office with the assistant deli manager
12 and Ms. Geaslin's behavior, it's a good word, actually, could
13 only be described as opprobrious. Disrespectful, mocking the
14 store manager, defying her authority, in front of an assistant
15 deli manager, a member of the bargaining unit.
16 Ms. Geaslin issues her challenge to the store manager.
17 She says, "You can't hurt me." There's nothing about I'm
18 upholding any principles here. "You can't hurt me." It's
19 obviously not sinking in. Ms. Pelo tells her, "I'm suspending
20 you five days" and sent her home. She punches out that day at
21 12:05 p.m.
22 Ms. Pelo sets up a meeting to revisit this situation with
23 Ms. Geaslin and her Union representative to make sure that we
24 don't have this repeating itself in the stores. We have
25 business to run. We have guests to serve. The meeting is set

1 up for the 15th of September, and indeed, takes place on that
2 date.
3 And in that meeting, Ms. Pelo doesn't come in and say --
4 excuse me, Ms. Geaslin doesn't come in -- and this meeting now
5 is in front of an assistant store manager, as well as Ms. Pelo,
6 she comes in and starts yelling, raising her voice with Ms.
7 Pelo, challenging her authority, telling her, "You need to earn
8 my respect." This is Ms. Geaslin. A store manager needs to
9 earn her respect. She hasn't learned a thing.
10 Her Union representative, Danny Craine, is present in
11 that. He recognizes how of control his individual is, his
12 bargaining unit member is. He asks, and you'll hear this from
13 Ms. Pelo, she'd never seen this happen before, pulls her out of
14 the room to counsel her. Comes back in and says, "Okay, she
15 will now behave herself."
16 Ms. Pelo says, "Well, we'll see about that. Is she going
17 to acknowledge that in the future this isn't going to recur,
18 that we're not going to see this?"
19 Ms. Geaslin proceeds to start mocking and mimicking and
20 making faces, clenching her fists, leaning forward in a
21 menacing, threatening manner to this store manager and the
22 assistant store manager.
23 You'll hear the assistant store manager's reaction to it.
24 She's not, by any means, a novice in this business. Her own
25 reaction was, "What am I going to do when I confront this down

1 the road, this behavior, when I'm running the store and Ms.
2 Pelo's not even here?"
3 This woman is showing absolutely no contrition, no
4 remorse, nothing about her behavior. In fact, she's
5 perpetuating it.
6 Ms. Pelo adjourns the meeting on that basis and says,
7 "This is not taking." She says, "I am going to consult with
8 labor and employee relations," which is the customary practice
9 at King Soopers. She describes for Ms. Bouknight what has
10 occurred over these meetings and Ms. Bouknight agrees with the
11 store manager, this is absolutely unacceptable, it is gross
12 misconduct and she should be terminated, and Ms. Pelo
13 terminated her on the 22nd of May for this conduct.
14 Union filed a grievance two days later, not about
15 upholding the Union contract, not about working across
16 jurisdictional lines -- There are no jurisdictional lines --
17 filed a grievance about the just cause of the suspension and
18 the termination. Promptly after that, the charge is filed in
19 this case. Ms. Bouknight responds to the NLRB absolutely
20 consistent with what we have done historically with this
21 region. This case is perfect for deferral. Union has their
22 own internal grievance appeal process. Their executive board
23 hears this case and they dismiss the grievance, having no
24 merit.
25 Your Honor, if this was anything to do with upholding

1 Union principals, this Union, Local 7, who arbitrates
2 approximately 30 cases a year with this Employer, would never
3 have dismissed this, if this had anything to do with upholding
4 any Union principals. There's not a shred of evidence that she
5 was acting on behalf of Ms. Geaslin -- anybody other than Ms.
6 Geaslin. I'm sorry.
7 This was her own personal vendetta, defiance of this store
8 manager's authority and apparently any other store manager or
9 her assistant deli manager's authority. This clearly doesn't
10 involve anything about a safety issue that could be imputed as
11 protected activity. And it doesn't rise to any basis to say
12 that she could possibly reasonably have believed that this was
13 appropriate conduct.
14 In fact, what you will hear is that she too was at one
15 time a manager in a grocery operation and told the company
16 during a step two grievance meeting in this case that she has
17 herself disciplined, suspended and terminated employees for
18 exactly this conduct. She has no reasonable basis to believe
19 that she was acting on behalf -- or she was engaged in any
20 protected activity and certainly no concerted activity.
21 And to the extent the complaint seeks to allege that this
22 was because of her Union membership or in any way affiliation,
23 that would certainly be belied by the fact that Local 7 has
24 completely dismissed the claim. The collective bargaining
25 agreement specifically provides that there shall be no

1 discrimination against members of Local 7. That could have
2 been arbitrated as well, but we haven't.
3 And so here we are today. We're asking that this case be
4 dismissed in its entirety.
5 JUDGE TRACY: All right. Thank you. So before we go to
6 the first witness, though, I think I heard you guys saying that
7 you might have some joint exhibits. Do you want to go ahead
8 and take care of those?
9 MS. SAVELAND: Sure.
10 JUDGE TRACY: Okay.
11 MS. SAVELAND: We -- Your Honor, we have -- move to admit
12 Joint Exhibit 1, is the meat collective bargaining agreement.
13 Joint Exhibit 2 is the clerks collective bargaining agreement.
14 Joint Exhibit 3 are the Respondent's policies and procedures.
15 And Joint Exhibit 4 is the behavior notice, termination notice
16 given to Ms. Geaslin on May 21st.
17 JUDGE TRACY: All right. So any objections to Joint
18 Exhibits 1, 2, 3, 4?
19 MR. DEENY: No, Your Honor. Thank you.
20 JUDGE TRACY: All right. So Joint Exhibits 1, 2, 3 and 4
21 are admitted into evidence.
22 **(Joint Exhibit Numbers 1 through 4 Received into Evidence)**
23 JUDGE TRACY: We'll get those. All right. So let's start
24 in five minutes. So gather all those. Let's just go off the
25 record.

(Off the record at 9:55 a.m.)

JUDGE TRACY: All right. So we're back on the record. Prior to us going on the record, there were a couple of things that have come up. And so Ms. Saveland, go ahead and let's first deal with the issue of the --

MS. SAVELAND: Subpoenas.

JUDGE TRACY: -- the original subpoena request by the General Counsel.

MS. SAVELAND: And Your Honor, I just -- I did receive documents from the Respondent. And in terms of the subpoena, if the Respondent will stipulate on the record that it provided all responsive documents to the General Counsel duces tecum and will not seek to introduce any additional responsive documents that it has not yet provided, then the General Counsel is satisfied with the production of documents.

JUDGE TRACY: Mr. Deeny?

MR. DEENY: Yes, Your Honor. By agreement with counsel for the General Counsel, we've provided all responsive documents to the subpoena.

JUDGE TRACY: All right. Thank you. And now Ms. Saveland, you also have another request at this point, another motion to make. Go ahead.

MS. SAVELAND: Yes, at this point, I move to have a sequestration order for the witnesses that are testifying at this time.

1 JUDGE TRACY: All right. Mr. Deeny?
2 MR. DEENY: Your Honor, off the record I stated my
3 opposition and I renew it. It's an untimely request and it's
4 -- unfortunately, after all these people have listened to
5 opening statements from both counsel for the General Counsel
6 and the Respondent.
7 JUDGE TRACY: I would agree that the timing is not
8 appropriate, however, you know, as we know, opening statements
9 are not actual evidence. The evidence is the Actual testimony
10 of these different witnesses with their credibility. So I'm
11 going to go ahead and grant the order for the motion for the
12 sequestration. First I want to know, who are the necessary
13 parties? We have them here in the room. The people sitting at
14 the two tables. Is that correct? Is there anybody else?
15 MS. SAVELAND: No.
16 JUDGE TRACY: Okay. All right. So counsel has invoked a
17 rule. And this is for all the witnesses or whoever else is in
18 this room right now. Counsel has invoked a rule requiring the
19 witnesses be separated or sequestered. This means that all the
20 persons who are going to testify in this proceeding with
21 specific exceptions that we just talked about, the two people
22 -- the two sets of individuals sitting at these tables may be
23 present in the courtroom only when they are giving testimony.
24 So this rule means that from this point on until the trial
25 is finally closed, no witness may discuss with other potential

1 witnesses either the testimony that they have given or that
2 they intend to give. The best way to avoid any problems is
3 simply not to discuss the case with any other potential witness
4 until after the trial is completed. And under the rules, as
5 applied by the Board, with one exception.
6 Counsel for a party may not in any manner, including the
7 showing of transcripts, inform a witness about the content of
8 the testimony given by a proceeding witness without express
9 permission of the administrative law judge. The exception is
10 that counsel for a party may inform the counsel's own witness
11 of the content of testimony, including the showing of
12 transcripts given by a witness for opposing side to prepare for
13 rebuttal of the testimony.
14 I expect counsel to police this rule and to bring any
15 violations of it to my attention immediately. It is the
16 obligation of counsel to inform potential witnesses who are not
17 now present in the courtroom of their obligations under the
18 rule. And this comes from a case called Greyhound Lines. All
19 right, so at this point, go ahead and let's go off the record
20 and have the witnesses -- because I don't know. You can --
21 this is a public hearing. So whoever's not going to be
22 testifying can --
23 (Off the record at 10:09 a.m.)
24 JUDGE TRACY: Okay. Ms. Saveland, go ahead and call your
25 first witness, please.

MS. SAVELAND: The General Counsel calls Wendy Geaslin.

JUDGE TRACY: Okay. Come up here. All right. So go ahead and raise your right hand, please.

Whereupon,

WENDY GEASLIN

having been duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE TRACY: Okay. Go ahead and have a seat. Please then state your name and address for the record.

THE WITNESS: Can I grab some water first?

JUDGE TRACY: Yeah. So go ahead and state your name and address for the record, please.

THE WITNESS: Wendy K. Geaslin. 2829 East 33rd Avenue, Denver, Colorado.

JUDGE TRACY: Okay. Go ahead, Ms. Saveland, please.

DIRECT EXAMINATION

Q BY MS. SAVELAND: Ms. Geaslin, are you currently employed?

A No, I am not.

Q Did you ever work for the Respondent, King Soopers?

A I have.

Q And what were your dates of employment?

A August the 19th of 2009 till May the 21st, 2015.

Q And how did your employment end?

A I was fired or let go.

Q And which store were you working at when you were

1 terminated?
2 A I was working at Store 1 on Spear and 13th Avenue.
3 Q Did you ever work at any of the Respondent's other
4 locations?
5 A I have.
6 Q And which one was that?
7 A Store 29 on 9th and Corona.
8 Q And what was your title when you were over there?
9 A I was a barista at the Starbucks.
10 Q And when you worked at Store 29, were you ever
11 disciplined?
12 A I was.
13 Q And what was your discipline for?
14 A I was disciplined for not taking a proper lunch or taking
15 lunch at a proper time.
16 Q Okay. And what level of discipline was it?
17 A It was a written discipline.
18 Q Okay. And did you receive one or two write-ups?
19 A I received just one write-up for two separate incidents.
20 Q Okay. Going back to your most recent time working for the
21 Respondent. Before the incidents that are the subject of this
22 hearing, were you ever disciplined at Store 1?
23 A I was not.
24 Q And how long did you work at Store 1 before you were
25 terminated?

1 A About a year.
2 Q And who was the store manager at the time you were
3 terminated?
4 A Theresa Pelo.
5 Q And were there any assistant store managers at that time?
6 A Theres -- or I'm sorry. Lisa. I'm not sure of her last
7 name. And Roxanne.
8 Q And can you describe just briefly the physical layout of
9 the store?
10 A When you walk in the main door, the produce department is
11 straight ahead of you. To your immediate right is the
12 Starbucks kiosk. Then there's the deli next to it. To the
13 left of you is floral department, the self checkouts and then
14 the regular checkouts.
15 Q Are there any security guards employed by the Respondent
16 at that particular store?
17 A There are.
18 Q And where are they normally posted?
19 A They usually stand at the front door.
20 Q And are there any management offices at that store?
21 A There are.
22 Q And where are they located?
23 A They're located on the east side of the building or the
24 Spears side.
25 Q At the time you were terminated, what was your job title?

1 A Barista for Starbucks.
2 Q And do you know if that job was covered by a collective
3 bargaining agreement?
4 A Yes.
5 Q And do you know which collective bargaining agreement it
6 was?
7 A Meat cutters.
8 Q Do you know if there were any other collective bargaining
9 agreements in effect at that store?
10 A The only one that I know of is just the general grocery
11 bargaining agreement. There may be one for the bakery, but I'm
12 not sure.
13 Q Do you know if bagging was part of your duties under your
14 CBA?
15 A No, it was not.
16 Q Or your collective bargaining agreement. How do you know
17 that? How do you know you weren't supposed to bag?
18 A It -- reading in the pamphlets what our job duties
19 included and sacking was not one of them.
20 Q What were the hours of Store 1?
21 A Twenty-four hours.
22 Q And were they the same hours as the Starbucks kiosk?
23 A No, they were not.
24 Q What were the Starbucks hours?
25 A Six a.m. to 9:00 p.m.

Q What were the shifts at Starbucks?
A Shift one was from 5:30 to 2:00. Second shift was usually 7:30 to 3:00. And the closing shift varied. They -- sometimes they'd come in at 1:00. Sometimes they wouldn't come in until 3:00 or 4:00.
Q Can you explain the general duties in the kiosk?
A The opening shift usually brews the regular coffees. They put pastries in the pastry case and make sure that everything's set up to start the morning run.
Q Okay. And what about the other shifts?
A The second shift usually helps to stock and make some of our sauces, like the mochas and whatnot.
Q Okay. And what about the closing shift?
A Closing shift is to pull pastries from the freezer, so that they can thaw by the next day and stock and make sure that our syrups are ready to go for the opening shift.
Q Do you recall who your supervisor was at Starbucks?
A At the time, Marlene?
Q Do you know her last name?
A I'm sorry. I do not.
Q Did Starbucks sell baked goods or pastries?
A We did.
Q Were the pastries sold at the Starbucks Counter made onsite at King Soopers?
A No, they were made at a Starbucks company.

Q Okay. Do you know if the King Soopers bakery made its own bakery products?
A Yes, they did.
Q Do you know if it was part of your duties to sample the Starbucks pastries out to customers?
A Not to my knowledge.
Q Not the Starbucks pastries?
A Not -- well, the Starbucks pastries, we were. Yes, we were advised that we needed to get those sampled out.
Q Who advised you?
A Instead of throwing them away. The manager for Starbucks.
Q And is the manager for Starbucks, is that a King Soopers employee?
A No, he is not. He's a Starbucks.
Q Okay. Was it part of your regular duties to sample out pastries from the King Soopers bakery department?
A No, it was not.
Q And how did you know that?
A Well, first of all, because we didn't do it till the last month or so before I was terminated. And again, it wasn't part of our job duties under our bargaining agreement to do so.
Q Okay. Directing your attention to March of 2014. Do you recall if you arrived -- excuse me -- to work one day on an opening shift and the counter was not properly stocked?
A I did.

1 Q And what was wrong?
2 A None of the syrups were made up. There were several that
3 were empty. And cups were not stocked. I had to pull the
4 pastries out of the freezer to thaw.
5 Q And normally when are they pulled?
6 A They're usually pulled at the closing shift and put into
7 the refrigerator to thaw.
8 Q So did you ever find out why these -- why the counter
9 wasn't properly stocked --
10 MR. DEENY: Was the relevance, Your Honor?
11 Q BY MS. SAVELAND: -- and the pastries hadn't been pulled?
12 A I did.
13 JUDGE TRACY: Hold on one second.
14 MR. DEENY: Objection to the relevance.
15 MS. SAVELAND: The relevance is that this is a prior
16 occasion where Ms. Geaslin asserted an issue of doing another
17 unit's work and Ms. Pelo approached her about it and asked her
18 about it, to show that she has issue with anybody asking or
19 questioning her authority on what she directs people to do.
20 JUDGE TRACY: Okay. All right. The objection is
21 overruled. Go ahead, please.
22 Q BY MS. SAVELAND: I'm sorry. So let's go back. Did you
23 find out why these duties hadn't been done?
24 A I did.
25 Q And what did you find out?

A I found out that they weren't done, because they were told by store management that they needed to get the bakery products --

MR. DEENY: Objection to the hearsay, Your Honor.

MS. SAVELAND: This is not being admitted for the truth of the matter asserted. It's being admitted to show what happened next.

JUDGE TRACY: Okay.

MR. DEENY: It's being offered based on previous explanation to establish some sort of state of mind as to what she's entitled -- is that what she's saying?

MS. SAVELAND: It's --

MR. DEENY: Because it's clearly a hearsay statement. It didn't come from Ms. Pelo.

MS. SAVELAND: We'll get to Ms. Pelo's statements. This is just laying the background to show why Ms. Pelo made the statements that she is going to testify to making.

JUDGE TRACY: So I'm going to sustain the objection, though. It is hearsay. So let's kind of move on and -- for that.

Q BY MS. SAVELAND: Did you complain to anybody about what had happened that day?

A I did.

Q Who did you complain to?

A I complained to Latrice in the produce department.

Q And what did you say to her?
A I complained that we didn't have enough time to get our own duties that -- for the Starbucks done without having to do the bakery's products also.
Q Did Theresa Pelo ever approach you about your complaint to Latrice?
A She did. She came back and we --
Q Wait. When did that happen?
A Probably a week or -- after I complained to Latrice.
Q And where were you?
A I was in the Starbucks kiosk.
Q And what did she say to you?
A She said that she wasn't going to ask me, but did I really complain to the Union about having to do bakery's products.
Q And what was your response to her?
A I told her, "That's not true. I did not complain to the Union about that."
Q And what did she say?
A She said, "Well, that's not the truth. You did complain to them and I don't like that."
Q Was that the end of the discussion?
A It was.
Q Did you ever find out how she knew about what you said to Latrice?
A Yes. I was talking with manager Marlene one day about it.

1 And --

2 MR. DEENY: Same objection, Your Honor. It's hearsay.

3 Her manager is a bargaining unit person.

4 JUDGE TRACY: Well, that hasn't been established here for

5 the record yet. So I'm going to overrule the objection and go

6 ahead --

7 MR. DEENY: It will.

8 JUDGE TRACY: -- because I'm not sure who is this manager

9 Marlene. I don't --

10 MS. SAVELAND: That's --

11 JUDGE TRACY: -- that's -- people keep talking about her,

12 so --

13 MS. SAVELAND: It's her manager.

14 JUDGE TRACY: -- let's go ahead and --

15 MR. DEENY: Well, could we have some foundation, please?

16 JUDGE TRACY: Yeah, go ahead please with the foundation.

17 Q BY MS. SAVELAND: Can you say who Marlene is?

18 A Marlene is the manager of the Starbucks that -- in the

19 store.

20 Q So was she your supervisor at the time?

21 A Yes.

22 MR. DEENY: Objection, Your Honor. That is a legal

23 conclusion. She is not a supervisor. There's only three

24 supervisors in a King Soopers store. It's a store manager and

25 two assistant store managers.

1 MS. SAVELAND: I'll move on.
2 JUDGE TRACY: Oaky.
3 MS. SAVELAND: I don't -- it doesn't matter --
4 JUDGE TRACY: Okay. Let's --
5 MS. SAVELAND: -- what --
6 JUDGE TRACY: -- go ahead and move on.
7 MS. SAVELAND: -- Marlene said.
8 Q BY MS. SAVELAND: So, did you ever find out -- at the time
9 that you spoke to Latrice and made your complaint --
10 A Yes.
11 Q -- did you know she was a Union representative?
12 A I did not.
13 Q Did you find out after the fact, after Ms. Pelo confronted
14 you that Latrice --
15 A Yes.
16 Q -- the Union rep --
17 A I did.
18 Q Okay. Did you then approach Latrice --
19 A I did.
20 Q -- and ask her about Ms. Pelo's question?
21 A I did. I asked her who --
22 Q What did you say?
23 A I asked her who she told about it and she told me that she
24 talked with Lisa, the store's assistant manager about the --
25 yeah, that it was against our contract rights to -- for us to

1 sample out the -- somebody else's pastry.
2 MR. DEENY: I'm going to object again to the hearsay on
3 this. And as well as a conclusion that has been drawn
4 ostensibly by this individual.
5 JUDGE TRACY: Okay. So I'm going to sustain the objection
6 regarding the hearsay, because that is hearsay. Latrice isn't
7 a party to this. So go ahead and move on. The other thing I
8 need to caution you both about is to wait for Ms. Saveland or
9 anybody else who's asking you questions to finish and you guys
10 do the same, so that way the transcript comes out -- and also,
11 you hear the question completely and you hear her answer
12 completely.
13 Okay? So clearly I'll just say this, that you know, we
14 don't exactly follow the federal rules of evidence. We use
15 them as guidelines here. So some hearsay, you know, it's okay.
16 But then, you know, so we'll have to do it case by case, I
17 suppose. But just try to avoid the hearsay here, okay?
18 MS. SAVELAND: Okay. Thank you.
19 Q BY MS. SAVELAND: Moving on. Do you recall working on May
20 9th, 2014?
21 A I do.
22 Q What time did you begin your shift that day?
23 A I began at 5:30.
24 Q And what time were you scheduled to finish your shift that
25 day?

A Two p.m.
Q And what time were you going to take your lunch?
A Because we had been busy that day --
Q Just want --
A I --
Q -- time were you going to take your lunch?
A At almost -- it's almost 1:00.
Q Okay. And did you end up taking your lunch at 1:00?
A I did not.
Q Why not?
A Because as I was getting ready to go to lunch, we had gotten busy at the Starbucks kiosk. And as I was trying to help get the customers through the Starbucks, there was a voice call or announcement over the intercom that they needed somebody from Starbucks to help sack groceries.
Q And so what did you do?
A I looked at my coworker in amazement, because we'd never been called to sack groceries before.
Q Okay. And then what'd you do next?
A I -- again, I helped get the customers through. Then I took off my apron. And I was getting ready to step out of the kiosk, I heard Theresa yelling at me, "Where do you think you're going?"
Q And let's stop. Who is Theresa? Just --
A Theresa is the store manager, Ms. Pelo.

1 Q Is that Ms. Pelo?
2 A Ms. Pelo, yes.
3 Q Okay. So what did you hear Ms. Pelo say?
4 A She asked me where I thought I was going.
5 Q And where was she standing when she asked you this?
6 A She was standing behind the self checkout.
7 Q Okay. Do you -- can you estimate about how many feet away
8 she was from you?
9 A Maybe 30 to 50 feet.
10 Q Okay. And so once you heard Ms. Pelo, what did you -- how
11 did you respond?
12 A I walked up to her and put my hand on her shoulder and
13 said I was just getting ready to take lunch, because I leave at
14 2:00.
15 Q And what was her response?
16 A She said that not to worry about my lunch, that I will get
17 my lunch, that I needed to go ahead and go sack the groceries.
18 Q And how did you respond?
19 A Feeling a little -- because she was -- her voice was
20 heightened. I asked her if that was -- technically, if that
21 was against my bargaining agreement with the Union.
22 Q And what did she say to that?
23 A She said that she was the store manager and she told me
24 that I needed to go sack the groceries.
25 Q Were you raising your voice at this time?

1 A It may have been a little heightened, yes.
2 Q Was Ms. Pelo raising her voice?
3 A Yes, she was.
4 Q So what happened after she told you to go ahead and bag?
5 A I turned around to walk away to go sack groceries and I
6 raised my hands and said, "Well, all I was doing was asking
7 about my lunch."
8 Q And then what happened?
9 A Theresa or Ms. Pelo, the store manager, said, "You get
10 back here. We need to talk."
11 Q And then did you go back?
12 A Yes. I walked back to her and I said, "Yes, we need to
13 talk, but we need to go to the office to do so."
14 Q Did she agree?
15 A Yes, she did.
16 Q And so did you and Ms. Pelo go to the office?
17 A We did.
18 Q And did anybody go with you?
19 A Yes. As we were getting ready to go back, I saw Angelica,
20 who is the assistant manager of the deli.
21 Q Okay. And why did she go back with you guys?
22 A I asked her to please come back with me to the office,
23 that I needed her.
24 Q So once you got to the office -- well, whose office did
25 you go to?

A We went to the management office.
Q And once you got back to the office, who was in there?
A There was myself, Theresa the manager and Angelica, the assistant deli manager.
Q Can you explain the layout of the office?
A When you first walk in, there's three chairs to the left. Theresa, the store manager's desk is in front of that. And then there is an assistant desk that is straight back. When you first walk in, it's straight to the back.
Q And so where was each person in the office?
A I was sitting in the chairs in front of Theresa's desk. Theresa the manager was sitting at her desk. Angelica, the assistant deli manager was standing next to the assistant manager's desk.
Q So once you were in the office, what happened?
A Theresa started in with telling me -- or Angelica, actually, that I told her I was not going to take a lunch or that -- yeah, that I was not going to sack groceries for her, that I was going to take a lunch.
Q Did Angelica respond to that?
A She did not.
Q And did you say anything in response to that?
A I told her that that was not the truth. That I tried to go sack the groceries, and she called me back. I never told her I was not going to sack the groceries. I was just asking

about my lunch and my rights on my Union contract.

Q And what did she say to that?

A She said that I flat out told her no, that I was not going to take -- or sack groceries, that I was taking my lunch.

Q At this point in the conversation, were you raising your voice?

A Yes. I was upset. Yes.

Q Was Ms. Pelo raising her voice?

A She also was, yes.

Q Did Ms. Pelo tell you to leave at that point?

A She did. She told me to go ahead and clock out, that was going to be put on five days suspension.

Q And what did you do?

A I got up and started to walk out the door.

Q And then what happened?

A Before I got out, completely got out of the door, she called me back in to the office saying that she needed me back in the office.

Q And so did you go back in?

A I did.

Q And did you sit back down?

A As I -- yes, I did.

Q Okay. And did you say anything at that point?

A I asked her what she wanted from me.

Q And what did she say?

1 A She said that I told her I wasn't going to sack groceries
2 and that I needed to understand that she was the manager of the
3 store and that I was to do what she had told me to do.
4 Q Did you respond?
5 A I did. I told her that I know -- that I never told her I
6 was going to not sack groceries. That I was the manager of a
7 store and I know better than to do so, because again, I was a
8 manager of a store and I had fired people for insubordination.
9 Q Did you say anything to Angelica during this meeting?
10 A I did. After Theresa kept going over that I was -- I
11 mean, she was just hounding me that I said no, that I was not
12 going to sack groceries and me coming back with that was not
13 what I said. And I looked at Angelica and said -- asked her --
14 told her that we needed someone to stand up for us, because we
15 barely have time to do the Starbucks duties, let alone having
16 to do another departments, you know, products.
17 Q Did Angelica respond to that?
18 A She did not.
19 Q Did Ms. Pelo say anything at that point?
20 A Ms. Pelo said not to talk to Angelica, to talk to her.
21 Q And what did you say?
22 A I said that I was talking to Angelica at the time and she
23 responded again with, "No, you need to talk to me."
24 Q At any point in this conversation, did you mention calling
25 the Starbucks manager?

A I did.
Q Why did you do that?
A So that Theresa might understand what your duties at the Starbucks were and what the Starbucks management expected from us.
Q Do you recall your words, the way you said it to her?
A I just said that if she wanted to talk to Matt, the Starbucks manager, that she needed to get a hold of him.
Q And just to be clear. When the situation was going on, you weren't as calm as you are today. You were emotional?
A I was very emotional that my job was on the line. And I was afraid of losing it.
Q Did you use any profanity during the meeting?
A I did not.
Q Did you threaten Ms. Pelo?
A I did not.
Q Did you physically touch Ms. Pelo or approach her?
A No, I did not.
Q What else happened during the meeting?
A Just pretty much the two of us going back and forth on what I said and about how she was the manager and I would do what she told me to do.
Q Did you ever specifically say, "I'm not going to bag?"
A No, I did not.
Q Was that the end of the meeting?

A Pretty much so, yes.
Q How did you leave?
A I just left and clocked out.
Q Were you suspended at that point?
A Yes. She put me on a five day suspension.
Q Did you respond when she put you on the suspension? Did you say anything to her when she told you?
A When I was leaving, Ms. Pelo said to me -- she goes, "And that's going to be five days without pay." And I said, "Oh wah."
Q And was that the end of the meeting?
A That was the end of the meeting.
Q Did Ms. Pelo have you escorted out by security that day?
A She did not.
Q Did she have anybody escort you out that day?
A No.
Q Do you recall about how long the meeting lasted?
A Fifteen, 20 minutes.
Q Did you contact the Union after that?
A I did.
Q And when did you do that?
A As soon as I left the store.
Q And who did you call?
A I called Danny Craine, my Union rep.
Q And what did you tell him?

A I just told him what had gone on in the office and that Theresa said that I told her I wasn't going to sack groceries and that I never said that. That I just asked about my lunch and my contract rights.

Q Did you return for a meeting on -- with Ms. Pelo and Mr. Craine?

A Yes.

Q Do you recall the date?

A It was the 14th of May.

Q What year?

A 2015.

Q 2015?

A Fourteen. I'm sorry. 2014.

Q Where was the meeting held?

A It was held in the management office.

Q And do you recall around what time it was held?

A Between 10:00 and 11:00.

Q And can you say who was present at the meeting?

A There was Theresa Pelo, Lisa, Danny and myself.

Q And where was everybody situated?

A Danny and I were sitting in front of Ms. Pelo's desk. She was sitting behind her desk. And Lisa was sitting at the management -- or assistant manager's desk.

Q Was the door to the office closed at that time?

A Yes, it was.

1 Q So what was said at the meeting by Ms. Pelo and by you?
2 A She actually started off with that she was going to let me
3 stay, that -- after the five day suspension. And then she
4 started in. She told Danny Craine, the Union rep, that I had
5 told her no, I was not going to sack groceries and that I was
6 going to take my lunch.
7 Q And did you respond to what she said?
8 A I made a surprised look at Danny like -- and then at her,
9 I went --
10 Q Can you actually look at the administrative law Judge what
11 kind of facial expressions you think you made?
12 A Like I was like surprised. That's, "I can't believe you
13 said that."
14 Q And so after you did that, did Ms. Pelo say anything?
15 A She said she was -- she stood up and she said, "Do you see
16 the disrespect that she shows me? She's making faces at me and
17 being very disrespectful."
18 Q And then what happened?
19 A I told her -- or Danny Craine said that it wasn't a face.
20 That it was just an expression. And she said -- Ms. Pelo said,
21 "No, she was making faces at me and being disrespectful."
22 Q Did you ever tell -- did you make any statements about
23 respect to Ms. Pelo?
24 A At one time she -- yeah, I told her, "If you want people
25 to respect you, maybe you should try to respect them."

1 Q Did she respond to that?
2 A She said -- told me that she didn't have to respect me.
3 Q Did you leave the room at any point during this meeting?
4 A Yes. Ms. Pelo told Danny Craine that he needed to take me
5 out of the room, because I was getting out of control.
6 Q Did you leave the room?
7 A We did.
8 Q Where did you go?
9 A We went to the lunch room.
10 Q And where is the lunch room?
11 A It's by the management offices.
12 Q And what did Mr. Craine tell you?
13 A He told me to let him do all the talking and to not say
14 anything.
15 Q And what did you respond?
16 A I responded that I would do as he said.
17 Q Did you go back in?
18 A Yes, we did.
19 Q And when you were back in the office, were the same people
20 still in there? The same three?
21 A Actually, at one time, Theresa, the store manager called
22 in Roxanne, one of the store assistant managers, so that there
23 was here and Theresa.
24 Q And so, once you were back in the room with everybody, did
25 Ms. Pelo say anything?

1 A She said that was going to go ahead and let me go that
2 day. She was going to terminate me.
3 Q And did you respond to that?
4 A I said nothing.
5 Q And did Mr. Craine respond to that?
6 A He did.
7 Q What did he say?
8 A He said that that was a little premature, that there were
9 steps that she had to go through.
10 Q Was that the end of the meeting?
11 A No, it was not.
12 Q What happened next?
13 A Theresa Pelo, the store manager, said that she was going
14 to go make a phone call to her manager.
15 Q And did she do that?
16 A She did. She left the room and -- to go make the call.
17 Q But you did not see her make the call, correct?
18 A No.
19 Q Okay. Did she come back in the room?
20 A She did.
21 Q What'd she say when she came back in?
22 A She said that she was going to go ahead and put me on
23 another five days suspension and that we were to meet back
24 there again on May the 21st.
25 Q Was that the end of the meeting?

1 A It was.
2 Q Okay. Do you recall your demeanor during this meeting?
3 A Again, I was upset and after that -- I came in with Danny,
4 I was crying. I was very upset.
5 Q Were you raising your voice?
6 A No, I was not.
7 Q Were you gesturing?
8 A No.
9 Q Just one moment. I'm sorry. Did you say something about
10 when you came back in with Danny?
11 A Yes.
12 Q I missed that last part. Oh. I'm sorry. I'm not clear.
13 Strike that. Before you left the room with Mr. Craine.
14 A Yes.
15 Q I was not clear about that. Before you left the room with
16 Mr. Craine, how was your demeanor?
17 A I was very upset and agitated that Mrs. Pelo wasn't
18 telling the truth.
19 Q And were you raising your voice?
20 A It was probably heightened, yes.
21 Q Were you making facial expressions?
22 A I was not.
23 Q Did you use any profanity?
24 A No, I did not.
25 Q Did you swear at anybody?

1 A I did not.
2 Q Did you threaten to hurt anybody?
3 A I did not.
4 Q Did you get up from your chair and approach Ms. Pelo?
5 A No, I did not.
6 Q Did anybody else from management say anything --
7 A Not to my recollection.
8 Q -- during that meeting? Did you ever talk over Ms. Pelo
9 when she was trying to talk?
10 A Actually, it was the other way around. She was talking
11 over me when I was trying to talk.
12 Q And then after you came back into the room with Mr. --
13 after having talked to Mr. Craine, how was your demeanor?
14 A A little more subdued. I didn't say anything after that.
15 Q And so before you left the room with Mr. Craine and you
16 were emotional, you said, can you explain why you were
17 emotional?
18 A Again, because my job was on the line. I not only needed
19 it, but I liked worked for Starbucks. It was a good job.
20 Q So when you left that day, were you escorted out by
21 security?
22 A I was not.
23 Q Were you escorted out by another manager?
24 A No, I was not.
25 Q Did you meet with management again after that?

1 A I did.
2 Q And when was that?
3 A May the 21st.
4 Q And where were you?
5 A We were in the management offices again.
6 Q And do you recall around what time it was?
7 A Again, between 10:00 and 11:00.
8 Q And do you recall who was present?
9 A There was Theresa Pelo, the store manager, Lisa, the
10 assistant store manager, Danny Craine from the Union and
11 myself.
12 Q And what was -- what did Ms. Pelo say in that meeting?
13 A She said that she was going to get right to the point and
14 that she was going to fire me for misconduct and being
15 disrespectful.
16 Q Did you say anything at that point?
17 A No, I just tried to hold back tears.
18 Q And did Danny say anything?
19 A No.
20 Q I'm going to approach you with what's been marked -- well,
21 did Ms. Pelo give you any sort of behavior notice that day or
22 termination paperwork?
23 A On the 21st, yes.
24 Q Okay. I'm going to approach you with Joint Exhibit 4.
25 Can you please look at that document? Do you recognize it?

A I do.
Q What is it?
A It is my termination papers.
Q Is that the document you received from Ms. Pelo?
A Yes, it is.
Q And so after she gave you that document, what happened next?
A Again, I didn't say anything. I was just holding back tears.
Q So did you leave at that point?
A Yes, I did.
Q And when you left that day, were you escorted out by security?
A No, I was not.
Q Were you escorted out by management?
A No, I was not.
MS. SAVELAND: Just one moment. All right. Nothing further at this time.
JUDGE TRACY: All right. Mr. Deeny, go ahead, please.
MR. DEENY: Thank you, Your Honor.

CROSS-EXAMINATION

Q BY MR. DEENY: Ms. Geaslin, have you provided any statements to the NLRB regarding these matters?
A National Labor Relations Board?
Q Yes.

A Yes.
Q How many?
A How many statements?
Q Yes.
A Just a beginning statement.
Q Well, so there's only one?
A As far as I know, yes.
MR. DEENY: May I see it please, Your Honor, pursuant to the Jencks Act?
JUDGE TRACY: Yes.
MS. SAVELAND: It's actually -- This was filed with the charge, so it's not a statement given to us in the packet (phonetic) here.
MR. DEENY: May I have a moment to review?
JUDGE TRACY: Sure. Let's go ahead and go off the record for about five minutes.
(Off the record at 10:49 a.m.)
JUDGE TRACY: Okay. We're back on the record. Go ahead, Mr. Deeny, please.
MR. DEENY: Thank you, Your Honor.
Q BY MR. DEENY: Ms. Geaslin, so you agree that in the meeting on the 9th, you were agitated?
A I was.
Q And in the meeting on the 15th, you were agitated?
A I was.

1 Q And you were agitated, because Ms. Pelo was telling you
2 what her authority was and you were disrespecting that
3 authority, correct?
4 A That is not correct.
5 Q It's true, is it not, that any authority figure that tells
6 you to do something, you resent, you become agitated?
7 A That is not correct.
8 Q I was giving my opening comments and you were agitated to
9 the point over her that counsel for the General Counsel had to
10 put his hand on you and say, "Calm down." Do you recall that?
11 A I don't believe I was agitated.
12 Q Do you recall that happening?
13 A I just had written a note to him. If writing a note is
14 agitated, then I guess I was agitated. But I just wrote a
15 note. And he said that he may have put his hand on me to tell
16 me that he already knew.
17 Q And to calm down.
18 A No, to calm down.
19 Q But Ms. Pelo did, correct? "You need to calm down and
20 listen to what I'm telling you."
21 A Ms. Pelo was always -- had a raised --
22 Q Would you answer my question, please?
23 A -- voice.
24 Q Ms. Pelo was telling you to calm down and listen to what
25 she was telling you, correct?

A That is not correct?
Q In neither meeting.
A In neither -- what -- the only time I was told to calm down by her was in the second meeting with Danny Craine, where she was telling not the truth about what had happened that day. And I was telling that -- I was telling her that that's not the way it happened. And she proceeded to tell Mr. Craine that he needed to take me out of the room, because I was -- and to calm me down.
Q You say that Ms. Pelo says, "Take her out of the room and calm her down."
A Correct.
Q So you were agitated to the point that it was interfering with what Ms. Pelo was trying to tell you.
A I was agitated, because Ms. Pelo was also raising her voice. And she was not telling the truth.
Q And you were --
A So she was also agitated.
Q And you were agitated when you were on the floor, correct?
A What do you mean on the floor?
Q On the day of the incident, on the front end of the floor in front of customers, you were agitated there too, correct?
A Not correct.
Q Ms. Pelo was?
A Yes, she was.

1 Q Because she gave you a direct order to sack groceries,
2 correct?
3 A She did.
4 Q Yeah. And you didn't, did you?
5 A I tried to. I --
6 Q Did you check groceries?
7 A I did not.
8 Q Did you sack groceries?
9 A I did not.
10 Q Did you go to the end of the check stands at all?
11 A Yes, I did.
12 Q You went into the check stands?
13 A I was at the back of the check stands.
14 Q Did you go and grab any bags, groceries of any guest in
15 that store and --
16 A I was not allowed to.
17 Q Did you do so, ma'am?
18 A I did not.
19 Q Now, it was very busy in that front end, wasn't it?
20 A It was not.
21 Q So in -- Ms. Pelo asking for help the front end was false?
22 A I'm not quite sure if I can answer that statement.
23 Q So was this summons to start -- she did say over the PA
24 system, "Can I get some help from Starbucks, please?"
25 A She did.

1 Q So then there was nobody in the check stands in the front
2 end?
3 A I'm not saying that there was nobody at the check stands.
4 Q Why would she ask for help, if it wasn't a critical point?
5 A I'm not quite sure.
6 MS. SAVELAND: Objection.
7 Q BY MR. DEENY: Did you hear.
8 MS. SAVELAND: He's asking to know what -- how --
9 MR. DEENY: She's answered.
10 JUDGE TRACY: Well hold on --
11 MS. SAVELAND: She's ask -- he's asking what Ms. --
12 JUDGE TRACY: -- on a minute. Let's listen to --
13 MS. SAVELAND: -- Pelo was thinking when she asked for
14 bagging. She can't answer to what Ms. Pelo was thinking when
15 she asked for bagging or why Ms. Pelo would call somebody to
16 bag.
17 JUDGE TRACY: All right. So go ahead and please rephrase
18 your question.
19 MR. DEENY: She answered my question.
20 Q BY MR. DEENY: You're the one that claims that Ms. Pelo
21 was somehow retaliating against you, because you had previously
22 complained about working elsewhere?
23 A That I'm -- again, I don't know what Ms. Pelo was
24 thinking.
25 Q Well, do you think she did this, because she was going to

1 set you up to come up and back groceries and -- because of that
2 previously incident that you're talking about?
3 A Again, I cannot answer that question, because --
4 Q She had a le --
5 A -- I don't know what she was thinking.
6 Q Did you hear her page for people from produce and from the
7 meat department and from the bakery prior to that?
8 A Produce a lot. Never the meat department, ever. Never
9 bakery and never Starbucks.
10 Q Isn't it true that Ica, Angelica, who's an assistant deli
11 manager --
12 A Yes.
13 Q -- fellow bargaining unit person, correct?
14 A Yes.
15 Q Represented by Local 7 --
16 A Yes.
17 Q -- correct?
18 A Correct.
19 Q Told you that she's been called up to sack groceries?
20 A Again, not to my knowledge.
21 Q You're saying that she's never said that to you?
22 A She's never said that to me.
23 Q Do you know if indeed that's the case?
24 A I have never, in the year that I worked for that store,
25 ever heard anybody from the meat department or the deli

1 department or the Starbucks department ever be called up to
2 help set groceries.
3 Q And you had been at Store 1 by what time?
4 A About a year.
5 Q And during that entire time, people from other departments
6 have never been called up --
7 A I --
8 Q -- to help.
9 A -- did not say that.
10 Q So it does happen.
11 A It happened, but mainly with produce and/or bakery.
12 Q Those are sa -- part of the same unit, aren't they?
13 A They are.
14 Q They're all part of Local 7, correct?
15 A On different bargaining agreements.
16 Q And there is nothing in the collective bargaining
17 agreement that says you are prohibited from sacking, is there?
18 A There is not.
19 Q Nothing that says you are working outside of your
20 jurisdiction when you do so, is there?
21 A It just gives --
22 Q Is there, ma'am?
23 A -- my -- no.
24 Q Nothing that says bakery, cutting samples from the bakery
25 is prohibited, is there?

1 A In our Starbucks agreement with Starbucks, there --
2 Q Ma'am, let's be real clear here. Who's your employer?
3 A King Soopers.
4 Q Not Starbucks, correct?
5 A Correct.
6 Q My question to you is, it is King Soopers and has
7 historically been King Soopers' request that you in Starbucks
8 cut samples, correct?
9 A The Starbucks is that we do Starbucks sampling.
10 Q I'm saying samples from King Soopers bakery products?
11 A It is not in the Starbucks agreement.
12 Q Ma'am, would you answer my question, please? King Soopers
13 has indeed asked you to do that, correct?
14 A They have.
15 Q And it's the same bargaining unit, correct?
16 A No.
17 Q It's UFCW Local 7, correct?
18 A We are under different bargaining agreement.
19 Q And is there --
20 A There's the meat cutters --
21 Q -- anything in those --
22 A -- agree --
23 Q Ma'am.
24 A Go ahead.
25 Q Is there anything in those agreements, meat cutters,

1 retail, that says though shalt not, as a Starbucks clerk, cut
2 samples?
3 A Not specifically.
4 Q And I just want to make sure I understand something. You
5 do realize that -- you said that you wanted to call your lead
6 at Starbucks?
7 A Yes.
8 Q Is that somebody who was in the store?
9 A No. He is a Starbucks employee.
10 Q A Starbucks employee. And isn't it true that Ms. Pelo
11 says, "What are you calling that person for? I'm your
12 supervisor?"
13 A Yes, she did say that.
14 Q And after all, King Soopers is the one who pays you,
15 correct?
16 A They are.
17 Q Pays you benefits as well, correct?
18 A Correct.
19 Q Not Starbucks.
20 A Not Starbucks. But if I may --
21 Q Thank you. You've answered my question.
22 A Okay.
23 Q Now, is it not true that actually, you've had a good
24 relationship with Ms. Pelo?
25 A It is not true.

1 Q Hm. Is there some episode that would indicate that there
2 was not a good relationship with Ms. Pelo?
3 A There was more than -- several occasions that I don't have
4 a good of -- yeah, appeal (phonetic) with her.
5 Q Did you ever file a grievance over any of that?
6 A I did speak with Danny several times about how she yells
7 at me -- people on the sales floor, instead of pulling us back
8 to the office.
9 Q Let me ask it again. Please listen to my question. Did
10 you ever file a grievance about that?
11 A I spoke with Danny Craine about it --
12 Q Ma'am, would you please --
13 A -- which is -- to me is --
14 Q -- answer my --
15 A -- grieving.
16 Q -- question? Did you file a grievance?
17 A No, I did not.
18 Q All right. And in fact, this episode about your claim
19 that Latrina (sic) and the rest that you were describing. You
20 said that Ms. Pelo asked you about that?
21 A Yes.
22 Q And you told her you hadn't said anything to anybody about
23 that, correct?
24 A I told her I did not speak with anybody from the Union
25 about that.

1 Q So that's a lie, isn't it?
2 A No, it is not.
3 Q It's not?
4 A No, it's not.
5 Q Well, did you just get through testifying that Latrina --
6 you did talk to about that?
7 A When I talked to Latrice, I did not know that she was one
8 of the store Union reps.
9 Q Would you -- and I apologize. It's Latrice. Is that how
10 you --
11 A Latrice.
12 Q -- say it?
13 A Yes.
14 Q Not Latrina?
15 A No.
16 Q And Latrice is a produce clerk --
17 A She is --
18 Q -- according to you? So that's the same Union, correct?
19 A No. We have Local 7, but we're under different bargaining
20 agreements.
21 Q But she's your steward in the store?
22 A She apparently was. At the time, I did not know so.
23 Q But -- and you said there's another steward in the store,
24 Manny?
25 A Yes.

1 Q Did you ever request to file a grievance with either of
2 those people about being asked to cut samples?
3 A Once again, I did not file a grievance --
4 Q Okay.
5 A -- but yes, I had spoke with Manny.
6 Q And no grievance was filed, correct?
7 A Correct.
8 Q So just so I'm clear. Apparently, when you spoke with
9 Danny, you said, "They're asking me to work outside of what,"
10 my jurisdiction?
11 A No, that was not how -- what was said.
12 Q Well, what was the complaint, then?
13 A The complaint was that we can't get our products at
14 Starbucks sampled out and also bakery's products and do the
15 duties that are listed in the Starbucks agreement.
16 Q That's not was your statement to the General Counsel says.
17 There wasn't any mention about inefficiency in getting your
18 product out.
19 A There was.
20 Q I'm asking you. There's nothing. Not a word about that
21 in the statement that you wrote for the General Counsel. Do
22 you want to read that?
23 MR. DEENY: May I approach, Your Honor?
24 JUDGE TRACY: Yeah, but just keep in mind what the --
25 MR. DEENY: I will.

1 JUDGE TRACY: -- court reporter also said about the --
2 MR. DEENY: I will.
3 JUDGE TRACY: Yeah. Go ahead, please.
4 MR. DEENY: And I think you'll pick it up, but maybe not.
5 So let me step away from the witness, please.
6 Q BY MR. DEENY: I showed you your affidavit that you
7 submitted in this case. And you understand you were under oath
8 at that time, correct?
9 A And so --
10 JUDGE TRACY: So Ms. Geaslin, there was a question that
11 was --
12 THE WITNESS: the question was --
13 JUDGE TRACY: -- posed to you.
14 THE WITNESS: -- I'm sorry?
15 Q BY MR. DEENY: You understand that the time you gave that
16 statement that is in front of you, that you were under oath at
17 the time, correct?
18 A Yes.
19 Q And you understand that you were to tell the truth,
20 correct?
21 A Correct.
22 Q And there's not one mention in that description about
23 there being an efficiency as bakery versus Starbucks, because
24 you had to cut samples, is there?
25 MS. SAVELAND: Objection. He's --

1 JUDGE TRACY: What's the objection?
2 MS. SAVELAND: He's misrepresenting what's in the
3 complaint, what's in the affidavit.
4 MR. DEENY: I'm not misrepresenting --
5 MS. SAVELAND: She said --
6 MR. DEENY: -- anything.
7 MS. SAVELAND: It's right in the paragraph above it, where
8 she talks about cutting samples for the bakery. So I think
9 he's trying to confuse the witness.
10 JUDGE TRACY: Well let -- hold on a minute, okay? So this
11 is her affidavit. You know, I'm going to overrule the
12 objection. You can certainly on your redirect clarify that and
13 do whatever you need to do to clean up --
14 MS. SAVELAND: Yes, Your Honor.
15 JUDGE TRACY: -- what you're saying is being
16 misrepresented.
17 MS. SAVELAND: I understand.
18 JUDGE TRACY: Let him do his cross-examination, though.
19 Go ahead, Mr. Deeny.
20 Q BY MR. DEENY: I'm asking you about the March 24
21 management having samplings out pastries for the bakery, even
22 though they were in the deli. Do you understand my question?
23 A Yes.
24 Q Okay. It says in here that you complained to Latrice in
25 produce, correct?

1 A Correct.
2 Q Doesn't say that you complained about inefficiencies at
3 all in the bakery, does it?
4 A Well, maybe it just wasn't put in there, because yes, I
5 did --
6 Q Does it say anything about that in there?
7 A No.
8 Q Does it say anything about inefficiencies in Starbucks by
9 having to do so?
10 A Oh, I'm pretty sure that somewhere in there, there is a
11 statement that says that --
12 Q Inefficiencies --
13 A -- that's one --
14 Q -- in Star --
15 A -- page that you're showing me.
16 Q Ma'am, I'm showing you the -- your statement about this
17 event. Where does it reference anything about inefficiencies
18 in Starbucks?
19 A Well, I may -- she may not have put it in there at the
20 time. She was -- the first person I came to when I was let go.
21 Even before the unemployment, I came here.
22 MS. SAVELAND: Your Honor, if I may, could Mr. Deeny
23 please sit down? He's right towering over here.
24 MR. DEENY: I --
25 JUDGE TRACY: Yeah, I think -- it -- you know, I'm going

1 to -- if that was an objection, I'm going to overrule it. You
2 know, he has the right to get up. He asked for my permission
3 to ask her questions. There doesn't seem to be anything that's
4 going on here. He's just talking to her about the affidavit
5 here. But also, let me just say that I think that you're
6 making your point of what you'd like, so I think perhaps you
7 can sort of move on to the next section.
8 MR. DEENY: I do. I just need to focus this one last
9 inquiry.
10 Q BY MR. DEENY: And if you would read the last paragraph to
11 yourself.
12 A And yes.
13 Q Okay. So you've had a chance to read that?
14 A I did.
15 Q All right. May I? Thank you. Ms. Geaslin, that
16 affidavit says that four days after you complained to Latrice,
17 correct?
18 A Correct.
19 Q Not Danny. Not Danny Craine, correct? Correct?
20 A Correct.
21 Q "Theresa said something to me like, 'I wasn't going to ask
22 you, but did you really complain to the Union about having to
23 sample out stuff for the brakery (sic) -- bakery?'"
24 A And yes, it said I was blinded by that question.
25 Q And it says something else, too, right? It says no. You

1 answered to her no, correct?
2 A I answered to her -- yes.
3 Q Theresa.
4 A Theresa. I said yes.
5 Q I --
6 A No, I did not complain to the Union.
7 Q That's not what this says. "I was blindsided and I said
8 no," correct? That's a lie, isn't it?
9 A No, It's not a lie.
10 Q Well, ma'am, you just go through saying that you had
11 complained to Latrice.
12 A At the time, I did not know that she was a Union rep, so
13 yes.
14 Q Does that matter?
15 A Yes, it does.
16 Q So you're a partial liar? Is that what it is?
17 A I'm not lying at all.
18 Q Theresa asked you, "Did --
19 A Did Tr --
20 Q -- you com -- did you really complain about having to cut
21 bakery samples?"
22 A Point is that --
23 Q Would you --
24 A -- at the time --
25 Q -- answer my question?

1 A I am answering your question.
2 Q Ma'am, you're not answering my question.
3 A I am. At the time, I did not know that Latrice was a
4 Union steward.
5 Q That's not my question.
6 A So me telling Theresa no is not a lie, no.
7 Q It's at least --
8 A It was not a lie.
9 Q -- a partial lie, isn't it?
10 A No.
11 Q Hm. She asked you, "Did you really complain about having
12 to sample out stuff for the bakery?" correct?
13 A And -- she asked if I complained to the Union about having
14 to sample out --
15 Q Okay.
16 A -- bakery products.
17 Q Did you say to her, "No, I didn't complain to the Union,
18 but --
19 A That is correct.
20 Q -- I did complain --
21 A I did --
22 Q -- to Latrice?"
23 A I did -- I didn't tell her I complained to Latrice.
24 Q So let's talk a little bit more about this relationship
25 with Ms. Pelo. You transferred into Store 1, correct?

1 A I did.
2 Q And that was because you were under a suspension and a
3 previous write-up at Store 29, right?
4 A No.
5 Q You're saying that you weren't suspended at Store 29?
6 A No, I was not.
7 Q You weren't written up at Store 29?
8 A I was written up at Store 29.
9 MR. DEENY: May I approach, Your Honor?
10 JUDGE TRACY: Yes.
11 MR. DEENY: And are we marking it as Employer 1?
12 (No audible response)
13 MR. DEENY: We will? Okay. I'd like to have it marked
14 as --
15 COURT REPORTER: Are there two or just one?
16 MR. DEENY: There's two. That's Employer 2 as well.
17 JUDGE TRACY: No, he needs two copies.
18 MR. DEENY: Oh yes. I understand that. So the first one
19 -- no, sorry --
20 COURT REPORTER: Yeah, I got you.
21 MR. DEENY: Okay. May I approach, Your Honor?
22 JUDGE TRACY: yes.
23 Q BY MR. DEENY: Okay, I'm giving you Employer --
24 Respondent's Exhibit 1 and Respondent Exhibit 2. Do you see
25 those?

1 A Yes.
2 Q Those are both disciplinary behavior notices at Store 29,
3 correct?
4 A They are.
5 Q Store 29 is also in the Denver bargaining unit, correct?
6 A They are.
7 Q It's located at 6th and Corona, correct?
8 A Ninth and Corona.
9 Q Excuse me. Ninth and Corona. Walking distance to Store
10 29, correct?
11 A Yes.
12 Q To Store 1, correct?
13 A Yes.
14 Q And you lived in that neighborhood, correct?
15 A I did.
16 Q And then you gave an address here today in this proceeding
17 that was on West 33rd. What is that?
18 A That is where I'm staying at the moment.
19 Q I'm sorry?
20 A It's where I'm staying at the moment.
21 Q Staying with whom?
22 A It's actually a woman's shelter.
23 Q Hm. And why are you there?
24 A Because I was fired from King Soopers, I was evicted from
25 my apartment, which I lost everything. And ended up having to

1 be on the street.
2 Q So why didn't you go to work at Starbucks? Because you
3 said you really liked Starbucks.
4 A I have put in applications at Starbucks.
5 Q Seems to me if you were a good employee, they would have
6 hired you immediately.
7 A That's your opinion, not --
8 Q And there's a Safety --
9 A -- or hearsay, as you say.
10 MR. DEENY: I'll move to strike the testimony as
11 nonresponsive.
12 JUDGE TRACY: That was her responsive, okay? Let's just
13 move --
14 MR. DEENY: It's not responsive --
15 JUDGE TRACY: Let's move on.
16 MR. DEENY: -- to my question.
17 JUDGE TRACY: Let's move on.
18 Q BY MR. DEENY: And there's a Safeway, let's see, about
19 three blocks away from store --
20 MS. SAVELAND: Objection. Are we getting into her job
21 search? This doesn't have to do with the ULP, Your Honor.
22 JUDGE TRACY: Yeah. So we're going to -- I'm going to
23 sustain the objection. Please move on.
24 Q BY MR. DEENY: There's a Safeway three blocks away that's
25 covered by the same bargaining unit, correct?

1 JUDGE TRACY: Did -- I just sustained the objection, so
2 you need to move on with --
3 MR. DEENY: I'm asking her about why --
4 JUDGE TRACY: -- the next question.
5 MR. DEENY: -- she transferred to Store 1, when she
6 received two disciplinary counselings, as opposed to --
7 THE WITNESS: I trans --
8 JUDGE TRACY: So wait a minute. Wait a minute. You just
9 asked another -- the same question that you had just asked.
10 There was an objection. I sustained it. You started talking
11 again about Safeway. So what I'm saying is please focus back
12 on these exhibits here and wherever else you want to do --
13 MR. DEENY: I will.
14 JUDGE TRACY: -- in terms of the cross-examination.
15 MR. DEENY: I will.
16 Q BY MR. DEENY: There is a Safeway three blocks away that's
17 in the same bargaining unit, correct?
18 A Correct.
19 Q Starbucks stores, correct? They have one, too?
20 A I'm not sure about that.
21 Q And you do agree with me, after looking at that, that you
22 actually had a written warning for violating the company lunch
23 period, correct?
24 A If I may explain.
25 Q Ma'am, please.

1 A Yes, I was written up, but I should have only had one
2 write-up, because I was not told about the first incident until
3 after the second incident occurred.
4 Q And Exhibit 2 is a suspension for the same rule violation,
5 correct?
6 A Oh, no. No suspension.
7 Q Ma'am --
8 MR. DEENY: Your Honor, may I approach?
9 JUDGE TRACY: Yes.
10 MR. DEENY: Thank you.
11 Q BY MR. DEENY: Exhibit 2 specifically says suspension. Do
12 you see it?
13 A Again, there must have been a mistake there, because I was
14 never suspended for either one of these incidents.
15 MR. DEENY: May I offer 1 and 2, please?
16 JUDGE TRACY: Any objections to Respondent's Exhibits 1
17 and 2?
18 MS. SAVELAND: No objection.
19 JUDGE TRACY: Okay. So Respondent's Exhibits 1 and 2 are
20 admitted into evidence.
21 **(Employer's Exhibits 1 and 2 Received into Evidence)**
22 Q BY MR. DEENY: And ma'am, you realize that based on the
23 language in the suspension, if there were any further problems
24 with this, you could be terminated, correct?
25 A Correct.

1 Q Yeah. Now, you are aware, as the counseling advises you,
2 that you are supposed to take your lunches, correct?
3 A That is correct.
4 Q You are aware that as a matter of the collective
5 bargaining agreement, you are supposed to take those lunches
6 within the middle of your shift, correct?
7 A That is correct.
8 Q And you aware that that's a requirement under state law,
9 correct?
10 A That is correct.
11 Q And you violated that again on the 9th, correct?
12 A If I may.
13 Q You violated it again on the 9th, correct?
14 A I wouldn't call it a violation.
15 Q Ma'am, if you know that you have been disciplined twice
16 for not taking your lunches at the appropriate time, if Ms.
17 Pelo was looking to terminate you, couldn't she have terminated
18 you for that violation again?
19 A Ms. Pelo --
20 Q Answer my question, please.
21 A I am answering your question. Ms. Pelo is the one that
22 tells us --
23 Q You're not answering my question. You're arguing.
24 A -- that --
25 Q It's a yes or no. She could have terminated you --

A She --
Q -- again --
A -- yes --
Q -- correct?
A -- she could have.
Q Now, when you first came to that store, 29, you walked to work, correct?
A I did.
Q Just like you could walk to Safeway, correct?
A At the time, no, I couldn't have walked to Safeway.
Q Why not?
A Because I was at a different address.
Q You were over at 13th Avenue, correct?
A I was on Humboldt and 11th.
Q I thought it was --
A Not -- I'm sorry.
Q Ogden, correct?
A Well, that's one of the addresses, but at the time I transferred, I was on Downing and 11th --
Q Okay.
A -- near Store 29.
Q And you walked to Store 29.
A Yes.
Q You walked to Store 1, when you transferred there, correct?

1 A Correct.
2 Q And --
3 A And what does this have to do with anything?
4 Q I get the point.
5 A Uh-huh.
6 Q I understand exactly what Ms. Pelo was dealing with,
7 ma'am. The answer to my question is yes, you walked to Store
8 29 --
9 A Yes --
10 Q -- too.
11 A -- I did.
12 Q And the very first week you were there, you were mugged,
13 correct?
14 MS. SAVELAND: Objection. Where is he going with this?
15 JUDGE TRACY: All right. So what's the point of it?
16 MR. DEENY: Ms. -- it should be obvious. Ms. Pelo's
17 animosity --
18 JUDGE TRACY: To what?
19 MR. DEENY: -- towards this individual.
20 JUDGE TRACY: You know, I need you to move on, because I'm
21 not really sure what the --
22 MR. DEENY: I'm moving in the right direction and it is to
23 this point of animosity towards this individual.
24 JUDGE TRACY: All right. Let me say this. I already said
25 this before off the record, but I'm going to say it now. You

1 need to look at me.
2 MR. DEENY: I did.
3 JUDGE TRACY: No, now.
4 MR. DEENY: I am.
5 JUDGE TRACY: I'm expecting respect in this courtroom, not
6 just for myself, but for the witness and for everybody else in
7 this room. And at this point, I'm making rulings, and you're
8 not hearing me. I sustained the objection. Move on to the
9 next question.
10 Q BY MR. DEENY: Ms. Pelo gave you time off and offered to
11 buy you lunch in that event. Isn't that true?
12 A Days after I was mugged.
13 Q So that is true.
14 A Yes.
15 Q I wanted to ask you about a document. I'm not sure --
16 MR. DEENY: If I may approach.
17 JUDGE TRACY: Well, you need to first ask me and then
18 approach.
19 MR. DEENY: I said, "If I may approach."
20 JUDGE TRACY: Yes. And then you started to come.
21 MR. DEENY: May I approach, Your Honor?
22 JUDGE TRACY: Yes, you may.
23 Q BY MR. DEENY: With that statement that you have in your
24 hand, there is also a single piece of paper that was -- that
25 apparently it's not attached to, so I don't know what it is.

1 But do you remember writing that document?
2 (Witness reviews document)
3 A I do not remember writing this. Yes, it is my
4 handwriting. But at the time, I was probably very emotional.
5 And I don't see anything in here that is threatening. It is
6 the truth.
7 Q Ms. Geaslin, let's just take them one at a time. Did you
8 write that?
9 A Yes, I did.
10 Q When did you write that?
11 A I'm not sure.
12 MR. DEENY: Your Honor, may I have it marked for
13 identification and if need be, we'll offer it into --
14 JUDGE TRACY: Do -- does General Counsel have a copy?
15 MS. SAVELAND: I do. I gave it to him.
16 JUDGE TRACY: Okay. Do you have another --
17 MR. DEENY: I don't.
18 JUDGE TRACY: -- copy.
19 MR. WATSON: We just received that just --
20 MS. SAVELAND: I can make a copy.
21 MR. WATSON: -- a few minutes ago, that single copy.
22 JUDGE TRACY: Oh, okay. This was --
23 MR. WATSON: As part of the Jencks.
24 JUDGE TRACY: -- part of the Jencks?
25 MR. DEENY: I can withdraw it to make copies after --

JUDGE TRACY: No, no, no, no, no. We'll just make copies. All right, so let's list --

MR. WATSON: I have stickers we could --

JUDGE TRACY: -- it as General Counsel's. You're going to do it as Respondent's?

MR. DEENY: It was part of the Jencks statement. That's where that came from. I don't know --

JUDGE TRACY: Right.

MS. SAVELAND: We can make copies.

JUDGE TRACY: So, do you have -- I mean, normally Jencks statements don't come in. I mean, this is -- so do you have any problems with this coming in?

MS. SAVELAND: Just a moment, Your Honor. I'm going to object as it being irrelevant at this point. I don't understand why this is relevant to being in evidence. She's testifying.

JUDGE TRACY: Well, where does it come from?

MS. SAVELAND: She actually gave it to us. She believed she had filed it with the charge and put it -- attached it to the charge, when she filed the charge. I believe that's how we got it.

JUDGE TRACY: All right. So this is what I would say was that, you know, typically, again, these are -- this would be considered Jencks statements. And she has signed it here. So you can certainly use it to cross-examine her, but we're not

1 going to have it entered into the record here. It's similar to
2 any affidavit that she gave to the Board.
3 MR. DEENY: Well, it's not similar, Your Honor. It's not
4 a sworn statement. At best, it's a prior inconsistent
5 statement. Her writing. If it were attached to the grievance
6 or the charge. It's her statement. It's not a Jencks
7 statement. Affidavit.
8 JUDGE TRACY: Uh-huh, right. But sometimes, you know,
9 when, you know, some of the case law that talks about this,
10 they talk about the fact that, you know, it's a signed
11 statement. Yes, it's not under oath. And you can try to admit
12 it and, you know, I'm going to deny it, at this point. You
13 know, I might come back and change my ruling, but.
14 MR. DEENY: Just as a matter of evidence, the opponent has
15 the right to admit prior inconsistent statements.
16 JUDGE TRACY: Right. And so you can certainly do that
17 with the cross examination of this, using this as a statement
18 just as much as you used the affidavit.
19 MR. DEENY: Right. I do think the difference is a prior
20 inconsistent statement unlike a Jencks statement can be
21 admitted for substantive evidence by the opponent.
22 JUDGE TRACY: And then why wasn't this just attached with
23 the charge that you already had put in here?
24 MS. SAVELAND: You know, I am not sure if it was
25 physically attached to the charge. I just know that when I, to

be honest, when I received the charge file to begin the investigation it was in the file. So I don't know if she brought it and handed it off with the charge.

But since Jencks says that we have to give any statement that they've signed, in an abundance of caution, I gave it to Mr. Deeny as a Jencks statement.

JUDGE TRACY: Uh-huh. And so again your position is that you would object to this being entered into.

MS. SAVELAND: Yes. And I don't believe it's an inconsistent statement either. It's irrelevant and I object to it.

JUDGE TRACY: All right. Well, let's -- at this point you should mark it as Respondent's Exhibit, what, 3? Four? Three.

MR. WATSON: I have a sticker we should put on there for Respondent's exhibit --

JUDGE TRACY: At this point, I'm not going to allow it. I'm going to sustain the objection but I'm going to also think about it about having it actually entered into the record. Okay? So that's how we'll proceed.

MR. WATSON: So how is it marked, Your Honor?

JUDGE TRACY: So you'd do --

MR. WATSON: Do you want to put a sticker on it?

JUDGE TRACY: -- Respondent's Exhibit 3.

MR. WATSON: It would be "3."

(Employer Exhibit 3 Marked for Identification)

1 MR. DEENY: Thank you.
2 And since that hasn't been accepted, do you want to hold
3 onto it until we have a decision and then we make copies?
4 Do you have an extra, Isabel?
5 MS. SAVELAND: (No audible response)
6 MR. DEENY: Thank you.
7 May I approach, Your Honor?
8 JUDGE TRACY: Yes.
9 Q BY MR. DEENY: So I'm handing you this statement that
10 we've been talking about. Okay? And it's not dated, correct?
11 A No, it is not.
12 Q But when do you think you wrote this?
13 A It's been so long, I'm not sure.
14 Q Did you write it for Danny Craine?
15 A I'm not sure who I wrote it for.
16 Q And at any time did Danny Craine ever tell you that you
17 were prohibited from cutting samples for the store?
18 A He did not say those words.
19 Q At any time, did Danny Craine file a grievance for you
20 because you were asked to do so?
21 A No.
22 Q And we already established, I think, but correct me if I'm
23 wrong, Danny Craine filed no grievances about Ms. Pelo
24 questioning you about whether she had complained to the Union,
25 correct?

1 A He had said something to the fact that he was going to do
2 it and then somewhere the ball got dropped.
3 Q Did you ever have a grievance filed about that?
4 A No.
5 Q And in here this handwritten statement, you state that the
6 manager of Store 1 is using he (sic) management to bully
7 employees. Do you see that?
8 A I meant to say her. Again, it was probably written when I
9 was upset.
10 Q And no mention about any comment to you from Theresa Pelo
11 about talking to the Union about samples, correct?
12 A In this letter?
13 Q Right.
14 A No. Why should there be?
15 Q There is nothing about that, correct?
16 A No.
17 Q And down at the bottom it says and it's after your
18 signature so when did you add that information?
19 A Probably after I wrote the "thank you, Wendy Geaslin." So
20 on the same date.
21 Q Why did you put it below the signature?
22 A Because I had another thought. I remembered what also
23 went on.
24 Q And the other thought was what she wrote in yellow is not
25 what happened.

1 A Correct.
2 Q So would that help you recall that you wrote this -- what
3 is "in yellow" in reference to?
4 A It is in reference to Exhibit, I guess, X-4 where she said
5 that I was making faces at her and telling her I was not going
6 to do what she told me to do.
7 Q And that conversation would've happened on the 21st when
8 you received your termination paper, correct?
9 A Correct.
10 Q So that would've been before any charge was filed,
11 correct?
12 A Me writing this?
13 Q Charge with the NLRB.
14 A It was probably about the same time.
15 Q So it wasn't prepared to attach to that charge. It
16 would've been prepared before any charge was filed, correct?
17 A I'm not sure.
18 Q Ms. Geaslin, represent to you the General Counsel
19 exhibits. The papers reflect that the first charge that was
20 filed with the Agency was May 29, 2014.
21 MR. DEENY: We'll stipulate to that?
22 MS. SAVELAND: Yeah.
23 Q BY MR. DEENY: And on the charge that is referenced there,
24 there is no reference to an attached statement.
25 MR. DEENY: If I may approach, Your Honor?

1 JUDGE TRACY: Yes, go ahead, please.
2 Q BY MR. DEENY: That's your charge that you filed, correct?
3 A Correct.
4 Q No reference to any attached statement, correct?
5 A That may be. No, there's no. No.
6 MR. DEENY: And, Your Honor, I understand you've reserved
7 ruling but I renew my request to admit Respondent's Exhibit 3.
8 JUDGE TRACY: Yeah. So and Ms. Saveland, go ahead with
9 any objections to Respondent's Exhibit 3.
10 MS. SAVELAND: I object to relevance. It doesn't go to
11 the Unfair Labor Practices. He used it for impeachment
12 purposes. And so I object.
13 JUDGE TRACY: All right. So at this point, you know,
14 let's put this on the side because I need to think a little bit
15 about it and do a little research myself on Respondent's
16 Exhibit 3 to see whether I admit it or we put it in the
17 rejected exhibits file. Okay? So we'll come back to that
18 perhaps after lunch.
19 Q BY MR. DEENY: You were asked about Joint Exhibit Number
20 4.
21 MR. DEENY: The witness may not have it. May I approach,
22 Your Honor? Do you have it?
23 THE WITNESS: Yes.
24 JUDGE TRACY: Joint Exhibit 4?
25 Q BY MR. DEENY: That's the termination paper that you were

1 given in the meeting on the 21st with Mr. Craine there?
2 A Yes.
3 Q And that document, that's the one you said was in yellow,
4 correct?
5 A Yes.
6 Q And specifically you said that the portion that you
7 highlighted was about the statement that's about four lines
8 from the bottom of that narrative, "When she stated she did not
9 have to respect me until I respected her." Is that the thing
10 that you say never happened?
11 A I did not tell Ms. Pelo that I did not, wasn't going to
12 respect her.
13 Q Do you recall saying to her you need to earn my respect?
14 A No, I did not say those words.
15 Q Anything like that?
16 A Well, what I had said was if you want people to respect
17 you maybe you should try to show them a little respect.
18 Q And that was in front of two assistant store managers?
19 A No. There was one store assistant manager at that time.
20 Q And that was Lisa Pandearella.
21 A Yes.
22 Q And in the meeting on the 14th, you were suspended pending
23 investigation, correct?
24 A Correct.
25 Q Because Ms. Pelo told you that she had to think about this

1 and talk to her manager, correct?
2 A Actually, Danny Craine was the one that told her that she
3 needed to do so.
4 Q Danny Craine told Ms. Pelo she needed to talk to her --
5 A That she needed to take the proper steps to fire me or to
6 let me go, to terminate me.
7 Q So Ms. Pelo did not tell you that she wanted to talk to
8 her manager about this.
9 A After Danny suggested it, yes.
10 Q And that's in the -- that conversation occurred on the
11 14th in front of not only Ms. Pelo but the two assistant store
12 managers, correct?
13 A Yes.
14 Q Who would be in the position of running the store and
15 giving you orders about work assignments in Ms. Pelo's absence,
16 correct?
17 A Yes.
18 Q Is that correct?
19 A Correct.
20 Q And that's the meeting in which, according to Ms. Pelo,
21 you were very obstinate and being very disrespectful by making
22 faces in that meeting, correct?
23 A That's what is written down but that's not how it
24 happened.
25 Q Well, ma'am, you didn't take any exception to that in your

1 handwritten statement contemporaneous with receiving this
2 counseling.
3 A Well, I'm not as well educated on the law. If I would've
4 been more educated on the law, I may have written that down.
5 Q You do agree it's not even mentioned in your statement
6 contemporaneous with the events, is it?
7 A Again, there were, I was upset. She was upset. It was --
8 Q And just so we're clear, she was upset with how you were
9 disrespecting her, correct?
10 A And I was upset how she was yelling and disrespecting me.
11 Q At any time, did she say and this is because of previous
12 episodes I've had with you?
13 A No, that is not true.
14 Q Now, you knew that the day of the 9th when this event
15 happened that you were suspended pending investigation,
16 correct?
17 A On the 9th?
18 Q Yes.
19 A Yes. Five-day suspension.
20 Q But pending investigation about this.
21 A There was nothing said about pending investigation.
22 Q You said that as soon as you left the meeting on the 9th,
23 you went and called Mr. Craine.
24 A I did.
25 Q You ever seen the grievance that was filed in this matter?

1 A I'm not sure if he did file a grievance on that.
2 MR. DEENY: May I approach, Your Honor?
3 JUDGE TRACY: Yes, please.
4 Q BY MR. DEENY: Exhibit 4. Respondent's Exhibit 4 is the
5 grievance and if you look at the complaint filed by you and
6 your representative in the box called "complaint"; do you see
7 it?
8 A Dispute?
9 Q Complaint.
10 A Yes.
11 Q Do you see it?
12 A Yes.
13 Q Ms. Geaslin was suspended pending investigation on 5/9/14
14 and subsequently terminated on 5/21/14. Do you see that?
15 A I do.
16 Q And no grievance was ever filed regarding any complaint
17 against Ms. Pelo for bullying as you described in Exhibit 3,
18 correct?
19 A Not in this, no.
20 Q Now, I want to just be clear about how the meeting on the
21 9th ended. You said Angelique or --
22 A Angelica.
23 Q She also goes by Ica (phonetic), correct?
24 A Yes.
25 Q She's a fellow bargaining unit person, correct?

1 A She's the assistant deli manager in our bargaining
2 agreement. Yes.
3 Q And so she would be in the bargaining unit and --
4 A Meat cutters.
5 Q Pardon?
6 A The meat cutters.
7 Q The meat agreement. The same agreement you're in,
8 correct?
9 A Correct.
10 Q And so she sat through that entire discussion in the
11 office, correct?
12 A She did.
13 Q And at the end of that meeting when Ms. Pelo told you that
14 she was sending you home that day --
15 A Yes.
16 Q -- you said to her, well, you can't hurt me; didn't you?
17 A I did never say those words.
18 Q Anything like that?
19 A The only one I said was wah after she told me that I was
20 going to miss a week's pay.
21 Q And it's your testimony that wasn't after you just said
22 you can't hurt me?
23 A I never said those words.
24 Q Nothing like that.
25 A Nothing like that.

1 Q And it wasn't just wah. It was --
2 A Oh, wah.
3 Q Yeah. And, in fact, it was wah, wah, wah. Correct?
4 A Well, there may have been another wah or two in there.
5 Q Like a baby crying, right?
6 A Not necessarily.
7 Q Oh, well. What other option do we have? What did you
8 mean by that other than disrespect?
9 A I wasn't doing it for disrespect. I was just --
10 Q What possible good was accomplished by that?
11 A It made me feel better.
12 Q Okay.
13 MR. DEENY: May I offer 4, Your Honor?
14 JUDGE TRACY: Any objection to Respondent's Exhibit 4 from
15 being entered into evidence?
16 MS. SAVELAND: I don't see the relevance to this document.
17 Whether the Union filed a grievance is not part of whether they
18 committed an Unfair Labor Practice or not.
19 JUDGE TRACY: And so what's your response to that?
20 MR. DEENY: Well, Your Honor, if there had been
21 allegations that were really the gravamen of this complaint
22 about eroding Union rights which is specifically spelled out in
23 the agreement and the rest that would've been stated in the
24 complaint. Plus, it contradicts their witness' testimony about
25 pending, she said that she was already suspended. It's pending

1 investigation.

2 JUDGE TRACY: All right. So I'm going to overrule the

3 objection and allow or admit Respondent's Exhibit 4 into

4 evidence.

5 **(Employer Exhibit Number 4 Received into Evidence)**

6 Q BY MR. DEENY: Ms. Geaslin, how did you come to know about

7 the meeting that was set up for the 14th?

8 A Ms. Pelo had said we'd get back on the -- actually, yeah.

9 Ms. Pelo said that we'd meet again on the 14th.

10 Q And a behavior notice like Joint Exhibit 4 wasn't actually

11 filled out --

12 A No.

13 Q -- suspension, correct?

14 A No, it was not.

15 Q Disciplinary suspension?

16 A I never received a disciplinary write-up.

17 Q And so Ms. Pelo said we would get together on the 14th.

18 So that was in front of Ica, correct?

19 A Yes. No. Oh, yeah, when I said that or she said that.

20 Yes. Angelica was in the office.

21 Q And I'm sorry? I didn't hear the last part of that.

22 A Yes. Angelica was still in the office.

23 Q Okay. And what was the purpose of the meeting on the

24 14th?

25 A To let me know what was going on, if I was going to be put

1 back to work or fired.
2 Q So you knew it was going to be some debriefing about these
3 events on that day?
4 A Correct.
5 Q Okay. And so then you notified Mr. Craine about this so
6 he could be in attendance?
7 A I notified him on the 9th, yes.
8 Q Okay. And you told him where you will be meeting with Ms.
9 Pelo on the 14th.
10 A Correct.
11 Q You said that the Starbucks was also busy --
12 A Yes.
13 Q -- on that day.
14 A Starbucks is always busy.
15 Q Well, if it were busy then that would be a bad time to be
16 leaving, wouldn't it?
17 A We often had to because there were only two employees at
18 any given time. So we was instructed more than once by Ms.
19 Pelo that we couldn't take our lunch until we got the lines
20 down and then we may take our lunch.
21 Q And as you -- so you told Bianca who was the other
22 barista, correct?
23 A Correct.
24 Q And that's not a King Soopers' requirement. That's a
25 Starbucks requirement that some barista always has to be in --

1 A Correct.
2 Q In Starbucks, correct?
3 A Correct.
4 Q And so you left because Bianca could take care of the
5 business there, correct?
6 A At the time, there were no customers so, yes, that was a
7 good time to try to take a lunch.
8 Q Okay. And if there were no customers, probably a good
9 time for Ms. Pelo to help up in the front, correct?
10 A At the time, we had customers.
11 Q I'm asking you about when you decided to go take your
12 lunch. And you said that was at 1:00.
13 A That was correct.
14 Q That's not correct, though, is it? It wasn't at 1:00.
15 A It was close to 1.
16 Q Have you ever looked at your timecard?
17 A No.
18 Q You're obligated to punch out for lunch, are you not?
19 A Yes.
20 Q It's an unpaid lunch, correct?
21 A Correct.
22 Q I'm showing you Respondent's Exhibit 5. That's your
23 timecard history at Store 29. And if we look at 5/9/14 of that
24 document, your shift started at 5:29 a.m., correct?
25 A Correct.

1 Q And the punch out that you gave is at 2:05 p.m., correct?
2 A You mean 12 --
3 Q Excuse me. Did I say 2? I'm sorry.
4 A 12:05.
5 Q 12:05 p.m. So five minutes after noon. Not 1:00,
6 correct?
7 A Well, again, that --
8 Q Is that correct?
9 A That is correct.
10 Q Now, that's not halfway through your shift, is it?
11 A It's over halfway through my shift.
12 Q Right. You're supposed to take it halfway into your
13 shift.
14 A Well, if I may --
15 Q Correct? That's what you've testified to.
16 A Correct.
17 Q Thank you.
18 And there's no notation here that it's for lunch like
19 there is up above there on 5/05/14. Do you see that?
20 A And --
21 Q That's correct, isn't it?
22 A I guess.
23 Q So there wasn't any reason, at all, for you to be taking
24 lunch at that time, was it?
25 A It was the time that it was slowing down and I felt that

1 Bianca could handle the customers by herself.
2 Q But, ma'am, it's a ProNo (phonetic) system. The only way
3 you can account for your time is to put your finger on the, and
4 check out for lunch, correct?
5 A And your point is?
6 Q You didn't do that.
7 A I did clock out.
8 Q Not according to this.
9 A You're right. Not for lunch because I was asked to leave.
10 Q Well, ma'am, you said that when you came across the front
11 end, you decided to take lunch at that point because it wasn't
12 busy in Starbucks, correct?
13 A As I was taking my apron off at the time, there were about
14 five or six people got in the line so I put my apron back on to
15 help get the customers through the Starbucks line.
16 Q Okay. And you said to the General Counsel that that was
17 at 1 p.m. which we know isn't true.
18 A Well, that was the time that I believed it was. It was a
19 mistake --
20 Q Be that as it may. When you leave the department to go
21 take a lunch, the first thing you do is punch out, correct?
22 A That's correct.
23 Q But you didn't do that.
24 A Because Ms. Pelo approached me with bagging groceries.
25 Q She approached you.

A Yes.
Q It's true, is it not, that you took your apron off.
A It's true.
Q Didn't go to the timekeeping system, correct?
A Correct.
Q Actually Ms. Pelo said thank you for coming up, correct?
A That is not true.
Q Never said that.
A She never said that.
Q And you said I'm on lunch.
A No. I asked her --
Q What did you say?
A I put my hand on her shoulder and leaned in so that we weren't yelling and I said I was getting ready to take a lunch. And she loudly said don't worry about your lunch, you're going to get your lunch.
Q Okay. My question again. The first thing you do when you leave your work area is go punch out for lunch. So you weren't on lunch at that point, correct?
A I was not on lunch. Again, I could not go and clock out because Ms. Pelo stopped me from clocking out at that time.
Q So physically she stopped you from clocking out?
A She was speaking with me. It would've been rude to just go past her, insubordinate to go past her.
Q And that would be insubordination.

1 A I would call that insubordination just to walk past her
2 when she's speaking with me.
3 Q Disrespecting her authority.
4 A Yes. And I did not do so.
5 Q But you didn't follow her instruction to go sack, did you?
6 A Sir, I did try to.
7 Q Did you follow her instruction to --
8 A Yes, I did.
9 Q You went. We've been through it. You didn't sack an item
10 of groceries, did you?
11 A That was because she --
12 Q Did you sack an item of groceries?
13 A I could not sack any item of groceries because she called
14 me back to her before I could get to the place to sack the
15 groceries.
16 Q And so if that's all that occurred up at the front end,
17 why did you put your hand on her shoulder and say it's getting
18 too loud out here?
19 A I did not say it's getting too loud out here.
20 Q What did you say?
21 A I put my hand on her shoulder and said I was getting ready
22 to take a lunch and she loudly said don't worry about your
23 lunch, you will get your lunch.
24 Q And you had not raised your voice, at all.
25 A Not at the moment, no.

Q And there were guests all through the front?
A I wouldn't say all through the front. There were several shoppers.
Q So this all transpires right in front of them, correct?
A It does and that's why I leaned in to her so that the customers didn't hear.
Q You ever heard of an initiative called "customer first"?
A Customers are always first. Always.
Q That's a King Soopers' value, isn't it?
A And that's why when she made the announcement over the intercom, I stayed to help to get the customers through the Starbucks line because customers first. And I worked in the kiosk at Starbucks.
Q And so if she said over the PA system I need help from Starbucks that would be a well-known order to you to get up and customer first, correct?
A I was doing customer first, sir. I was helping get the people in Starbucks through the line so that they didn't have a long wait.
Q Did you understand my question? If she said over the PA I need Starbucks people up here that would be consistent with customer first, correct?
A No more so than me helping to get the customers through line. And, yes, you're right.
Q Thank you.

1 A Customers first.
2 Q And according to you, she came out of a self-checkout
3 stand?
4 A She was standing behind the self-checkout stands.
5 Q Was she working?
6 A No.
7 Q But she was managing the front end.
8 A I -- that part, I can't say.
9 Q That's what --
10 A I wasn't keeping a track --
11 Q -- store managers do, don't they?
12 A -- of her at the time.
13 Q I'm sorry?
14 A I said I wasn't keeping a track of her at the time.
15 Q And according to your statement, there had been no
16 discussion by the time that she came out from the self-checkout
17 and said where do you think you're going. Nothing at all about
18 you saying I'm going to my lunch, correct?
19 A Not until I walked up to her.
20 Q So the first thing that was said by Ms. Pelo, according to
21 you, as she walked out of the self-checkout area was where do
22 you think you're going.
23 A That is correct.
24 Q So it wasn't in response to it's time for my lunch.
25 A Again, she didn't say anything. And, again, I --

Q Just --
A When I walked up to her, yes, I said, asked about my lunch.
Q Ma'am, there's no reference to that. The first thing that was said by her is where do you think you're going.
A That's correct.
Q You didn't say I'm going to lunch now because I'm entitled to this under the collective bargaining agreement, correct?
A Oh, no. I didn't say it that way but I did ask her about my lunch. I told her I had to leave at 2, in which she responded, "Don't worry about your lunch, it should only take about 10 minutes."
Q She said to you according to your statement that -- was she yelling at that point?
A Yes, she was.
Q She yelling. And she was the store manager and she was telling you what to do.
A Exactly.
Q And that’s when you said fine, but I belong to a different union.
A That is not the words that came out of my mouth.
Q Why don't you take a look at your statement.
A Which statement?
MR. DEENY: May I approach, Your Honor?
JUDGE TRACY: Yes.

Q BY MR. DEENY: Go to page 2 of your affidavit.

MR. WATSON: She may not have a copy.

THE WITNESS: I don't have it. Here, right here. Now this is Exhibit 2? Now, the one I have is failing to take lunch.

MS. SAVELAND: Are you talking about her affidavit?

MR. DEENY: Yes.

May I approach, again?

JUDGE TRACY: Yes.

Q BY MR. DEENY: So top of page 2. Are you with me?

A (No audible response)

Q Are you okay?

A So on May 9th, I had told her --

Q The top of page 2. And you're looking at 3, I'm sorry ma'am, page 2.

So your statement says, if you go to the preceding page, the last line so the whole statement is complete. After Ms. Pelo asked you where do you think you're going, I walked up to her, tried to tell her I had to leave at 2 and needed to have my lunch.

A Correct.

Q But before I could get the sentence out, she yelled and said she was the store manager and I had to do what she told me to do.

A That's correct.

Q So that is correct.
A Correct.
Q Okay. So you didn't tell her I'm going to lunch.
A No, I did not.
Q Okay. And your response to her telling you that you had to do what she told me to do, you say in your statement that's fine but because I belong to a different union, should I be doing that. You just --
A My words were --
Q I'm sorry?
A Maybe it was taken down incorrectly. My words to her was, technically, should I be doing this because I belong to a different bargaining unit. Not that --
Q Maybe --
A -- I wasn't going to do it because I was at a different bargaining.
Q So those words are not your words.
A Well, to some extent they are. But, again, I said technically should I be doing this because I belong to a different bargaining agreement.
Q That's not in there, is it?
A We're all humans, again. Maybe it was --
Q And, ma'am, you were offered an opportunity to make changes to this statement, correct?
A I don’t remember if I was.

1 Q Well, why don't you look down at about 12 lines further
2 down? You struck through "deli" and wrote in your own
3 handwriting on page 2, "Starbucks department"; correct?
4 A I did not write that. The same one?
5 Q I would suspect not. That's not your handwriting?
6 A It could be.
7 Q Every page, you were asked to initial the accuracy of the
8 contents, correct?
9 A And my initials are on them.
10 Q And you were told, were you not, that you had a right to
11 make any changes to this before signing it, correct?
12 A Correct. But if I may say again --
13 Q That’s fine. There's no question for you.
14 JUDGE TRACY: Let's go off the record for a moment.
15 (Off the record at 12:18 p.m.)
16 JUDGE TRACY: Yeah, you're not on the record yet though.
17 Yeah. All right.
18 So go ahead, Mr. Deeny, repeat what you just said.
19 MR. DEENY: -- okay. May I move for the admission of
20 Respondent's Exhibit, I believe, that's 5, the contract.
21 JUDGE TRACY: 5. And any objection to Respondent's
22 Exhibit 5?
23 MS. SAVELAND: No.
24 JUDGE TRACY: Okay. So Respondent's Exhibit 5 is admitted
25 into evidence.

1 **(Employer Exhibit Number 5 Received into Evidence)**

2 JUDGE TRACY: And go ahead, Mr. Deeny. And then, again,

3 let us know when this section of your cross is done, so then

4 we'll take a quick break.

5 MR. DEENY: Okay. Thank you, Your Honor.

6 Q BY MR. DEENY: And nowhere in that statement to counsel

7 for the General Counsel did you assert that there was any

8 assertion of any rights of any other employees, correct?

9 A Correct.

10 Q No statement about being asked to work in an unsafe

11 environment, correct?

12 A Correct. Why would I?

13 Q I'm sorry.

14 JUDGE TRACY: All right. So what I need you to do though

15 here -- I'm going to interject here. I've heard this a lot.

16 Just answer the question that's being asked to you. Okay.

17 THE WITNESS: Yes.

18 JUDGE TRACY: Your General Counsel will also have an

19 opportunity to ask redirect. Okay.

20 THE WITNESS: Okay. Thank you.

21 JUDGE TRACY: Go ahead, I'm sorry, please.

22 MR. DEENY: I'm sorry, Your Honor, I was distracted.

23 Q BY MR. DEENY: You were just making a face at me. Do you

24 realize that? Exactly how you just described like that.

25 Pursing your face, holding your hands out. You're doing it

again.
A That's an expression. Human beings aren't allowed to make expressions. I'm under the law, I assume. It was an expression, it was not a face. If I was going to make a face, I would have went (gestures) --
Q So that face that you just did --
A Yes, was a face.
Q -- you were baring your teeth, you were crinching up your face, and that's exactly you were doing to Ms. Pelo, correct?
A It was not.
Q And the other people --
A It was not.
Q -- in that meeting said that's exactly what you were doing --
A My expression was --
Q -- that is what you -- please, let me finish my question. That's exactly what you shouldn't be doing to your store manager, correct?
A And I was not making faces, sir.
Q Is the answer to my question, yes?
A No.
Q If that's the face you were making, observed by all these people, you shouldn't have been doing that, correct?
A Again, I didn't feel I was doing anything --
Q Ma'am --

1 A -- disruptive.
2 Q -- do you understand my question?
3 A No.
4 Q You shouldn't be making the faces like you just did to me
5 to your store manager, correct?
6 A Again, I do not believe I was making a face.
7 Q That's not my question, ma'am. You know that's wrong.
8 A That my question -- then my answer to you was no, sir.
9 Q That's not wrong?
10 A No, no.
11 Q That's not disrespectful?
12 A It was not in any way being disrespectful.
13 Q Even though you --
14 A Making a facial gesture is not being disrespectful.
15 Q -- the one that you just bore your teeth over, you said if
16 you were going to do that you would make a face like this and
17 that's the one you were baring your teeth over.
18 A And that did not --
19 Q Is that disrespectful?
20 A -- that did not happen in the office that day.
21 Q Please answer my question.
22 A If that would have been the face that I had made it would
23 have been disrespectful --
24 Q Thank you.
25 A -- but that was not the face I made.

Q And --
A You're welcome.
Q -- you do know from previous experience as a manager that it is insubordinate to refuse termination -- to refuse a job assignment, correct?
A Correct.
Q And do you recall Ms. Pelo saying, look work now, grieve later.
A She never said those words.
Q Anything like that?
A No.
Q You ever heard that term before?
A Yes, I have.
Q In what context?
A In -- from the Union.
Q And Mr. Craine in particular?
A Yes.
Q In fact, he told you that you should have just gotten in the check stands and worked, correct?
A Correct.
Q And he also told you there was no contract violation by her asking you to work, correct?
A He told me that I should have done what she said first, and then grieve, because, yes, we're under different contracts and normally we do not cross over.

Q I want to make sure. Did Mr. Craine tell you that?
A Pretty much those words, yes.
Q Did he use those words?
A Not the exactly, but, yes.
Q Well, we know he didn't file any grievance about that.
A No.
MR. DEENY: That's fine, Your Honor.
JUDGE TRACY: Okay. All right. So let's take a ten-minute break. So let's start again at 12:35, just to -- and then we'll finish up Mr. Deeny with this witness, and then we'll do the redirect. Okay. Off the record.
(Off the record at 12:26 p.m.)
THE COURT REPORTER: If you could just start again --
MR. DEENY: Is it not --
THE COURT REPORTER: -- I did not get -- I did not get that.
MR. DEENY: -- okay.
THE COURT REPORTER: Thank you.
MR. DEENY: Okay. I don't want to get too far away. Is that better?
THE COURT REPORTER: No, it was my fault, sir.
MR. DEENY: Oh, okay.
Q BY MR. DEENY: So in the May 9th meeting, Ica was present, correct?
A Correct.

1 Q And in that meeting you said to Ica, Theresa is asking us
2 to work in departments other than Starbucks.
3 A I told her that we needed help, because, yes, Theresa was
4 making us sample out other department's product when we don't
5 have time to sample our own.
6 Q And so, your exact statement, according to what you told
7 the Counsel for General Counsel is you raised your voice, I
8 told Angelica that Theresa is having us do work for other
9 departments and so the Starbucks department wasn't doing well.
10 A Correct.
11 Q And at the end of that meeting -- well, let me -- how many
12 times do you think you raised your voice towards the store
13 manager?
14 A I think both of our voices were heightened most of the
15 time.
16 Q So throughout that entire meeting?
17 A Yes.
18 Q And how long did that meeting last?
19 A About 15 to 20 minutes.
20 Q And so, that would put it -- based on your time punch that
21 would put it at approximately 11:30 to quarter to twelve that
22 day?
23 A Correct.
24 Q And you left the store and called Danny Craine.
25 A Well, first I was told to go clock out, but then Theresa

1 called me back in. She called me back into the office.
2 Q And Ica was still present?
3 A Yes.
4 Q And that's when the wah-wah-wah conversation occurred?
5 A I first walked in, and I said Theresa what do you want
6 from me? Do you want me to tell you no, I'm not going to sack
7 groceries? Well, I'm not going to. I never told you I was
8 going to sack groceries. I tried to, but you called me back.
9 Q Okay. Let me make sure I understand. Somebody told
10 you -- Theresa told you --
11 A Yes, sir.
12 Q -- to come back into the room?
13 A Yes.
14 Q Why?
15 A She wanted to talk to me some more. She wanted to know
16 why I was being disrespectful and not doing what she told me to
17 do.
18 Q That had been the discussion throughout the whole meeting,
19 right?
20 A Exactly.
21 Q Okay. And what did you say to her?
22 A I said, what do you want from me, Theresa? Do you want me
23 to say that I'm not going to sack groceries? Well, that's not
24 what I said. I tried to sack groceries, but you called me back
25 to talk some more.

Q Hadn't you just prior to that just said to Ica that Theresa is having us work for other departments?
A That is correct, I had said that before I had walked out or I said that -- yeah, after I came back in -- after Theresa called me back into the office, after she told me to go clock out.
Q And you've already said you weren't going to cut the samples for another department, correct?
A I never said those words?
Q Well, you didn't do that either; did you?
A Yes, we have been cutting samples for other departments.
Q Isn't true, ma'am, that you told Lisa Pandearella, point blank, I'm not cutting that product for samples, that's a different Union.
A What I may have said to her, again this has been a while, is that we have a hard enough time getting our own samples cut and out for sampling without having to do the bakery's products.
Q So Ms. -- is it true Ms. Pandearella said I need you to cut samples for Starbucks, our product, and you didn't do it, correct?
A That's not correct. I did --
Q Did you do it?
A -- yes, I did.
Q And you didn't tell Lisa Pandearella, no, that's a

1 different Union?
2 A No, I did not.
3 Q And you said on direct examination that Mr. Craine told
4 you he couldn't file a grievance until July.
5 A Again, I don't remember that conversation.
6 Q You don't remember that conversation?
7 A No.
8 Q Why don't you, if you would, if you would take a look at
9 your affidavit again and if you would go to page 4, please, of
10 the affidavit.
11 MR. DEENY: Is she there, Your Honor? Thank you.
12 Q BY MR. DEENY: And if you look at the first full paragraph
13 on that page it says, "Danny said the Union would not be able
14 to file a grievance on behalf -- on my behalf until July 1."
15 Do you see that? Oh, excuse me, July. I'm sorry. I
16 transposed something. Do you see that?
17 A I do.
18 Q We know that's not true, correct? He filed a grievance on
19 the 21st of May.
20 A I may have been misinformed.
21 Q And in the grievance process you attended the second step
22 grievance meetings, correct?
23 A Yes.
24 Q And you were heard by company representatives as well as
25 being represented by Mr. Craine in that meeting, correct?

1 A Correct.
2 Q Ms. Lita Trujillo was in attendance as well?
3 A Uh-huh.
4 Q Is that correct?
5 A I believe so. I don't know. I don't remember all the
6 people that were there. There were a lot.
7 Q If you look at Respondent's Exhibit 4, again, the document
8 reflects a Step One meeting on 5/21/2014, in which you were
9 present. Do you see that?
10 A Exhibit 4, my discharge papers?
11 Q No.
12 JUDGE TRACY: Respondent's exhibit.
13 MR. DEENY: The grievance.
14 Q BY MR. DEENY: So are you with me?
15 A Yes.
16 Q Okay. So Step One is 5/21/2014, correct?
17 A Yeah.
18 Q You're in attendance for that; is that correct?
19 A Correct.
20 Q And then on 8/25/14, the Step Two meeting was held,
21 correct, regarding your grievance?
22 A Yes.
23 Q And I apologize for the received sticker on there, but you
24 were also in attendance, correct?
25 A On the second one?

1 Q On the second step.
2 A I don't remember if I was on there or not.
3 Q Do you remember meeting with a gentleman by the name of
4 Ken Aragon?
5 A Yes, correct. Okay. Yes, I was there.
6 Q And did you take any notes of that meeting?
7 A I did not.
8 Q Did you make any prepared statements in that meeting?
9 A I just spoke the truth as it was.
10 Q And so you answered questions from Mr. Aragon, as he asked
11 you questions of what happened?
12 A Correct.
13 Q And he denied that grievance, correct?
14 A He did.
15 Q And do you recall why he denied that grievance?
16 A He said I should have went to sack the groceries, and then
17 grieve afterward.
18 Q Did he also talk about your disrespect of the store
19 manager after that meeting?
20 A He may have said something, I don't remember.
21 Q Do you remember making the statement in that meeting to
22 Ms. Trujillo that you understood that the store was busy that
23 day and that she helped -- Ms. Pelo only asked for your help,
24 because she needed help in the front end?
25 A That was what he had said, yes.

1 Q And you agreed with that. You said --
2 A I didn't --
3 Q -- I don't question that was exactly your line; wasn't it?
4 A -- I did not agree with him.
5 Q Ma'am, you did not say I don't question that the store was
6 busy that day?
7 A I mostly like said I didn't notice that the -- if the
8 store was busy that day. I did not say that I agreed that the
9 store was busy that day.
10 Q Well, was it?
11 A I don't know.
12 Q You don't know.
13 A It didn't seem --
14 Q And you denied making --
15 A -- busy to me.
16 Q -- that statement to Mr. Aragon.
17 THE COURT REPORTER: your Honor, I can't hear the witness.
18 JUDGE TRACY: Oh, okay. Make sure that you speak up --
19 THE WITNESS: Okay.
20 JUDGE TRACY: -- when you're --
21 THE WITNESS: Okay.
22 JUDGE TRACY: -- testifying and no nodding of the head or
23 anything like that. Okay.
24 Q BY MR. DEENY: And you told Mr. Aragon in that meeting as
25 well that you worked for a company called Jamboree Foods as a

1 deli manager, bakery manager, and you indeed yourself have
2 disciplined employees for not obeying orders, correct?
3 A I said for being insubordinate, yes.
4 Q And you told Mr. Aragon in that Step Two meeting that just
5 by -- just when employees tell me no or not following my
6 instructions, I've suspended them, written them up, and
7 terminated them, correct?
8 A If they told me they wasn't going to do something, yes.
9 Q Uh-huh. After your grievance was denied by the company,
10 you appealed that to the Executive Board of the UFCW, correct?
11 A I did.
12 Q Did you attend that meeting?
13 A I did.
14 Q They listened to you?
15 A Yes.
16 Q And they denied your grievance also.
17 A Correct.
18 Q In your Step Two meeting, you told Mr. Aragon that when
19 you went -- after Danny Craine pulled you out, talked to you
20 out in the hall, you came back in, and I think you said you
21 made a face at Ms. Pelo.
22 A No, that was before.
23 Q It was before you went out.
24 A Correct.
25 Q So you made no faces at Ms. Pelo after you came back in

1 with Mr. Craine in that meeting.
2 A No, I did not.
3 Q Did you -- so when did you make the face that you were
4 showing the Judge here today?
5 A The --
6 Q When did you make that face?
7 A -- the surprised expression?
8 Q I don't know.
9 A I did that before she asked us to leave the room.
10 Q And what was the face again?
11 A She said that I flat out told her I was not going to sack
12 groceries, that I was going to go to lunch, I went (gestures) -
13 -
14 Q So your --
15 A Well, that's not true.
16 Q -- just so the record's clear, you have both of your hands
17 in the air, correct? You're --
18 A Just making --
19 Q -- swiveling your --
20 A -- an expression.
21 Q -- please, I'm just trying to make a record. You had both
22 of your hands in the air, you're swiveling your head, and why
23 are -- you were just swiveling your head back and forth like
24 this.
25 A Well, because I looked at Danny first. He was next to me.

1 That was me going, what that's not the truth.
2 Q And then you swiveled your head to the right and did that
3 as well just a moment ago. Is that what happened?
4 A Well, again, I was looking at the Judge to show her the
5 expression I was making.
6 Q No, just when you were describing what you did, you
7 swiveled your head to the left, you swiveled your head to the
8 right. Was that to show the other people in the room?
9 A That has nothing to do with the --
10 Q Is that to show the other people in the room?
11 A -- in this room, correct.
12 Q Did you do that in that room with those two store
13 managers, excuse me, three managers, store and two assistant
14 managers?
15 A No, I did not.
16 Q You didn't.
17 A I --
18 Q You made no faces like that?
19 A -- I made and expression to Danny Craine and to Theresa.
20 Q Well, okay.
21 A I did not look at the other two managers that were in the
22 room, to answer your question.
23 Q So there was two expressions that were made. You made
24 one --
25 A No, just the one.

1 Q -- I'm sorry, let me try to let you finish your answer and
2 please let me finish my question. So far you've described for
3 us you turned and looked at Danny Craine with your arms in the
4 air, with this -- what you describe as you moved your mouth
5 like to say what; is that correct?
6 A Correct.
7 Q And then you did the same thing to Theresa Pelo?
8 A Correct.
9 Q And is that the extent of it?
10 A Yes.
11 Q And --
12 A Other than her saying do you see how disrespectful she is
13 making faces at me.
14 Q -- okay. And that was Ms. Pelo's parting shot before
15 Danny Craine said I need to talk to you outside.
16 A Danny Craine never said those words. Those words came
17 from Theresa Pelo saying that he needed to take me out of the
18 room, because I was getting out of control.
19 Q And you do agree that your voice was elevated in that
20 meeting as well?
21 A As well as Ms. Pelo's, yes.
22 Q And Mr. Craine, when he came back in, gave you an
23 instruction to stop talking, correct?
24 A Correct.
25 Q And is it your testimony that you did not tell Mr. Aragon

1 in the Step Two meeting that you were making those faces when
2 you came back into the room?
3 A I'm not sure. That was -- has been a while ago.
4 Q Do you recall testifying in an unemployment hearing?
5 A I do.
6 Q You were under oath?
7 A Yes.
8 Q Do you remember saying in that proceeding you didn't make
9 any faces at all?
10 A I -- that's correct.
11 Q At any time did you say to Ms. Pelo or any of her
12 managers, I'm sorry this happened, I get the point. I will
13 follow instructions in the future, and I will not disrespect
14 you?
15 A No, I never said that. I don't know where that's even
16 coming from.
17 Q And what did the Executive Board tell you as to why they
18 were dismissing your grievance?
19 A Again, because I should have went to sack the groceries
20 without asking about my lunch, or my contractual rights that I
21 should have waited until I sacked the groceries, and then file
22 the grievance.
23 Q And was there any comment about you making faces at your
24 manager?
25 A No. And they all laughed when I said, wah. That I had

1 told her that I said wah to her. A lot of them chuckled about
2 that.
3 Q I'm sorry, your voice is trailing off I couldn't hear you.
4 So the Executive Board of Local 7 left the room after they were
5 denying your grievance, because you should have done this, as
6 you described, and you said to them wham?
7 A No, while we were in the -- discussing, when the table was
8 still there, the Executives, I told them that when -- the first
9 time when I left, and she goes, and it's going to be without
10 pay, which to me is a threat, I said, oh, wah, and they
11 chuckled at that.
12 Q The Executive Board members --
13 A Yes.
14 Q -- including the --
15 A While we were still in session.
16 Q -- including the President of the Board.
17 A Yes.
18 Q Did any of them say, well, that was a good thing to say to
19 your store manager?
20 A Well, they didn't say that, but --
21 Q Yeah. And was that -- I'm thinking I'm hearing you say
22 wham. Maybe I'm not --
23 A Wah.
24 Q -- the wah.
25 A Yes.

1 Q I see. Wah-wah-wah. If, as you said, it may have been
2 more than once, correct?
3 A When I left the first time yes. After she threatened me
4 without getting my week's pay.
5 Q And so, according to you they chuckled. And Danny Craine
6 was there, right?
7 A Yes --
8 Q Uh-huh.
9 A -- he was still there at the time.
10 Q And they chuckled and -- but still nobody said you did the
11 right thing, correct?
12 A Actually, they didn't say anything to me. I left the
13 room, and they discussed it after I had left.
14 Q But I thought I heard you say they told you that you
15 didn't do the right thing. You disobeyed orders, and you
16 should have done what you were told, and do the job.
17 A Well, I guess if you put it in your words, that was what
18 it was.
19 Q I'm not asking you about my words. I'm asking you is that
20 what the Executive Committee told you?
21 A What the Executive Committee told me was I should have
22 sacked the groceries, and then file the grievance. And if
23 people would listen to me, I tried to go and sack the
24 groceries. Theresa called me back and said we need -- I was
25 headed to the front of the store to go sack.

I was never able to sack, because Theresa said get back here, we need to talk. I was obeying her order to come back to talk and that was when I -- I said to her, yes, we need to talk, but not out here on the floor.

Q Ma'am, I'm just asking you what did the Executive Board say to you. That you --

A The Executive -- and I already answered your question -- the Executive Board said I should have sacked the groceries and then filed the grievance.

MR. DEENY: Thank you, Your Honor.

JUDGE TRACY: Okay. All right. Ms. Saveland, go ahead for the redirect, please.

MS. SAVELAND: I need a few minutes, if I may.

JUDGE TRACY: Okay. How many minutes do you think?

MS. SAVELAND: Fifteen minutes, please.

JUDGE TRACY: Okay. All right. Let's take about 15 minutes. So it's, by that clock, let's say one-twenty and one-twenty-five. When you come back we'll start again.

MS. SAVELAND: And mine should be pretty brief.

JUDGE TRACY: Okay. So we're off the record. I'm sorry.

(Off the record at 1:08 p.m.)

JUDGE TRACY: All right. Ms. Saveland, go ahead with your redirect?

REDIRECT EXAMINATION

Q BY MS. SAVELAND: Okay. Ms. Geaslin, I just want to

1 clarify a few things that you discussed on your cross-
2 examination. Mr. Deeny represented to you that at the
3 unemployment hearing where you testified, you stated that you
4 weren't making faces at all.
5 A Yes.
6 Q Do you recall that you actually said, I said I wasn't
7 making faces. It was just an expression.
8 A Yes.
9 Q Were those your words?
10 A Yes.
11 Q So that's consistent with what you've been testifying --
12 MR. DEENY: Objection.
13 Q BY MS. SAVELAND: -- to the whole day.
14 MR. DEENY: Objection.
15 THE WITNESS: Yes.
16 MS. SAVELAND: Thank you.
17 MR. DEENY: She's leading the witness.
18 JUDGE TRACY: Well, I mean this is the redirect, so I'm
19 going to allow it.
20 MR. DEENY: That's inconsistent as redirect is an
21 allowable question?
22 JUDGE TRACY: Well, I'm going to overrule the objection
23 and go ahead. Partly, I also need you guys once, you know,
24 there's an objection, you know, let her finish talking, then I
25 can hear properly what's exactly being objected to. I mean if

1 you're objecting while she's still speaking, I can't exactly
2 hear that.
3 MS. SAVELAND: I apologize.
4 JUDGE TRACY: Okay. So I've overruled the objection. Go
5 ahead, please, Ms. Saveland.
6 Q BY MS. SAVELAND: Ms. Geaslin, do you still have in front
7 of you Respondent's Exhibit 4?
8 A Yes.
9 Q Did you draft that form?
10 A Where is it? This one?
11 MS. SAVELAND: I can show it to her. If I may approach?
12 JUDGE TRACY: Yeah, go ahead. She has it.
13 MS. SAVELAND: Or does she -- I think she has it.
14 THE WITNESS: This one.
15 JUDGE TRACY: No, that's Joint Exhibit 4. You need
16 Respondent's Exhibit 4.
17 MS. SAVELAND: May I approach?
18 JUDGE TRACY: Go ahead.
19 THE WITNESS: Right here.
20 MS. SAVELAND: Okay.
21 JUDGE TRACY: Okay. Go ahead, please.
22 Q BY MS. SAVELAND: Did you draft that form?
23 A No.
24 Q Did you type up the language under the complaint section?
25 A No.

1 Q Did you advise the Union on how they should word this
2 grievance?
3 A No.
4 Q Thank you. Ms. Geaslin, can you explain why you waited to
5 take your lunch until after the line was down?
6 A Because the counter was busy and there were only two of us
7 there to get the customers first. So I stayed to help, you
8 know, get the Starbucks customers -- it's around Noon, the
9 offices start to come down and get coffee, so we usually get a
10 pretty long line for the lunch.
11 Q And have you ever been instructed by management to take
12 care of customers before you take a lunch?
13 A Yes, many times.
14 Q Have you ever been told to not help a customer, because --
15 MR. DEENY: It's leading, Your Honor.
16 Q BY MS. SAVELAND: -- you have to take a lunch?
17 A No.
18 JUDGE TRACY: All right. So go ahead and restate the
19 question, please.
20 Q BY MS. SAVELAND: Have you ever been told when it's
21 appropriate not to help a customer?
22 A It's always inappropriate to not help a customer.
23 Q Would -- have you ever been told to take a lunch and leave
24 a customer in line?
25 A No, actually I have been told not to take my lunch until

after we got the customers through the line.

Q And who has told you that?

A Both Theresa Pelo and Lisa, the assistant store manager.

Q And in your opinion, that would comport with the customer comes first philosophy, correct?

MR. DEENY: Objection. That's leading --

THE WITNESS: Correct.

MR. DEENY: -- Your Honor.

JUDGE TRACY: Well, I mean this is also redirect.

MR. DEENY: And we don't need her opinions --

MS. SAVELAND: It's her opinion.

MR. DEENY: -- we need facts.

JUDGE TRACY: Okay. So I'm going to again overrule the objection. Allow the question.

Q BY MS. SAVELAND: Did you answer it? I'm sorry, I didn't hear.

A I --

MS. SAVELAND: She did not answer. Okay.

Q BY MS. SAVELAND: In your opinion, would that comport with the customer first motto that King Soopers teaches you?

A Yes, it would.

Q Can you please look at Respondent's Exhibit 2, please? And as Mr. -- as counsel pointed out to you earlier, the one-day suspension is checked. Do you recall serving a suspension?

A I did not, because we didn't have enough people in the

1 deli for me to take the one-day suspension, so I never did do
2 the one-day suspension.
3 Q So you never served the suspension.
4 A No.
5 Q And going back to your complaint to Latrice, when you
6 complained to Latrice about having to sample bakery items, at
7 that time were you intending to complain to the Union?
8 A No.
9 Q Did you know Latrice was a Union representative at that
10 point?
11 A I did not.
12 Q Okay. Ms. Geaslin, if I can call your attention to your
13 affidavit. Do you have it in front of you?
14 A Yeah.
15 Q Do you recall giving that affidavit?
16 A Yes, I do.
17 Q And was the affidavit intended to be a transcript or --
18 was it the affidavit of transcript of what you said that day or
19 was it a summary?
20 A I guess it was a transcript, huh.
21 Q Did you speak each one of these words, specifically, and
22 they were taken down word for word or was it --
23 A No, not -- it's not word for word.
24 Q -- it's not word for word.
25 A No.

Q So Respondent pointed out the top of page 2 -- are you there?

A Yeah.

Q He said, I said that is fine, but because they belong to a different Union should I be doing that. And there's been some -- you've elaborated on your testimony today. Can you explain why your testimony is different today, somewhat, than what is in the affidavit?

A Maybe because time has gone by, and I don't recall some of the things that have happened.

Q Do you recall today what you said to Ms. Pelo that day, on the 9th?

A On the 9th. Again, just I never told her I was not going to sack the groceries and that she was the one that had stopped me from going to sack the groceries.

Q And did you tell her that you belonged to a different Union?

A Yes, I -- well, actually, I said technically, because I belonged to a different Union, should I be doing that.

MS. SAVELAND: Okay. Thank you. Nothing further.

JUDGE TRACY: Okay. Mr. Deeny, go ahead with the recross, please.

RECROSS-EXAMINATION

Q BY MR. DEENY: That's your sworn statement, and you -- your introductory statement that was just pointed out to you

about this is -- that is fine, right, meaning the work order, but I belong to a different Union and that's not true; is it?

A I said technically I belong to a different Union.

Q And nowhere in your statement is technically referenced, correct?

A I believe that it says that I belong to a different Union, and I'm not sure why the technically part is not in there.

Q And you didn't finish it. "Should I be doing that." That's your verbiage, correct?

A Yes.

Q That's not the NLRB's verbiage, correct?

A Correct.

Q And that's simply not true that you're part of a different Union, correct?

A I am technically with --

Q Ma'am, that is not true --

A -- the same Union.

Q -- that you are part of a different Union, correct?

MS. SAVELAND: Objection. He's answering the question for. She said -- she's trying to answer.

JUDGE TRACY: Well, let me --

THE WITNESS: No.

JUDGE TRACY: -- hold on please.

MR. DEENY: Technically or not --

JUDGE TRACY: Wait a minute. There --

1 MR. DEENY: -- it doesn't matter.
2 JUDGE TRACY: -- do I have to repeat myself about how I
3 want this to go today?
4 MR. DEENY: No, Your Honor.
5 JUDGE TRACY: And however long this is going to take. All
6 right.
7 MR. DEENY: But I don't --
8 JUDGE TRACY: So there was an objection. You had a
9 question. I'm going to overrule the objection and allow her to
10 answer the question.
11 MR. DEENY: -- thank you.
12 JUDGE TRACY: So, please repeat what your question was,
13 since that's gotten lost in this whole going back and forth.
14 MR. DEENY: Thank you.
15 JUDGE TRACY: You also need to do the same.
16 THE WITNESS: Yes, ma'am.
17 JUDGE TRACY: Okay.
18 THE WITNESS: Yes.
19 JUDGE TRACY: Just wait. You have to pause. This isn't
20 like a normal conversation.
21 Q BY MR. DEENY: Technically or not, it's not a different
22 Union. It's Local 7 of the UFCW, correct?
23 A Correct.
24 Q Thank you. On these -- did you not say on direct
25 examination that you had never been suspended at Store 29?

1 A I was not.
2 Q But yet we have an exhibit here that you signed off on,
3 exhibit -- Respondent's Exhibit 2, where it says you were
4 suspended.
5 A There were a lot of people that have been written up and
6 suspended, but not served their suspension, because there (a)
7 is not enough people to work in the department, so they don't
8 police it.
9 Q I don't know about that, but it says to be determined,
10 right? TBD, to be -- when you serve it is different than in
11 fact your record reflects that you had a suspension; do you
12 agree?
13 A Well, it may say that, but I did not have -- was never
14 suspended.
15 Q Ma'am, you signed a document that says you were suspended.
16 That's a level of discipline in the system, correct?
17 A Excuse me, sir. Yes, I --
18 Q No, would you please answer my --
19 A -- yes, I signed it.
20 Q -- yes, thank you. And it's -- and shortly after this you
21 left Store 29, correct?
22 A No, that's not correct.
23 Q This is 6/6/2011, and you went --
24 A I had already put in my --
25 Q -- transfer.

1 A -- before that ever happened.
2 Q Okay. And it does day TBD, which you know to mean to be
3 determined when the Actual --
4 A Well --
5 Q -- time is.
6 A -- no, I did not know what that meant.
7 Q Do you see that on the document?
8 A I do.
9 Q Thank you. I just was a little confused about the lunch
10 on the day of May 9th. What's the peak period of Starbucks
11 at --
12 A There --
13 Q -- Store 1?
14 A -- there are several peaks, one in the morning, one
15 between 12 and 1, and then usually again around 4 to 5.
16 Q And according to you, Ms. Pelo has given you instructions
17 that customer first, right? That's -- you finish out the
18 customers that are waiting there, correct?
19 A Correct.
20 Q So if she did indeed ask you to come up front to -- she
21 wouldn't be defying her own instruction; would she?
22 A That I can't tell you. All I know is I was putting my
23 customers at the Starbucks at the time first.
24 Q But the peak period wouldn't last for four hours. So
25 we've already established that you didn't take your lunch break

1 in the middle of that shift. And did you make a request of
2 somebody to take a lunch in the middle of that shift, and you
3 were declined?
4 A No.
5 Q And you are obligated to clear that with the department
6 manager; aren't you?
7 A Well, the whole -- if that's to be the truth, the whole
8 store is --
9 Q Ma'am, are you supposed to --
10 A -- in compliance.
11 Q -- tell the department manager I'm taking my lunch now?
12 A There was no department manager there at the time.
13 Q How about assistant department manager?
14 A There is no assistant. It would be deli that I would have
15 to ask.
16 Q That's Ica.
17 A Yes.
18 Q You didn't ask her, correct?
19 A No. So I was not supposed --
20 MR. DEENY: Thank you. That's all I have, Your Honor.
21 JUDGE TRACY: All right. Thank you, Ms. Geaslin. I just
22 want to remind you of the sequestration order to -- that -- not
23 to discuss your testimony with anyone else.
24 THE WITNESS: Okay.
25 JUDGE TRACY: Okay. Thank you.

THE WITNESS: Are these mine or?

JUDGE TRACY: No, no, no, if you could just leave them there, but the statement let's go ahead and you can give that back to the General Counsel.

And speaking of the statement, you know, previously we talked about Respondent's Exhibit 3.

MR. DEENY: Yes.

JUDGE TRACY: So I've considered that. You know, to whatever the weight it's going to go to, I'm going to overrule the objection, and I'll allow Respondent's Exhibit 3. Just note that I may consider it really makes no bearing on the witness' credibility or it may. I just -- I don't know at this point. So in the abundance of caution, I'm just going to go ahead and allow Respondent's -- and admit Respondent's Exhibit 3 into the record.

(Employer Exhibit Number 3 Received into Evidence)

MR. WATSON: Your Honor, we only received one copy of that, so should we maybe on break make some copies?

JUDGE TRACY: Yeah, we'll take care of that. Now, the next thing that -- let's go ahead and go off the record.

(Off the record at 1:38 p.m.)

JUDGE TRACY: You have the copies that you need there?

THE COURT REPORTER: I do.

JUDGE TRACY: All right. And so it turns out that we can stay here as long as we want, but we just can't leave after 6

and come back in. So let's just see how it goes.

MR. DEENY: Okay.

JUDGE TRACY: All right. So let's go ahead and go back on the record. Okay. All right. Ms. Saveland, your next witness, please.

MS. SAVELAND: General Counsel calls Danny Craine.

JUDGE TRACY: Up here, please.

MR. DEENY: Your Honor, there was some discussion that I walked into, I'm not sure, but Ms. Geaslin is not present here in the proceeding.

JUDGE TRACY: Yes.

MR. DEENY: So she's choosing not to be present?

JUDGE TRACY: Right.

MR. DEENY: As the Charging Party.

JUDGE TRACY: That's fine. Is that right, Ms. Saveland?

MS. SAVELAND: Yes.

JUDGE TRACY: Yeah.

MS. SAVELAND: She would prefer not to.

JUDGE TRACY: Okay. That's fine. All right. Mr. Craine, go ahead and raise your right hand, please.

Whereupon,

DANNY CRAINE

having been duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE TRACY: Okay. Go ahead and have a seat. So go

ahead and state your name and address for the record, please.

THE WITNESS: Danny Craine, 1831 South King Way, Denver, Colorado --

JUDGE TRACY: Okay.

THE WITNESS: -- 80 --

JUDGE TRACY: Go ahead.

THE WITNESS: -- go ahead.

JUDGE TRACY: What were you going to say?

THE WITNESS: 80219.

JUDGE TRACY: Okay. Ms. Saveland, go ahead, please.

MS. SAVELAND: Thank you.

DIRECT EXAMINATION

Q BY MS. SAVELAND: Are you currently employed?

A Yes.

Q By whom?

A United Food and Commercial Workers, Local Number 7.

Q And what is your title?

A Currently, I am a Director of Retail.

Q And how long have you been in that position?

A About three weeks.

Q Okay. Prior to your current position, what was your position?

A Union Representative.

Q Can you briefly describe what your duties were as a Union Representative?

1 A To uphold our collective bargaining agreement, file, and
2 process grievances.
3 Q Are you familiar with Respondent's Store Number 1, located
4 at 1331 Speer Boulevard?
5 A Yes.
6 Q And how are you familiar with it?
7 A I was the Union representative of that store.
8 Q And how long were you a representative at that location?
9 A A little over one year.
10 Q Does UFCW, Local 7, have a collective bargaining agreement
11 with the employees at that store?
12 A Yes.
13 Q And how many contracts are there?
14 A Two
15 Q Is there a grievance arbitration process in each of the
16 contracts?
17 A Yes.
18 Q And are you familiar with both of the contracts?
19 A Yes.
20 Q Do both contracts have the same grievance procedure?
21 A They do.
22 Q And can you briefly explain the grievance procedure?
23 A Yeah, when a grievance comes up, you try to handle it at
24 store level with the store manager, which is the Step One. If
25 you can't get it resolved at that initial meeting, it goes to

1 paper, and then you request a Step Two meeting and that's
2 normally done with the representative from Labor Relations.
3 Q And are there any further steps?
4 A Yeah, if you don't get it resolved at Step Two, then we
5 take it to our Executive Grievance Committee, and they review
6 the case, and they'll make a determination whether they should
7 arbitrate or drop it.
8 Q Okay. And then what's the final step in the grievance
9 procedure?
10 A That is the final step, but there is -- if we drop it, the
11 members have a right to appeal it to our Executive Board. So I
12 guess that would be the final step.
13 Q Does the collective bargaining agreement have final and
14 binding arbitration?
15 A Yes.
16 Q And which steps of the grievance procedure are you -- were
17 you directly involved in as a business agent?
18 A All of them.
19 Q Do you recall the name of the store manager at Store
20 Number 1?
21 A Theresa.
22 Q Do you know her last name?
23 A Pelo.
24 Q And what are the -- are there any assistant managers
25 there?

A Yeah, Lisa is one of her assistants and Roxy was one of her assistants. I think Lisa's last name was Panzerella (sic) and Roxanna (sic), I can't remember her last name. It was with a B.

Q Okay. Under the collective bargaining agreements are employees contractually entitled to a lunch break every day?

A Yes.

Q And which contract covers the Starbucks baristas terms and conditions?

A Our meat bargaining unit contract.

Q What contract covers the bakery employees?

A The retail bargaining unit contract.

Q To your knowledge, are the Starbucks pastries made by the King Soopers bakery?

A No, they are not.

Q Are the baristas expected, as part of their duties, to sample Starbucks pastries?

A Yes.

Q Are they expect -- are the baristas expected to sample out King Soopers bakery --

MR. DEENY: Could we have some foundation, please?

Q BY MS. SAVELAND: -- product?

A No.

JUDGE TRACY: Hold on one second. Hold on one second.

MR. DEENY: May we have foundation, please?

1 JUDGE TRACY: Explain a little bit more.
2 MR. DEENY: He's -- she's asking him about King Soopers
3 expectations of these job functions. Is there some evidence
4 that he's written job descriptions or has administered
5 assignment of job functions at any time in his career?
6 JUDGE TRACY: So, Ms. Saveland, go ahead and just kind of
7 lay a little bit of foundation regarding his knowledge of what
8 these different -- what duties these different contracts cover.
9 Q BY MS. SAVELAND: So you testified that you're familiar
10 with both of the contracts, correct?
11 A Correct.
12 Q So as part of being familiar to those -- with those
13 contracts, are you aware of the duties that each unit is
14 expected to perform under each of the contracts?
15 A Yes.
16 Q So are you familiar with what the baristas are supposed to
17 do under the meat contract?
18 A Yes.
19 Q Are the baristas expected to sample Starbucks pastries?
20 A Yes.
21 Q Under the contract, are they expected to sample King
22 Soopers bakery product?
23 A No.
24 Q Are you familiar with Wendy Geaslin?
25 A Yes.

1 Q How do you know her?
2 A I was her representative there at Store 1.
3 Q Did she ever contact you with a disciplinary issue?
4 A She did.
5 Q When did she contact you?
6 A Early May of 2014.
7 Q Do you recall what she said to you?
8 A Yeah, she told me that she was placed on suspension
9 pending by Theresa Pelo and that she had a meeting coming up.
10 Q And did you attend the meeting with management to discuss
11 her suspension?
12 A I did.
13 Q Do you recall when that happened?
14 A May 14th, 2014.
15 Q And where did the meeting happen?
16 A There at King Soopers Store 1.
17 Q And where in the store was it held?
18 A The manager's office.
19 Q Do you recall what time it was when the meeting occurred?
20 A I don't.
21 Q Do you recall who was there?
22 A Wendy, myself, Theresa, Lisa, and Roxy.
23 Q Can you describe the layout of the office?
24 A Theresa Pelo's desk would be right in front of where I'm
25 sitting now, where she was at, then there were two chairs

1 straight across where I am, and Wendy was sitting next to me,
2 and then there's another desk over here towards the other wall,
3 and that's where the two assistants were.
4 Q Was Theresa sitting at her desk behind -- behind her desk?
5 A She was.
6 Q Was the office door open or closed?
7 A Closed.
8 Q How did the meeting begin?
9 A It began with Theresa telling Wendy that she understands
10 that bagging isn't in her contract, but she needs to do what
11 she tells her, and she can always grieve later.
12 Q And do you recall how Wendy responded?
13 A Yeah, she responded with, "Well, you could have asked me
14 differently; you didn't have to yell at me," and then she also
15 stated that she never told her no.
16 Q And did you say anything at that point?
17 A Not yet.
18 Q So what else was said then?
19 A Then Theresa said that Wendy had threatened to call Mack.
20 I believe that was the Starbucks DM at the time. I can't think
21 of his last name, but she said Mack.
22 Q Okay. And then did Wendy respond?
23 A Then I responded, and I told Theresa that she understands
24 that having Wendy go up front to do retail bargaining unit work
25 is a violation of the contract.

1 Q And what did Ms. Pelo say to that?
2 A Yeah, she knows, but she was shorthanded. She had no
3 other choice, and then she told Wendy that she needs to do what
4 she tells her and respect her as her boss.
5 Q And did Wendy respond to that?
6 A She did. She told Theresa that she needs to earn her
7 respect.
8 Q Okay. And how would you describe Ms. Geaslin's demeanor
9 during this meeting?
10 A Emotional, kind of defensive, I guess.
11 Q Was -- what was the volume of her voice?
12 A It elevated.
13 Q Was she yelling?
14 A No.
15 Q Was she talking over Ms. Pelo?
16 A I believe a couple of times she did.
17 Q Do you recall Ms. Pelo accusing Ms. Geaslin of making
18 faces?
19 A I do.
20 Q And what do you recall?
21 A I actually responded and told her maybe what she's taking
22 as Wendy making faces are just her facial expressions. You
23 know, through her emotions everybody, you know, is different.
24 We all look different. And did Ms. Pelo accept that?
25 A No, she said that she believed Wendy was making them on

1 purpose.
2 Q At this point, did Wendy admit to refusing to bag
3 groceries, at any point?
4 A No.
5 Q At what point do you recall that the emotions in the
6 meeting started to escalate?
7 A After the comment about respect. It seemed like she
8 started getting louder. It seemed also like Ms. Pelo was
9 starting to get angry. She didn't really raise her voice, but
10 you could just tell by her facial expression that she was
11 getting angry. So I decided to take Wendy out for a break.
12 Q So it was your decision?
13 A Yes.
14 Q And did -- where did you go?
15 A Into the break room.
16 Q And how far is the break room from the office?
17 A Where we were standing probably seven to eight feet away
18 from the door on the manager's office.
19 Q And what did you say to Wendy?
20 A I just told her to keep calm, you know, don't raise her
21 voice, give Theresa more respect, and she obliged. We went
22 back in.
23 Q So you went back in?
24 A Yes.
25 Q And once you were back in the meeting, what happened next?

A Theresa had stated that she put in a call to her boss, and she was going to leave Wendy on suspension.
Q And did you say anything to that?
A Yeah, I asked her for what?
A She said misconduct.
Q Did she elaborate what misconduct she was discussing?
A Yes, because afterwards when she said misconduct, I said she was just defending herself, and then that's when she said no, she was making faces at me, being rude. And that's about all I can remember.
Q Did Wendy say anything after you went back into the room?
A I don't believe she did.
Q Throughout the entire meeting, did Ms. Geaslin use any profanity?
A No.
Q Did she make any physical threats?
A No.
Q Did she get physically aggressive with Ms. Pelo?
A No.
Q Did she approach Ms. Pelo?
A No.
Q So was that the end of the meeting or was there more discussion?
A A little bit more.
Q So what was said and by whom?

1 A I told Ms. Pelo that she knows by keeping Wendy on
2 suspension even longer, she can't justify her actions. She'll
3 be owing Ms. Geaslin more back pay.
4 Q And did she have a response to that?
5 A Not really. She just told us to be back the following
6 Wednesday.
7 Q Did Wendy leave at that point?
8 A Yes.
9 Q Was she escorted out by security?
10 A No.
11 Q Are there security guards at that King Soopers?
12 A Yes.
13 Q Was she escorted out by any managers?
14 A No.
15 Q After that meeting, did you see Ms. Pelo again that same
16 day?
17 A Yes.
18 Q Where did you see her?
19 A On the sales floor while I was making my rounds.
20 Q Did you discuss Ms. Geaslin with her?
21 A Briefly, yes. Ms. Pelo told me that she was originally
22 going to give Wendy a five day for insubordination/refusing a
23 manager's directive, but after the way she acted in the
24 meeting, she was now wanting to seek termination.
25 Q And what did you -- did you say anything to that?

1 A Yeah, I told her that termination is pretty harsh and, you
2 know, I tried telling her that she shouldn't seek termination,
3 but I could tell she was upset, so -- she didn't really
4 respond, and I just walked away after that.
5 Q Did you return to Store 1 on the following Wednesday?
6 A Yes.
7 Q And did you have a meeting with Ms. Pelo and Wendy?
8 A Yes.
9 Q Do you recall the date?
10 A I believe it was May 21st, 2014.
11 Q And where was the meeting held?
12 A At King Soopers Store 1, in the manager's office.
13 Q And can you tell me who was present?
14 A Wendy, myself, Theresa, and her assistant Lisa.
15 Q And how did the meeting begin?
16 A It began with Ms. Pelo stating that what happened at the
17 prior meeting was terrible. She said that she had never been
18 treated like that before and that she spoke to her boss and
19 also Labor Relations, and she was going to terminate Ms.
20 Geaslin at that time.
21 Q Did you have any response to that?
22 A Yeah, I asked her who actually made the decision to
23 terminate, and she replied with her, but she said she got with
24 the normal people that they usually do.
25 Q And did she give you a specific reason for terminating Ms.

1 Geaslin?
2 A Gross misconduct.
3 Q Did she elaborate? Did Ms. Pelo elaborate on what the
4 gross misconduct was?
5 A Yeah, because I asked her to. She said because Wendy was
6 talking back to her in that first meeting, she said because of
7 the faces that she was making, because of an inappropriate
8 comment about respect.
9 Q And was this all in reference to the May 14th meeting?
10 A Correct.
11 Q Did she write down the reasons that she wanted to
12 terminate -- I'm sorry, let me ask first. Did she give you and
13 Ms. Pelo (sic) a behavioral notice that day?
14 A Yeah, me and Ms. Geaslin.
15 Q Yes, I'm sorry.
16 MS. SAVELAND: Just a moment, please. I apologize, Your
17 Honor. If I can find it. Can I please see your -- can I see
18 your Joint Exhibit 4 for a moment, please? And, Your Honor,
19 may I approach the witness? Thank you.
20 Q BY MS. SAVELAND: I'm handing you what's been already
21 marked as Joint Exhibit 4. Can you look at that document,
22 please? Do you recognize it?
23 A I do.
24 Q And what is it?
25 A It's the termination behavior notice that Ms. Pelo gave to

1 Wendy.
2 Q And the portion with the reasons for the termination, was
3 that -- is that the same language that you saw that day, on the
4 21st?
5 A Yes.
6 Q Did Ms. Geaslin say anything during this meeting?
7 A No.
8 Q And what was her demeanor?
9 A She was quiet, she as calm.
10 Q Was that the end of that meeting?
11 A No, I actually asked Theresa a few more questions.
12 Q What did you ask Theresa?
13 A I asked her about the initial incident that placed -- that
14 made her place Ms. Geaslin on suspension pending. I asked
15 about the insubordination. I asked her if Wendy specifically
16 said, no, I'm not going to do that or, no, I'm not going to up
17 front to bag, and she said, yes, that she told her, no, I'm
18 going to lunch.
19 Q Okay.
20 A And that Wendy had reiterated to her I'm going to lunch.
21 Q And that was Theresa who said that.
22 A That was Theresa who said that.
23 Q Did she say anything else at that point?
24 A No, just that, but then I asked her if, you know, she
25 could just give Wendy another chance and not terminate her.

1 You know, I don't see any more issues with any type of
2 misconduct coming up in the future. And she responded by
3 saying, well, I don't see it getting better.
4 So then, again, I asked her if she would give Wendy
5 another chance even if she gives a commitment that, you know,
6 there won't be no other issues with her as far as directives
7 go, and Ms. Pelo said absolutely not. And at that time I
8 called it Step One.
9 Q And so, did you say anything else at that point?
10 A I believe that was the end of the meeting.
11 Q Okay. Did Ms. Geaslin leave at that point?
12 A Yes.
13 Q Again, was she escorted out by security that day?
14 A No.
15 Q Was she escorted out by management?
16 A No.
17 Q Did you file a grievance on behalf of Ms. Geaslin's
18 termination?
19 A Yes.
20 Q Do you know what the outcome of that was?
21 A It was dropped by our Executive Grievance Committee.
22 Q Going back to your collective bargaining agreements,
23 specifically the meat contract, is there -- are you aware of
24 any portion of the contract that specifically incorporates the
25 National Labor Relations Act?

A No.

Q And the case law appended to the Act?

A No.

Q Okay. Thank you.

MS. SAVELAND: Nothing further.

JUDGE TRACY: Okay. All right. Mr. Deeny, go ahead with the cross?

MR. DEENY: Yes, thank you, Your Honor.

CROSS-EXAMINATION

Q BY MR. DEENY: Mr. Craine, did you make any statements to the Counsel for the General Counsel here at the NLRB?

A A statement?

Q Yeah, did you give a statement?

A Like an affidavit?

Q Yes.

A Yes.

Q One --

A Yes.

Q -- or more?

A One.

MR. DEENY: Thank you. May I have one moment, Your Honor?

JUDGE TRACY: Yeah. Okay. Let's go ahead and go off the record. If you could just let me know -- let us know when you're ready.

MR. DEENY: I will.

1 (Off the record at 2:58 p.m.)
2 Q BY MR. DEENY: Mr. Craine --
3 JUDGE TRACY: All right. So go ahead, Mr. Deeny.
4 MR. DEENY: -- oh, I'm sorry.
5 JUDGE TRACY: Yeah, go ahead now.
6 MR. DEENY: Okay. Thank you.
7 Q BY MR. DEENY: Mr. Craine, in your affidavit you make the
8 statement you weren't present for the Step Two meeting with Ken
9 Aragon, but you provided notes taken by the Union
10 Representative.
11 A Yes.
12 Q That would be Ms. Trujillo?
13 A Correct.
14 Q And where are those notes?
15 A In her file -- Ms. Geaslin's file.
16 MS. SAVELAND: Can you --
17 Q BY MR. DEENY: Did you provide them to the General
18 Counsel?
19 A I believe I did.
20 MS. SAVELAND: Those are the notes that are in dispute.
21 MR. DEENY: This isn't the Step Two meeting. These are
22 the meeting -- these are notes of the suspension pending
23 meeting on 5/15.
24 MS. SAVELAND: I don't believe I have those. I don't have
25 those notes. Your Honor, may we have a moment, and I can go

1 review my file to see if I have these notes that --
2 JUDGE TRACY: Okay.
3 MS. SAVELAND: -- he mentions in his affidavit.
4 JUDGE TRACY: All right. So let's go off the record.
5 (Off the record at 3:06 p.m.)
6 JUDGE TRACY: Okay. So let's go ahead and go back on the
7 record.
8 THE COURT REPORTER: Yes, ma'am.
9 JUDGE TRACY: Okay. All right. Go ahead with the voir
10 dire regarding the reference to the notes.
11 MR. DEENY: Could we have a predicate, because I think
12 that was off the record as well?
13 JUDGE TRACY: Yes. So go ahead. So, I'm sorry. We went
14 off the record, because there was a reference to -- in the
15 statement regarding -- this witness' statement regarding some
16 notes that exist. So, Ms. Saveland, where are these notes, or
17 what are these notes?
18 MS. SAVELAND: Your Honor, I found the notes that I
19 believe the affidavit is referencing, and it's the General
20 Counsel's position that they are not properly Jencks material,
21 because they are not set forth or signed to be a statement from
22 the witness that is testifying. There's a reference in the
23 affidavit and that's about where it ends. Nobody's testifying
24 about the Step Two. We did not ask him to testify to what
25 occurred in the Step Two meeting.

1 JUDGE TRACY: Okay. And so --
2 MR. DEENY: So I wanted to voir dire the witness about
3 this reference to him having the company's labor relation
4 manager's notes from the Step Two that is in the Jencks
5 statement.
6 MS. SAVELAND: I'm not sure I understand what you want to
7 voir dire him about.
8 MR. DEENY: How does he have possession of Mr. Aragon's
9 notes?
10 MS. SAVELAND: I don't see how that's relevant to this
11 case.
12 JUDGE TRACY: Please, for my benefit, read to me the
13 statement, because I'm not even sure what was actually stated.
14 MR. DEENY: The statement is I was not present for the
15 Step Two meeting with Ken Aragon, the Employer's Labor Manager,
16 but I provided the notes taken by the Union Representative.
17 These aren't notes of a Union Representative. She says that
18 she just got notes of Mr. Aragon's in her file. And I'm
19 entitled to know how she got notes of Mr. Aragon in her file.
20 JUDGE TRACY: So, Ms. Saveland, whose notes are those?
21 MS. SAVELAND: They were -- you know, there's actually not
22 a signature on the notes. I don't think these are Mr. Aragon's
23 notes. I'm saying it's the Step Two meeting with Mr. Aragon,
24 because -- yeah, these are not Mr. Aragon's notes.
25 JUDGE TRACY: These are -- it sounds to me what you just

1 read that they're actually the Union Representative who
2 attended the meeting, that's whose notes that he's referring
3 to. Why don't we ask the witness what notes and to clarify
4 that statement there to clear all of this up?
5 I don't think that there are any notes that existed of any
6 agent of the Employer is what my point is from listening to all
7 of this. So go ahead and ask him questions about that, but,
8 again, I think that they're the Union Rep's notes not your --
9 Mr. Aragon's notes.
10 MR. DEENY: I hope that's right.
11 JUDGE TRACY: Well, ask him --
12 MR. DEENY: Yeah.
13 JUDGE TRACY: -- and let's make sure to clear that up.
14 Q BY MR. DEENY: Did you attach to your affidavit notes that
15 Ms. Trujillo took in the second step meeting?
16 A Correct, those notes belong to Leader Trujillo.
17 Q And did you review those notes before testifying here
18 today?
19 A No.
20 Q Did you review them before attending the Step -- the
21 meeting with the Grievance Committee?
22 A Yes.
23 MR. DEENY: May I look at them, please, Your Honor?
24 MS. SAVELAND: I still don't understand how this is
25 relevant to this line of questioning. He hasn't testified

1 about the Step Two meeting, he hasn't testified about
2 testifying or speaking at the E-Board meeting.
3 JUDGE TRACY: Yeah, I don't see --
4 MR. DEENY: Well, okay, that's --
5 JUDGE TRACY: -- how you're entitled to these notes or
6 anything like that there.
7 MR. DEENY: -- well, if I'm not entitled to them, whey is
8 the NLRB entitled to them? They're issuing a complaint based
9 on this information that's in their file.
10 MS. SAVELAND: There's a lot of information in our file
11 many times that isn't actually make it -- doesn't actually make
12 it into the trial. It doesn't support or it's not relevant to
13 the allegations that we have in our complaint. Therefore, we
14 haven't set forth any of the evidence from the Step Two,
15 because it's our contention that the unfair labor practices
16 occurred well before the Step Two occurred.
17 JUDGE TRACY: Okay.
18 MR. DEENY: This --
19 JUDGE TRACY: So I'm going to -- if you're requesting
20 these records now that had never been requested before, I'm
21 going to overrule whatever you're requesting. You're not
22 entitled to them. You can certainly appeal --
23 MR. DEENY: They're attached to a Jencks statement.
24 JUDGE TRACY: -- I -- again, we're not going to get the
25 notes, so let's just move on with the cross-examination of this

1 witness.
2 Q BY MR. DEENY: Did you present at the Executive Board
3 Level?
4 A Yes.
5 Q You presented this case?
6 A Correct.
7 Q Did you review those notes of Ms. Trujillo in doing so?
8 A Yes.
9 Q And did you advocate on her behalf -- Ms. Geaslin's
10 behalf?
11 A Yes.
12 Q And the Union Executive Board, which consists of your
13 President, and Vice-President, and Secretary/Treasurer said
14 they were not proceeding with this, correct?
15 A It was actually the Executive Grievance Committee, which
16 is made up of usually three directors down at the Local.
17 Q Three levels down at the Local. So you presented to that
18 group?
19 A Correct.
20 Q Did you review those notes and roll out all of the
21 information contained in the Step Two meeting?
22 A Yes.
23 Q Did you recite in there that Ms. -- in that meeting that
24 Ms. Geaslin actually admitted that there was a major jam of
25 business that day, and she was asked to go in and help sack

1 grocery?
2 A Yeah.
3 Q And did that Executive Committee turn down that grievance
4 even knowing that, correct?
5 A Correct.
6 Q And then there's a further appeal to the E-Board if need
7 be, correct?
8 A Correct.
9 Q Which is chaired by President Kim Cordova?
10 A Correct.
11 Q Did it go to that level?
12 A It did.
13 Q And that was also turned down, correct?
14 A Correct.
15 Q And it was turned down -- did you prepare for that
16 meeting?
17 A Yes.
18 Q Did you present for that meeting?
19 A Yes.
20 Q Was Ms. Geaslin present for that meeting?
21 A Yes.
22 Q She was also present for Executive Committee meeting?
23 A No.
24 Q Just you?
25 A Correct.

1 Q Okay. And it's true, is it not, that the Executive Board,
2 Ms. Cordova and -- who's -- who makes that up, Kevin Schneider,
3 the Executive Secretary/Treasurer?
4 A Yes.
5 Q Mr. Mathewson at that time?
6 A No.
7 Q Who else?
8 A Members from our stores that we represent. It could be
9 members from Safeway, members from King Soopers, members from
10 Albertsons, JBS Meat Packing Plant. It's broken up between 24
11 members that are just from all the facilities we represent.
12 Q And so, how many do you remember being in attendance that
13 day?
14 A About half.
15 Q So 12?
16 A Approximately 12.
17 Q And they all listened to what you had to say about Ms.
18 Geaslin's conduct, and they said we're denying this grievance.
19 A Yes.
20 Q Sir, you said that there's nothing in the collective
21 bargaining agreement that references the National Labor
22 Relations Act. Did you just say that on direct examination?
23 A I'm not too sure.
24 Q You filed grievances routinely claiming that there was
25 collective -- what you call collective, concerted activity,

1 correct?
2 A Correct.
3 Q But you didn't file a grievance claiming there was any
4 collective, concerted activity in this case; did you? Do you
5 want to look at the grievance you filed?
6 A No, I don't need to.
7 Q You didn't say that; did you?
8 A No.
9 Q And, sir, there are actually in each, the retail and the
10 meat supplement, correct?
11 A No, it's the meat bargaining Unit. It's not a supplement.
12 Q It doesn't have every provision. It incorporates
13 provisions from the retail agreement, correct?
14 A Are you talking about the grievance procedure? It's the
15 exact same for meat and retail.
16 Q No, I'm asking you there are provisions in the meat
17 agreement that reference -- look to the retail agreement for
18 this provision, correct?
19 A I'm not too sure.
20 Q But in both contracts there is a provision that says, in
21 Article 44, in the meat agreement, that the Employer shall not
22 discriminate against anyone based on their Union membership or
23 for upholding Union principals, correct?
24 A Correct.
25 Q Same in Article 40 in the retail agreement, correct?

A Correct.
Q And you didn't grieve that, correct?
A No, I'm not too sure. I'd have to see the grievance form.
Q You grieved suspension pending termination and termination, correct?
A I believe I grieved the suspension and also the termination subsequent.
Q You're exact words were suspension pending termination, correct?
A I'm not too sure. I'd have to see the grievance form.
MR. DEENY: I don't know if the witness has the exhibits up there, Your Honor. Could he be shown Respondent's Exhibit 4?
THE WITNESS: Thank you. Okay.
Q BY MR. DEENY: That's your grievance, correct?
A Correct.
Q You filled that out on the UFCW form after the Step One, correct?
A Correct.
Q And in there, the complaint is Ms. Geaslin was suspended pending investigation on 5/9/14, and subsequently terminated 5/21/14, without good or sufficient cause, correct?
A Correct.
Q Not one mention of engaged in any protected concerted activity or upholding any Union principals, correct?

1 A Correct.
2 Q Now, sir, do you remember the Executive Board, in their --
3 and I want -- let's take them one at a time. Do you remember
4 what the Executive Committee's reason for saying they were
5 denying this grievance?
6 A I don't know the exact specific reason, but I know it was
7 because they didn't believe that we could win it in
8 arbitration.
9 Q Do you remember what the reason you couldn't win it in
10 arbitration was?
11 A I do not.
12 Q Do you remember any of those Committee members saying, you
13 know, you just need to work now and grieve later?
14 A Yes, that's our philosophy.
15 Q Yeah. And do you remember any of them saying, you know,
16 you don't get into arguments with your store manager?
17 A No, not specifically.
18 Q But you believe that; don't you?
19 A Sure.
20 Q When you went to the E-Board, to the higher level --
21 A Right.
22 Q -- do you remember why they turned it down?
23 A No, they don't give us an explanation. I go in there,
24 present the case, they ask questions of both the member and the
25 rep, and then we exit, and they make a determination later on

1 that day, and they never give an explanation.
2 Q But you did see -- you were carbon copied on a
3 determination by the Executive Board that says that the
4 Executive Board has considered your grievance and after review
5 and deliberations, it's the decision of the Board to deny the
6 same, correct?
7 A Correct.
8 Q And you weren't instructed to go file any unfair labor
9 practice on behalf of your member were you?
10 A No.
11 Q So I want to make sure I understand something that went
12 on. You actually were not -- as a business representative
13 you're not actually in the stores, correct? You don't work in
14 the stores.
15 A Correct.
16 Q You work full-time for Local 7.
17 A Correct.
18 Q And you have a territory that you cover among stores.
19 A Correct.
20 Q So you know nothing firsthand about the events that
21 transpired in the store between Ms. Pelo and Ms. Geaslin on May
22 9th, correct?
23 A Correct, I just know what I was told.
24 Q By both.
25 A Correct.

1 Q And you got a call from Ms. Geaslin after the 9th of May,
2 correct?
3 A Correct.
4 Q Was it exactly that day?
5 A It may have been. It's hard for me to remember, because
6 it's been over a year.
7 Q And who were the two stewards at Store 1 at that time?
8 A I believe Latrice Jackson.
9 Q And she works in produce, right?
10 A Correct.
11 Q And the other one was Manny, correct?
12 A Manny may have been on LOA at that time, but, yeah; he
13 probably would have been the other one at that time.
14 Q And do you remember Manny's last name?
15 A Lopez.
16 Q Manny Lopez. Okay. Now, when you got the call on the May
17 9th incident, what did Ms. Geaslin tell you?
18 A That she had been sent home by Ms. Pelo.
19 Q For what?
20 A For insubordination.
21 Q And you were advised that there was going to be a meeting
22 on the 14th to talk about this.
23 A Correct.
24 Q And in that advice that you received, did you ask any
25 further questions of Ms. Geaslin of what did you do?

1 A Exactly, yes, I did.
2 Q Did you keep any notes of that?
3 A I did not.
4 Q And based on what she told you, you observed that you were
5 going to be in that meeting because you thought that Wendy was
6 going to be terminated, correct?
7 A Correct.
8 Q For insubordination.
9 A Yes.
10 Q And that is pretty consistent, isn't it, that if you are
11 insubordinate you are going to be terminated?
12 A Yes.
13 Q Now, you say at the end of your meeting you went -- after
14 that meeting, you went to Theresa, and you said how about a
15 last chance.
16 A The meeting on the 14th?
17 Q Yeah.
18 A Okay. Yeah.
19 Q How about a last chance? Hadn't she already been given a
20 last chance?
21 A Not to my knowledge.
22 Q Sir, if insubordination is termination, she had already
23 been given a chance; hadn't she?
24 A Well, according to what Ms. Geaslin told me, she never
25 refused Theresa's directive. She just merely questioned her as

1 to why she was having her do it, because she knew it was a
2 violation of our collective bargaining agreement.
3 Q Could we take them one at a time? Do you remember my
4 question?
5 A Repeat it.
6 Q She had already been given a last chance for
7 insubordination; hadn't she?
8 A I don't know.
9 Q So all you know at that point is that she has, according
10 to Theresa, refused to go in and work in sacking groceries as
11 she was walking through the front end, correct?
12 A Yes.
13 Q And that is absolutely, she never did go sack groceries;
14 did she?
15 A No, she didn't.
16 Q Yeah. And you say in that meeting with Ms. Pelo that
17 Wendy's voice was elevated. I felt she was pretty loud and her
18 manager was aggressive. What was her manager doing that was
19 aggressive?
20 A Her -- no, I don't remember saying her manager was
21 aggressive.
22 Q Okay. And so, Ms. Pelo was aggressive or, excuse me, not
23 Ms. Pelo, but Ms. Geaslin was aggressive?
24 A It seemed like, yeah, she was getting agitated, being more
25 aggressive.

Q Okay. That's not advisable; is it?
A No.
Q And that's why you took her out of the room. She was an embarrassment to you, correct?
A No, she wasn't an embarrassment to me.
Q You wouldn't advise a member to behave that way towards a store manager; would you?
A Correct.
Q And it's true, is it not, that Ms. Pelo was saying to her two managers that were present there -- assistant managers, are you watching this.
A I didn't hear her tell them that.
Q But according to you, you couldn't actually see the faces that she -- Ms. Geaslin was making towards Ms. Pelo; could you?
A Correct.
Q And you don't recall Ms. Pelo saying, are you seeing this. Are you seeing what she's doing here?
A I do not.
Q You say that she was -- Ms. Geaslin was gesturing a lot with her hands. That is, she was coming across like this out of her chair towards Ms. Pelo, correct?
A No, when she was elevating her voice, she was also, you know, using her hands to gesture. Some people do that to express themself (sic), I guess, when the speak.
Q And there was -- your own observation was that Ms. Geaslin

1 -- Wendy -- was being argumentative, correct?
2 A Correct.
3 Q At no time did she ever express any remorse or contrition
4 for what she had done on the floor, correct?
5 A Correct.
6 Q And you took her out of the room, because she was so upset
7 you wanted to stop her from getting any more heated, correct?
8 A Correct.
9 Q Theresa was not yelling, correct?
10 A Correct.
11 Q You took Ms. Geaslin into the hall and told her to calm
12 down, that she wasn't helping her situation, correct?
13 A In other words, yes.
14 Q Those are your exact words, correct?
15 A They may have been. It's been a while.
16 Q That's what you put in your statement.
17 A Okay.
18 Q And I told her -- you told her not to be so disrespectful
19 to Theresa, correct?
20 A Correct.
21 Q Ms. Pelo told you, at the end of that meeting, you
22 separately, that she came to that meeting to give her a second
23 chance, but based on her behavior during that meeting, she was
24 not going to do so, correct?
25 A She didn't state it as a second chance, but, yes, she did

1 state that she was originally going to give her a five day
2 suspension for insubordination.
3 Q But now, after talking with her regional manager --
4 A She was going to seek termination.
5 Q -- and that was after she had talked with her district
6 manager, correct?
7 A Right.
8 Q Do you know who that district manager is?
9 A No.
10 Q But she told you I got on the phone --
11 A Yeah.
12 Q -- with my district manager. I ran by her what's going on
13 here --
14 A Correct.
15 Q -- and she told you that the district manager agreed with
16 that outcome, correct?
17 A She didn't really tell me the opinions that she got from
18 Labor or her DM, she just said she ran it by them and this is
19 what she decided to do.
20 Q And I think you said on direct that that's customary, in
21 your experience, with King Soopers, the store manager will
22 consult with the DM, as well as with Labor Relations before
23 making any termination decision.
24 A Correct.
25 Q And so, at the end of the day, on the 14th, it was Ms.

1 Pelo's decision to you, that I want to have a meeting on the
2 21st, I want to think about this, but my inclination is to
3 terminate her.
4 A Yes.
5 Q When you receive the termination write-up, the behavior
6 notice, and it said gross misconduct, she had already explained
7 to you what she perceived to be the gross misconduct, correct?
8 A Correct.
9 Q But yet you asked her what she meant by that, correct?
10 A Correct.
11 Q And she told you that that was the disrespect that she had
12 shown in that meeting.
13 A Correct.
14 Q And you also asked her about the previous suspension --
15 the five day suspension -- and she told you that that was
16 because she had refused to bag the groceries, correct?
17 A Yes.
18 Q And it is true that Ms. Geaslin told her store manager, in
19 your presence, you, store manager, need to earn my respect?
20 A Yes.
21 Q Now, sir, I'm interested in your statement about in your
22 first meeting with Ms. Pelo in -- so that would be the date of
23 5/14?
24 A Correct.
25 Q Okay. Your statement that you -- did you say to Ms. Pelo

1 that there was a violation of the contract by asking her to
2 bag?
3 A Yes.
4 Q Sir, where in the contract is there any prohibition
5 against a Starbucks employee bagging groceries?
6 A Well, that's located in the retail bargaining agreement,
7 Article 1. It states that only persons in the bargaining unit
8 can perform the work. And Ms. Geaslin wasn't in the bargaining
9 unit; she was in meat bargaining unit, not retail. And Ms.
10 Pelo acknowledged that.
11 Q Are you familiar with customer first?
12 A Not really, no.
13 Q Have you ever looked at King Soopers job descriptions?
14 A Some of them.
15 Q You are aware, are you not that the job description
16 specifically provides that you provide the customer anywhere in
17 the service, anywhere in the store, whatever you are assigned,
18 you provide customer service in the store.
19 A Yeah, I know that it states customer service is first, but
20 I don't recall it stating anything about even if you need to
21 work in another bargaining unit.
22 Q Sir, are you -- is there any language, in any agreement,
23 that says Starbucks employees any more than produce clerk
24 employees, cannot bag groceries?
25 A No.

1 Q During any discussion that you had with Ms. Pelo -- I'm
2 sorry, Ms. Geaslin, was there any discussion by Ms. Geaslin
3 with you as to why Ms. Pelo was doing this?
4 A Uh-huh, yes.
5 Q What?
6 A She said that Ms. Pelo, I'm assuming, got frustrate with
7 Wendy, because she was questioning her when she was telling her
8 to go upfront and bag. According to Wendy, she let Ms. Pelo
9 know I'm not supposed to be doing that, you know it's not in my
10 bargaining unit. And also, I believe she stated to her that
11 she hadn't had lunch yet, and she only had less than an hour to
12 go on her shift.
13 Q And did you -- did Ms. Geaslin tell you that Ms. Pelo
14 harbored any resentment from her, from any other situation in
15 the store?
16 A No.
17 Q Okay. And you said that she only had an hour left on her
18 -- or approximately an hour left on her shift, and she was
19 going to take her lunch?
20 A Yeah, that's what Wendy had mentioned to me.
21 Q And Ms. Pelo told you that she said, specifically, I'm not
22 bagging groceries; I'm taking my lunch, correct?
23 A Something like that, yes.
24 Q And you are aware that under the collective bargaining
25 agreement, you're supposed to be taking your lunch in the

1 middle of your shift, correct?
2 A Uh-huh.
3 Q Say yes.
4 A Yes.
5 Q And you're also aware that's a requirement under State
6 law, correct?
7 A Correct.
8 Q And you are aware that Ms. Geaslin had been disciplined
9 twice for not doing that before, correct?
10 A No.
11 Q You aren't aware of that.
12 A I'm not aware of that.
13 Q You didn't look at her file.
14 A If I did, I don't remember it today.
15 Q And you did understand at the time that you went to the
16 meeting, because Ms. Pelo told you, I told her that's fine,
17 just help me out here, and you can take your lunch, correct?
18 A I do not remember Ms. Pelo stating that.
19 Q That's your understanding?
20 A Right. Yes.
21 Q Well, in the meeting with the managers -- all three of the
22 managers on the 14th was Rox (phonetic) in the meeting the
23 whole time?
24 A Roxy?
25 Q Yeah.

A I believe so.
Q And Lisa was in the meeting the whole time.
A Correct.
Q And on direct you used a term that I'm not familiar with, but I think you said crossover. Did I misunderstand that?
A No.
Q Okay. You said that baristas are not to do anything with samples of King Soopers' product. Did I hear that correct?
A I believe you're speaking about what Ms. Saveland asked me and that was pertaining to bakery items.
Q Yeah, I --
A That's correct with bakery items, yes, because that's a different bargaining unit.
Q So let me just make sure I understand. Are you aware that Ms. Geaslin had been ordered on previous occasions to do samples of King Soopers' bakery items to market over at Starbucks?
A No.
Q You're not aware of that?
A I am not aware of that.
Q And you're not aware of who was involved in any such situation.
A Correct.
Q And you're not aware of any grievance being filed by her being given that instruction, correct?

A Correct.

MR. DEENY: Yeah, one second, Your Honor.

Q BY MR. DEENY: And have you seen anything in the collective bargaining agreement that says that baristas at Starbucks are only supposed to sample Starbucks products?

A No.

Q Any written directive from King Soopers to that effect?

A If there is one, I haven't seen it.

MR. DEENY: Thank you, Your Honor.

JUDGE TRACY: Ms. Saveland, go ahead, please.

MS. SAVELAND: Okay.

REDIRECT EXAMINATION

Q BY MS. SAVELAND: Mr. Craine, I just want to clarify a few points. In your affidavit, you did, at one point, as Mr. Deeny pointed out -- I think your exact terms were her manner -- speaking about Ms. Geaslin -- was kind of aggressive, and you also say that she was being argumentative, but not insubordinate. Can you elaborate on what you mean by aggressive?

A Yeah. Yes, she just -- her voice, her tone got louder, and she was doing a lot of gesturing with her hand. That's what I perceived as her being a little bit more aggressive.

Q So when Mr. Deeny was leaning over the desk like this earlier, was she doing that?

A No.

1 Q Was she approaching Ms. Pelo --
2 MR. DEENY: Let the record reflect --
3 Q BY MS. SAVELAND: -- at all physically?
4 A No.
5 MR. DEENY: -- I didn't lean over the desk, I leaned out
6 of my chair.
7 MS. SAVELAND: The record will so reflect.
8 JUDGE TRACY: Okay. Go ahead.
9 Q BY MS. SAVELAND: So she didn't actually approach Ms. Pelo
10 at all?
11 A Correct.
12 Q Okay. I just wanted to get that clear. And you said she
13 was argumentative, but not insubordinate. Can you explain
14 that?
15 A Yeah, I mean, at a couple points -- and I don't remember
16 what was specifically said, but while Theresa was speaking, you
17 know, Wendy cut her off and started to give her side. That's
18 what I meant, but not in -- you know, there was no
19 insubordination in that meeting. I meant there was an --
20 Q Could you --
21 A -- investigation.
22 Q -- thank you. Could you tell why Ms. Geaslin was getting
23 emotional and argumentative?
24 A Yeah, I believe it's because of the claim of her being
25 insubordinate and Theresa stating that she told her no and

1 Wendy sticking with, no, I never told you no, what I was doing
2 was questioning as to why you're having me do this.
3 Q So did Wendy seem to feel very strongly about the fact
4 that she didn't refuse to bag?
5 A Yes.
6 Q Could that be why she was acting that way?
7 A Yes.
8 MR. DEENY: Objection.
9 JUDGE TRACY: Sustained.
10 Q BY MS. SAVELAND: You said you talked to Ms. Pelo, excuse
11 me, after the May 14th meeting, and she said that originally
12 she was thinking of doing a five day suspension. Did she
13 articulate to you what made her change her mind and why she was
14 seeking termination at that point?
15 A Yeah, she didn't like the way Wendy spoke to her in the
16 meeting that just had.
17 Q The grievance meeting that you just had?
18 A Right, the one on the 14th.
19 Q Right.
20 A Yes.
21 Q I know you testified that you took Ms. Geaslin out of the
22 room, because she was getting emotional and escalating. Did
23 Ms. Pelo's behavior have anything to do with that, with taking
24 her out of the room?
25 A Yes, but Ms. Pelo never got loud, but I could tell, just

1 by her facial expression, you know, she was turning red. She
2 was -- something was about to give, so I thought it was best to
3 get Wendy out of there and give them both a break.
4 Q But before the end of that meeting, on the 14th, Ms. Pelo
5 did state her intent of wanting to terminate Wendy --
6 A Correct.
7 Q -- for her actions therein? Okay. Going back to the
8 Executive Committee meetings that you attended, was anybody
9 from the National Labor Relations Board present at any of those
10 meetings?
11 A No.
12 Q Did you have any attorneys from the National Labor
13 Relations Board there?
14 A No.
15 Q How about the Regional Director for the National Labor
16 Relations Board?
17 A No.
18 Q Did you discuss any case law, such as Crown Central
19 Petroleum?
20 A No.
21 Q Did you discuss Kingsbury Shop Employees Association?
22 A No.
23 Q Did you discuss the Interboro case?
24 A No.
25 Q And how about Atlantic Steel?

1 A No.

2 Q None of those cases were discussed at the Executive

3 Committee Meeting?

4 A No, ma'am.

5 MS. SAVELAND: Thank you. Nothing further.

6 JUDGE TRACY: Mr. Deeny, any more questions?

7 **RECROSS-EXAMINATION**

8 Q BY MR. DEENY: Indeed, you didn't even discuss that there

9 as any protected concerted activity at all; did you?

10 A Correct.

11 Q Even though the contract allows for that, correct?

12 A Correct.

13 MR. DEENY: That's all.

14 JUDGE TRACY: Okay. All right. Mr. Craine, thank you.

15 THE WITNESS: Thank you.

16 JUDGE TRACY: If you could just not discuss your testimony

17 with anyone else until after the close of this hearing, and

18 then you need to check with the General Counsel to see if they

19 need you to stick around, because they might need you for

20 rebuttal.

21 THE WITNESS: Okay.

22 JUDGE TRACY: Okay.

23 THE WITNESS: Thanks.

24 JUDGE TRACY: All right. Let's see, Ms. Saveland, what's

25 next from your case in chief?

1 MS. SAVELAND: Can I have a moment to confer with counsel,
2 please?
3 JUDGE TRACY: Oh, sure. Okay.
4 MS. SAVELAND: Thank you.
5 JUDGE TRACY: Let's go ahead and go off the record.
6 (Off the record at 3:50 p.m.)
7 JUDGE TRACY: Let's go ahead and go back on the record.
8 Okay. Prior to us going -- coming back on the record, we had a
9 discussion off the record about General Counsel making a motion
10 to amend the complaint. I can't, at this point, recall if we
11 were on or off the record, so go ahead, Ms. Saveland, and tell
12 us, for the record, what you motion is.
13 MS. SAVELAND: Your Honor, the General Counsel moves to
14 amend the complaint to add in an allegation that sometime in or
15 about March 2014, the Respondent, by Theresa Pelo, interrogated
16 the Charging Party about her Union activity.
17 JUDGE TRACY: And then before I go to Mr. Deeny about his
18 position on it, why wasn't this amendment -- why did this
19 amendment occur now, today?
20 MS. SAVELAND: Your Honor, honestly, it was as she
21 testified, the testimony just was clear to me that it was an
22 interrogation and my co-counsel also -- we discussed it and
23 decided that it would be appropriate for you to consider
24 whether it was an interrogation and because Mister -- the
25 Respondent has had a time to speak to her, fully cross-examine

1 the person making the statement, still has yet to put on his
2 case, will get a chance to put on his witness to possibly deny
3 what Ms. Geaslin testified to, it's appropriate and there's no
4 prejudice or reason why it cannot be amended.
5 JUDGE TRACY: And then also we discussed that there was
6 some mention about the charge -- the original or the amended
7 charge that was filed in the case.
8 MS. SAVELAND: Yes, the amended charge, which is part of
9 General Counsel's Exhibit 1-D, was filed on August 18th, and it
10 explicitly -- it mentions an interrogation.
11 JUDGE TRACY: All right.
12 MS. SAVELAND: Coerced its employees.
13 JUDGE TRACY: Okay. Mr. Deeny, what's the Respondent's
14 position on the amendment?
15 MR. DEENY: Your Honor, the issue was fully known to the
16 Counsel for the General Counsel when this complaint was filed.
17 She examined her witness about it, because it's in her
18 affidavit, so she knew about it since March -- this incident --
19 alleged incidents in March of 2014, and didn't choose to put it
20 in the complaint. It should be, at best estopped, but we think
21 we have also a basis that it is beyond 10(b), when they knew
22 about it.
23 It's not a situation of a continuing violation, and it
24 should have been pled, and litigated in this case, but I want
25 to be real clear, she interjected that issue into this case,

1 not as an interrogation issue, but as an issue as a motive for
2 Mr. Pelo's animosity towards this individual. That's the sole
3 basis of the questioning that was adduced by Ms. Saveland of
4 Ms. Pelo. That's not, in any way, reflective of some unlawful
5 interrogation.
6 JUDGE TRACY: All right. You know, I thought about it.
7 I'll say that § 102.17 of the Board's Rules, authorizes the
8 Judge to grant complaint amendments upon terms that may seem
9 just during or after the hearing. So amendments can occur at
10 any time, as we know, and we, as judges, have wide discretion
11 in permitting the amendment.
12 And so, I'm going to, you know, overrule the objection,
13 allow the amendment. Certainly, there has been a lot of
14 testimony about the circumstances surrounding that. If that is
15 going to, in the end, be an independent violation I find as an
16 interrogation, that is yet to be seen. You certainly, of
17 course, have the right, and you will, I'm sure, put on
18 testimony regarding that.
19 So I'm going to allow the amendment at this point and
20 certainly please argue your 10(b) argument in the brief arguing
21 that this should have -- should never be allowed in this case,
22 but at this point, because there's such wide discretion, it's
23 pretty loose in terms of amendments, I'm going to go ahead and
24 allow it at this point.
25 MR. DEENY: Yeah, I just would say, Your Honor, and we'll

1 also be arguing the make weight nature of all of these
2 amendments that seem to be dribbling in here.
3 JUDGE TRACY: Yeah.
4 MR. DEENY: And I'm afraid that if we stay here much
5 longer, we may have a whole new complaint. So, having said
6 that, Your Honor, I appreciate the direction to brief all of
7 those issues. It's unfortunate my client has to endure this.
8 May we make a motion, please?
9 JUDGE TRACY: Yeah, so let me --
10 UNIDENTIFIED MALE: What about the rest of the case?
11 JUDGE TRACY: -- let me just finish up with the General
12 Counsel. All right. Now that there's the amendment. Is there
13 anything else, Ms. Saveland, before -- or are you resting your
14 case in chief at this point?
15 MS. SAVELAND: We are, Your Honor.
16 JUDGE TRACY: Okay.
17 MR. DEENY: I should say as well, on the record, we deny
18 the allegation of the amendment.
19 JUDGE TRACY: Okay. All right. So now, Mr. Deeny, it's
20 now over to the Respondent. And --
21 MR. WATSON: Your Honor, we'd like to --
22 JUDGE TRACY: -- go ahead with your motion.
23 MR. WATSON: -- move to dismiss the complaint. Even
24 considering the allegations in the complaint, and the evidence
25 -- the testimony elicited here today, in the light most

1 favorable to the General Counsel, as we must, they've been
2 unable to prove a prima facie case here. They cannot -- simply
3 stated, they cannot show that Ms. Geaslin engaged in any
4 protected or concerted activity.
5 I think as Ms. Saveland alluded to earlier, that the
6 testimony has been very clear. On the issue of protected
7 activity, Mr. Craine just testified -- in his affidavit, he
8 stated unequivocally that Ms. Geaslin was aggressive, that she
9 was arguing with her supervisor, that she was being
10 disrespectful. His exact words were kind of aggressive, being
11 argumentative, but subordinate. I think it's clear that
12 engaging in that behavior, the waving of the hands, and raising
13 her voice, and yelling at her supervisors in this context, she
14 was not engaged in the protection of act, she actually lost
15 protection of the Act.
16 With regard to concerted activity, on cross-examination,
17 Ms. Geaslin admitted -- based on a specific question, she
18 admitted that it was a personal objection, that she was not
19 objecting on behalf of anyone else in the Union. She was
20 objecting under personal objection that she didn't think she
21 needed to bag sack groceries. And because it's a personal
22 objection of her own personal belief, it's not concerted
23 activity.
24 So we don't think the -- even construing the lights in the
25 most favorable to the General Counsel that they have proved a

prima facie case.

JUDGE TRACY: So -- you know, at this point, I'm going to deny the motion to dismiss. I do understand what you're saying, and I do -- will really consider that portion of the case in terms of the protected concerted activity when I issue the decision, but, at this point, I'm going to deny the motion to dismiss.

MR. WATSON: Without argument from Counsel for General Counsel?

JUDGE TRACY: Yeah, because I'm --

MR. WATSON: Okay.

JUDGE TRACY: -- going to deny it.

MR. WATSON: Okay.

JUDGE TRACY: I mean, I hear what you're saying, and I understand that, and that is one of the cases -- one of the issues that I have to deal with first and foremost in this case. Okay. All right. So are you ready to call your first witness?

MR. WATSON: Yes. Respondent will call Angelica Eastburn first.

JUDGE TRACY: And we can go off the record.

(Off the record at 4:12 p.m.)

JUDGE TRACY: What's her last name?

Okay. Go ahead and raise your right hand, please.

THE WITNESS: Okay.

1 Whereupon,

2 **ANGELICA EASTBURN**

3 having been duly sworn, was called as a witness herein and was

4 examined and testified as follows:

5 JUDGE TRACY: Okay. Go ahead and have a seat. And state

6 your name and address for the record.

7 THE WITNESS: My name is Angelica Eastburn. My address?

8 JUDGE TRACY: Yes.

9 THE WITNESS: 840 S. Oneida Street, Denver 80224.

10 JUDGE TRACY: Go ahead.

11 **DIRECT EXAMINATION**

12 Q BY MR. WATSON: Ms. Eastburn, could we start with just

13 move those tissues down? I'm getting a whole lot of white and

14 not much of your face there.

15 A Okay.

16 Q Where are you employed?

17 A King Soopers.

18 Q Which store?

19 A Store 1.

20 Q Who is your supervisor -- store manager at Store 1?

21 A Theresa Pelo.

22 Q What is your current position?

23 A Starbucks lead.

24 Q What were you doing before Starbucks lead?

25 A I was Assistant Deli Manager.

1 Q How long have you been a Starbucks lead?
2 A Almost a year this month.
3 Q And how long were you Assistant Deli Manager?
4 A A little over two years.
5 Q What were you doing before you became an Assistant Deli
6 Manager?
7 A Deli clerk.
8 Q How long have you been with King Soopers total?
9 A Six years.
10 Q Tell me about your duties and responsibilities as coffee
11 lead.
12 A Well, first make sure I'm staffed. I ensure people get
13 the products that they need -- want, I should say. Starbucks
14 is more of a want than a need. You have to be a little more
15 specific, I guess.
16 Q Sure. Are you duties limited to Starbucks?
17 A Yes.
18 Q Generally. And what about as Assistant Deli Manager, what
19 were your duties like, just generally speaking when you were
20 assistant deli manager.
21 A When I was assistant deli manager, I was in charge of the
22 whole deli. You know, hot side, which is the hot foods and
23 chicken, cold side salads, lunchmeats, sales floor.
24 Q As the coffee lead, do you --
25 MR. WATSON: -- strike that.

Q BY MR. WATSON: Do you know Ms. Geaslin -- Wendy Geaslin?
A Yes.
Q How do you know her?
A I worked with her.
Q While she was a coffee clerk --
A Uh-huh.
Q -- at Starbucks?
A Yes.
Q Did you work with her on May 9th, 2014?
A We were both working that day, but I wasn't in Starbucks.
Q You weren't in Starbucks. What were you doing that day?
A I was opening deli manager that day.
Q So you were working as the assistant deli manager --
A Uh-huh.
Q -- back in May of 2014. Do you remember seeing Ms. Geaslin?
JUDGE TRACY: So, I'm sorry, let me just stop you. Let me just give you some instructions about testifying. So please wait for any of these attorneys when they're asking you questions to finish asking, and then you respond after that, so it's not like a normal conversation.
The other thing is you need to give verbal responses. So I just heard you say uh-huh. I need you to say yes or no, or something like that for the record. Okay.
THE WITNESS: Okay.

1 JUDGE TRACY: All right. I'm sorry. Go ahead, please.
2 Q BY MR. WATSON: Just so we're clear, is Starbucks part of
3 the Deli?
4 A Yes.
5 Q So as assistant deli manager, are you overseeing Starbucks
6 as well?
7 A Not really.
8 Q What do you mean?
9 A Starbucks has their own manager. It is -- it's under the
10 deli umbrella, but not really deli, deli.
11 Q If the coffee lead isn't there -- let me ask you this. By
12 the Starbucks manager, do you mean the coffee lead?
13 A Yes.
14 Q If the coffee lead isn't there, then would Starbucks --
15 the coffee clerks working --
16 MS. SAVELAND: Objection. Leading.
17 JUDGE TRACY: Sustained.
18 MR. WATSON: -- let me clear my head and get an actual
19 thought out then.
20 Q BY MR. WATSON: If the coffee lead isn't there, would a
21 coffee clerk -- who --
22 MS. SAVELAND: Objection. Leading.
23 Q BY MR. WATSON: -- who would a coffee clerk speak to if
24 they had an issue in the store?
25 JUDGE TRACY: Okay. So I'll sustain the objection. So

1 try to rephrase it -- what you did towards the end.
2 MR. WATSON: Yeah, I understand.
3 Q BY MR. WATSON: If a coffee lead isn't in the store, and a
4 coffee clerk has a problem, who in the store would the coffee
5 clerk speak to?
6 A It could either be a deli management person or a store
7 management person.
8 Q All right. Let's go back to May 9th, 2014.
9 A Okay.
10 Q Were you there around Noon on that day?
11 A Yes.
12 Q Do you remember seeing Ms. Geaslin at that point on that
13 day?
14 A Yes.
15 Q Do you remember what the store was like at that point?
16 A Busy, Friday at Noon, lunchtime. The store is really busy
17 during lunchtime.
18 Q Were the check stands busy?
19 A Yes.
20 Q Were there lines at the check stand?
21 A I believe so. There was a lot people in the store.
22 Q So do you remember what happened with Ms. Geaslin on that
23 day?
24 A I remember being in the office that day.
25 Q Did you see an incident with Ms. Geaslin and Ms. Pelo that

1 day -- Theresa Pelo?
2 A Yes.
3 Q What happened?
4 A I was in the front aisle coming back from the time clock
5 giving one of my deli clerks the time clock over -- I called
6 them in early that day. And so, we were walking back to the
7 deli, and then Wendy was coming back to go to the time clock, I
8 guess, and words were exchanged, and then we're all like --
9 we're all going to the office --
10 Q Okay.
11 A -- and then we went to the office.
12 Q Let's break that down a little bit. Do you remember if
13 Ms. Pelo asked for assistance from Starbucks or Starbucks
14 clerks?
15 A I know she went over the intercom and asked for all
16 available help.
17 Q All available help?
18 A Uh-huh.
19 Q Did she specify from which departments?
20 A She might have, I don't quite remember.
21 Q And at that point, where were you in relation to where Ms.
22 Geaslin and Ms. Pelo were in the store?
23 A Around U-Scan or floral.
24 Q Is that in the front end?
25 A Yes.

1 Q So you're walking past; is that what you said?
2 A Uh-huh.
3 Q And --
4 JUDGE TRACY: Say yes or no.
5 THE WITNESS: Yes.
6 Q BY MR. WATSON: -- as you're walking past, did you see Ms.
7 Geaslin and Ms. Pelo have a conversation?
8 A Yes.
9 Q At that point, was Ms. Geaslin wearing her Starbucks
10 apron?
11 A No.
12 Q Did you see her take her Starbucks apron off?
13 A No.
14 Q You didn't see her take it off. Did you hear what was
15 said between Ms. Geaslin and Ms. Pelo?
16 A A little bit. Mostly when the volume increased between
17 the two of them.
18 Q What did you hear?
19 A What was it? "You're here to help sack, okay."
20 "But I'm going to take my lunch." So too - "I'm on my way
21 to take my lunch."
22 Q Would you specify who was saying --
23 A Oh.
24 Q -- what did -- let me just ask specifically. What did Ms.
25 Pelo say?

A "Thank you for coming to help sack."
Q And what was Ms. Geaslin's response?
A "I'm on my way to take my lunch."
Q And then what did Ms. Pelo say to that?
A "I need you to help me sack."
Q Was that the end of the conversation or did they keep talking?
A They started to go back and forth.
Q With that same dialogue?
A Uh-huh. Yes.
Q How loud were they speaking?
A Almost clearly. It was a very busy day.
Q I'm sorry.
A It was a very busy day, so it was loud in the store, but I could still hear them clearly.
Q Do you think that customers could hear Ms. Geaslin object to sacking groceries?
A Highly likely.
Q Did you specifically hear Ms. Geaslin object to sacking groceries?
A I do not remember.
Q Well, let me ask you this. Do you ever hear Ms. Geaslin say that she would sack groceries?
A No.
Q Did she -- did you ever see her put her hands up and say,

"Fine, I'll go sack groceries?"

A I do not recall.

Q As you were walking past, did you stop then and engage in a conversation?

A No, I didn't engage in any conversation.

Q Did you stop and become a witness and stay at the conversation?

A Yes.

Q Ultimately, how did that conversation end?

A With Wendy Geaslin leaving the manager's office.

Q I'm sorry, not the -- not on that day. How did the conversation on the sales floor end?

A Let's take it to the office from Theresa.

Q Who went to the office?

A Theresa, Wendy, and me.

Q And it was Theresa that said let's take it to the office?

A I believe so.

Q Okay. So it was just the three of you; is that right?

A Yes.

Q Can you give us a description of what the store is like?

A That day?

Q I'm sorry, the layout of the store.

A Oh.

Q Where is the office?

A Our store is one level, so the office is all the way

1 behind the pharmacy area.
2 Q When you walk in the front door --
3 A Uh-huh.
4 Q -- where -- when you walk in the front door, what's
5 immediately on your right?
6 A It goes the buggies, and then the Starbuck's kiosk.
7 Q Buggy, like a cart?
8 A Yes.
9 Q And then the Starbuck's kiosk to you right?
10 A Yes.
11 Q And what's on your left right when you walk in the door?
12 A The exit, hallway, and floral department.
13 Q Okay. Where are the check stands?
14 A On the other side of floral.
15 Q So a little bit further to the left?
16 A Yes.
17 Q Where was this conversation with Ms. Geaslin and Ms. Pelo
18 that you witnessed, where did that occur?
19 A Around floral and U-scan, right between -- right after
20 floral and first starting the U-scan checkouts.
21 Q So just so I'm clear, if you walk in to your left, it's
22 floral, U-Scan, and then traditional checkout check stands?
23 A Yes.
24 Q Okay. And where is the office in relation to those
25 things?

A All the way past the check stands, and the service desk, and the pharmacy. It's all the way in the corner.
Q On the further lefts side of the store?
A Furthest.
Q Okay. So just so I'm clear, you witnessed the incident, and the three of you traveled back to that furthest left and part of the store to go to the office?
A Yes.
Q When you got to the office, did you close -- did someone close the door?
A Yes.
Q When you got into the office, who started speaking first?
A I do not remember. They both --
Q What was said?
A -- gosh, I don't quite remember, this was like a long time -- it was more than a year ago.
Q Do you remember giving a statement in this case?
A I do.
Q Would it help refresh your recollection if you reviewed your statement?
A Yes.
MR. WATSON: Your Honor, if I may approach?
JUDGE TRACY: Go ahead.
MS. SAVELAND: Can I see a copy of what you're handing her?

1 MR. WATSON: Yeah, sure.
2 MS. SAVELAND: Okay.
3 Q BY MR. WATSON: Are you all finished?
4 A Yes.
5 Q Doe that help refresh your recollection?
6 A Yes, it does.
7 Q So what was said once you entered the office?
8 A It was -- they both started one right after the other
9 about Wendy saying it's not in my contract to help go up front
10 and help sack groceries. Theresa was, "Well, if I ask you to
11 do something you should do it, I'm your boss."
12 Q BY MR. DEENY: And what did Ms. Geaslin say to that?
13 A "But it's not in my union contract, so I shouldn't be
14 called up to the front end to help sack groceries."
15 Q What was Ms. Geaslin's tone at that point?
16 A Agitated.
17 Q Was she speaking in an elevated voice?
18 A They both were.
19 Q Would you say that Ms. Geaslin was yelling?
20 A Very loud voice, but I don't -- not yelling.
21 Q You wouldn't say yelling or screaming.
22 A No.
23 Q Did she continue to be defiant?
24 A Yes.
25 Q Would you say she was being disrespectful?

1 A A little bit.
2 Q Do you consider -- her refusal to sack and arguing with
3 Ms. Pelo, do you consider that to be insubordination?
4 A Yes.
5 Q How long, approximately, did that conversation last?
6 A Less than ten minutes.
7 Q What happened at the end of the conversation?
8 A Theresa stated, "Well, you're out -- I'm sending you home
9 on suspension for insubordination."
10 Q And is that when Ms. Geaslin walked out of the office?
11 A And at any point when Ms. Geaslin walked out of the
12 office, did Ms. Pelo call her back?
13 A No.
14 Q So she only left the office once?
15 A Yes.
16 Q When she left the office, did Ms. Geaslin say anything
17 else?
18 A Wah-wah-wah on the way out of the door.
19 Q And how did she say that? Was she as quiet as you were
20 now?
21 A No.
22 Q How loud would say that she said it?
23 A Everybody either in the offices or the break room could
24 hear her.
25 Q So other employees could hear her.

1 A Yes.
2 Q Do you have any idea what that meant, wah-wah-wah?
3 A Something about she lost a week's worth of pay, because of
4 her suspension.
5 Q Do you know why Ms. Geaslin was suspended?
6 A For not following Theresa's orders and talking back on the
7 sales floor, in the loud tone, in front of customers.
8 Q Sure. Generally, when are employees supposed to take
9 their lunch?
10 A Around -- mid-way to five hours into their shift.
11 Q So if an employee began their shift at 5:30 in the
12 morning --
13 A Uh-huh.
14 Q When would you expect that employee to go to lunch?
15 A Between 10 a.m. and 11 a.m.
16 Q As your role in -- as your role as coffee lead, have you
17 ever had to help out in other departments in the store?
18 A Yes.
19 Q Is that common?
20 A Sometimes, I'll help in the deli if I have enough coverage
21 in Starbucks?
22 Q Have you ever helped sack?
23 A No.
24 Q You've never helped sack.
25 A No.

1 Q Would you be surprised to -- if you heard Ms. -- on the
2 9th, when you heard Ms. Pelo request help to sack, were you
3 surprised?
4 A A little.
5 Q You were. Why is that?
6 A Because it's very unusual to have someone from an outer
7 department to come and help sack, besides produce, and bakery,
8 and grocery.
9 Q If you were working in the Starbucks, and she requested
10 help to sack, would you have gone to help?
11 A If there was coverage in Starbucks, yes.
12 Q Have you actually helped checkout customers at the
13 Starbucks?
14 A Yes, I have. If there's a very long line, and I have no
15 customers, I'll page you can come over to Starbucks if you have
16 ten items or less.
17 Q Sure. By the way, do you remember on the 9th, do you
18 remember seeing if Starbucks was busy when there was this
19 incident between Ms. Geaslin and Ms. Pelo?
20 A No, not really. Maybe one, two people in line, maybe.
21 Q Enough for -- was it enough -- was there enough coverage
22 there for one person to handle?
23 A Yes.
24 Q As the coffee lead, you're part of UFCW, Local 7; is that
25 right?

1 A Yes.
2 Q The same bargaining unit as Ms. Geaslin?
3 A Yes.
4 MR. DEENY: Nothing further, Your Honor.
5 JUDGE TRACY: All right. Ms. Saveland.
6 MS. SAVELAND: Yes.
7 **CROSS-EXAMINATION**
8 Q BY MS. SAVELAND: So, Ms. Eastburn, did Ms. Pelo ever
9 specifically tell you why she suspended Ms. Geaslin that day?
10 A I don't remember if she did. She asked for a statement.
11 Q So when you responded to counsel's question about why
12 Theresa suspended Wendy that day, you were just surmising --
13 guessing why she did it? Let me ask it a different way. Well,
14 I think I already asked it. She -- Ms. Pelo never directly
15 told you why she suspended Wendy that day?
16 A No, she didn't directly tell me why.
17 Q So you don't actually have personal knowledge of what was
18 in Ms. Pelo's mind and why she terminate -- or why she
19 suspended Ms. Geaslin that day, correct?
20 A Correct.
21 Q Is it fair to say that in your opinion it's a very big
22 deal to make a huge scene in front of customers?
23 A It is.
24 Q Because you want them to enjoy shopping at King Soopers,
25 correct?

A Yes.
Q The customers first we've heard about that's very important, correct?
A Yes.
Q So if you witness somebody behaving so badly in front of customers, it would probably be at the forefront of your mind; wouldn't it?
A Yes.
Q So back when you wrote your statement on May 9th -- and I'm not sure if you still have it in front of you, but I can -- if you don't mind I'm going to show you the statement that you looked at before.
A Okay.
Q There's no -- there's nothing in there, correct me if I'm wrong, about Wendy having a huge explosion in front of the customers or any sort of -- any sort of outburst really or anything that stuck in your mind of her really causing a scene in the front end? Is there anything in there that says she was causing a scene?
A Well, I did say Wendy outburst.
Q Okay. And then you follow-up it up with saying, then both tempers flared, correct?
A Uh-huh. Yes.
Q So both of them were making a scene at that point; would you --

A Yes.
Q -- would you agree?
A Yes.
Q And that was when you all went into the back, correct?
A Yes.
Q And so you went into the office, that's outside of the sight of customers, correct?
A Yes.
Q And, correct me if I'm wrong, but nowhere in that statement that you wrote the day the incident happened, do you mention that Wendy was refusing to sack; is that in there?
A No.
Q And you see the part where you say, "And we both started again with the contract rules," correct? So they were talking about the contract, right?
A Yes.
Q And Wendy was talking about her contract.
A Yes.
Q And just to double check. Would it be fair to say that your -- the events were more fresh in your mind on the 9th when you wrote out this statement than they are today, 15 months later?
A Yes.
MS. SAVELAND: We're done. Thank you.
JUDGE TRACY: Go ahead.

1 MR. DEENY: Briefly.

2 **REDIRECT EXAMINATION**

3 Q BY MR. DEENY: Ms. Eastburn, would you expect an employee
4 to be suspended if they engaged in the behavior that you saw
5 Ms. Geaslin behave in?
6 A Yes.
7 Q Is it typical that employees who are insubordinate are
8 suspended?
9 A Yes.
10 Q In your experience, were they sometimes terminated?
11 A The very few that I know of, they have been terminated.
12 Q I'm sorry, of the few incidents you know -- is your
13 testimony of the few incidents you would know of, they have
14 been terminated; is that what you said?
15 A Yes --
16 Q Okay.
17 A -- severed some people.
18 Q I just didn't hear you. On May 9th, did Ms. Geaslin
19 actually sack?
20 A No.
21 Q Did you see her check any customers out?
22 A No.
23 Q Did you ever hear her say that she would sack?
24 A No.
25 Q Did you ever hear her say, okay, I'll do what you're

1 asking me to do?
2 A No.
3 Q Okay.
4 MR. DEENY: Nothing further, Your Honor.
5 JUDGE TRACY: Okay. Ms. Saveland, nothing else?
6 MS. SAVELAND: Nothing further.
7 JUDGE TRACY: Okay. All right. Ms. Eastburn, thank you
8 for testifying today. Just please don't discuss your testimony
9 until the close of the hearing.
10 THE WITNESS: Okay.
11 JUDGE TRACY: Okay. Thank you very much.
12 THE WITNESS: Thank you.
13 JUDGE TRACY: You can give that back to the -- thank you.
14 Okay. So Mr. Watson or Mr. Deeny, who's next?
15 MR. DEENY: We're calling Lisa Pandearella, please.
16 JUDGE TRACY: Okay. All right. Let's -- we can go off
17 the record for a minute while he gets her.
18 (Off the record at 4:36 p.m.)
19 JUDGE TRACY: Okay. Go ahead and raise your right hand,
20 please.
21 Whereupon,
22 **LISA PANDEARELLA**
23 having been duly sworn, was called as a witness herein and was
24 examined and testified as follows:
25 JUDGE TRACY: Okay. Go ahead and have a seat, and state

1 your name and address for the record, please.

2 THE WITNESS: Lisa Pandearella, 5093 East Davies Drive,

3 Centennial, Colorado.

4 JUDGE TRACY: Okay. Mr. Deeny.

5 MR. DEENY: Thank you.

6 **DIRECT EXAMINATION**

7 Q BY MR. DEENY: Ms. Pandearella, where are you presently

8 employed?

9 A King Soopers.

10 Q And at what store?

11 A 13th and Speer, Number 1.

12 Q How long have you been employed by King Soopers in total?

13 A Since 2007.

14 Q And how long have you been employed at Store Number 1?

15 A Two years.

16 Q And from which store did you come prior to Store 1?

17 A Store 8, in Highlands Ranch.

18 Q What's your present position at Store 1?

19 A Assistant Store Manager.

20 Q And how long have you held that position?

21 A Two years -- two-and-a-half years.

22 Q And so that was two-and-a-half years --

23 A So in June.

24 Q -- okay. When did you -- prior to being an assistant

25 store manager, what position did you have?

1 A I was a deli manager.
2 Q At which store?
3 A Store 8.
4 Q And were you ever in -- as a deli manager, did you have
5 responsibility for the Starbucks operation?
6 A I did.
7 Q And did you actually work Starbucks yourself?
8 A I did.
9 Q In your experience at King Soopers have you gone up and
10 helped out in the front end of the store?
11 A As a deli manager?
12 Q Yes.
13 A Yes.
14 Q And what -- under what circumstances does that occur?
15 A I would just walk by and see that they were busy, so I
16 would just jump in and help, or if my store manager or
17 assistant would call me, I would go.
18 Q And did anybody ever tell you that that was crossing over
19 from -- impermissibly crossing over from one bargaining unit to
20 another?
21 A It had been said, yes.
22 Q Did -- was there any grievance ever filed about that?
23 A No.
24 Q Are you familiar with the term customer service?
25 A Yes.

Q Customer first?
A Yes.
Q What is that?
A It's making sure that the customer is taken care of no matter what.
Q And are you familiar with the concept in the Starbucks operation of what's been referred to in these proceedings as samples?
A Yes.
Q What are samples?
A Well, in the Starbucks case, it could be samples -- little samples of coffee or their pastries.
Q And since you've been in the deli management position, have there also been samples of King Soopers?
A Yes.
Q Can you describe what kind of process would be followed in that regard?
A In the deli?
Q Yes.
A As far as putting them out, we would just cut them up, like meats and cheeses, and put them in the tray, and cover them, and just give them out to the people with their allergens (phonetic).
Q Now, there's -- and is -- in the Starbucks -- I understand it's warm in here -- in the Starbucks situation are there also

1 samples taken from King Soopers bakery area?
2 A Yes.
3 Q And have you in fact given instructions to Starbucks
4 clerks -- baristas to make samples of King Soopers pastry
5 items?
6 A Yes.
7 Q There's been an allegation in this case -- new allegation
8 in this case -- that there was a solici -- excuse me, an
9 interrogation of Ms. Geaslin about going and complaining to the
10 Union about that. Have you ever done that?
11 A No.
12 Q Have you, in fact, given her a specific instruction as a
13 barista to make samples?
14 A Yes.
15 Q When do you recall that to have been?
16 A On several different occasions she would be asked to do
17 samples, whether it be for Starbucks or for other departments.
18 Probably three or four different times I had asked her to do
19 it.
20 Q And what did she do when you asked her to do it?
21 A If it was for Starbucks, she would do it, but if it was
22 different departments, she would get angry. She would do it,
23 but not without arguing with me about it.
24 Q Do you remember a time where you gave that specific
25 instruction, and she said she wouldn't do it?

A Uh-huh.

Q Where did -- what happened?

JUDGE TRACY: I'm sorry, again, I'll tell you, because you weren't here for the last one, but make sure you say yes or no.

THE WITNESS: Okay. Yes.

JUDGE TRACY: Because we need it for the recording. And then, also, wait for all these attorneys who may be asking you questions, for them to finish before you answer, so we're not interrupting one another.

THE WITNESS: Okay.

JUDGE TRACY: I apologize.

MR. DEENY: No, thank you, Your Honor.

JUDGE TRACY: I think the last was yes.

THE WITNESS: Yes.

JUDGE TRACY: I'm sorry and go ahead.

Q BY MR. DEENY: Okay. I think the question was you said that she indeed did refuse to do that.

A Yes, she did.

Q Do you recall that event to have been in or about March of 2014?

A I don't recall.

Q Does that sound approximately right?

A Probably -- yes, it was around Mardi Gras.

Q Okay. And so there were what we call what kind of cakes?

A King cakes.

1 Q And those are in King Soopers bakery?
2 A Yes.
3 Q What did she do when you gave her that instruction?
4 A She told me that she was not going to do it, and then she
5 went to the Union steward and the steward complained that I had
6 asked her to do samples.
7 Q And who was that Union steward?
8 A Latrice Jackson.
9 Q And did Ms. Jackson come over to the department?
10 A No.
11 Q Did you have any discussion with Ms. Jackson about that?
12 A She came up to me and told me that Wendy was complaining
13 about having to do the samples.
14 Q And did Ms. Jackson tell you what she instructed Ms.
15 Geaslin to do?
16 A She told Ms. Geaslin that she needs to do what her upper
17 management ask her to do.
18 Q And at any time after that, did you go and talk to Ms.
19 Geaslin about why did you go to your Union with that?
20 A No.
21 Q Would you ever do such a thing?
22 A No.
23 Q Was there any grievance filed about having to make those
24 samples by Ms. Geaslin?
25 A No.

1 Q And in the other situations in which you've given her an
2 instruction to use King Soopers' bakery products, has there
3 been a grievance filed about that?
4 A No.
5 Q Now, you said that on occasion in the deli and in the
6 Starbucks arena, you have left if business is slow there to
7 help out in the front end.
8 A Yes.
9 Q And was any grievance ever filed about that?
10 A No.
11 Q Now, you're aware of an episode that occurred in May of
12 2014, specifically May 9th, involving Ms. Geaslin refusing to
13 sack.
14 A Yes.
15 Q How did you become aware of that?
16 A My store manager, Theresa Pelo told me about it.
17 Q So on May 9th, were you -- you were an assistant store
18 manager, correct?
19 A Yes.
20 Q And who was your counterpart as an assistant store
21 manager?
22 A Roxy Barbos.
23 Q Okay.
24 A Sorry.
25 Q Good enough. And could you describe for the Judge what --

1 when the store manager is in the store, how many assistant
2 store managers are typically in the store?
3 A One to two.
4 Q Okay.
5 A It just depends on the day.
6 Q Now, May 9th of 2014, I will represent to you was the
7 weekend proceeding Mother's Day.
8 A Yes.
9 Q Does that comport with your recollection as well?
10 A Yes.
11 Q And, typically, around those events like Mardi Gras, and
12 Valentine's Day, and the rest, what's the volume in the store
13 like?
14 A It's definitely increased. We get a lot of people come in
15 and getting stuff last minute, because there's a lot of
16 downtown people, so they come in before they're going home, and
17 then just all the neighborhood. So it's -- the volume is
18 definitely increased.
19 Q So you weren't in the store that day?
20 A No.
21 Q So would you be on duty the -- over the weekend,
22 typically?
23 A Yes.
24 Q Alternating with Roxandra?
25 A Yeah, Theresa usually gives one of us a Saturday off, one

1 of us a Sunday off. She's good about that, so.
2 Q Okay. Now, you said that Ms. Pelo told you about this
3 incident on May 9th. What did she tell you?
4 A She told me that the store was busy, and she went to Wendy
5 and asked her to come -- or she paged Starbucks to come and
6 help sack, and then she saw Wendy coming out of the kiosk and
7 start coming towards her, so she told her, oh, thank you for
8 helping me, and -- sorry. She asked her to -- she told her
9 that she wasn't going to help her, that she was going to lunch.
10 And then Theresa told her, no, I need you to come help me sack.
11 MS. SAVELAND: Objection. I'm just not sure why she's
12 testifying to everything Ms. Pelo told her. It's just hearsay
13 at this point.
14 MR. DEENY: These are -- these are --
15 JUDGE TRACY: Well, this is a party, basically --
16 MR. DEENY: -- right.
17 JUDGE TRACY: -- to this. So I'm going to overrule the
18 objection and go ahead and let her testify.
19 Q BY MR. DEENY: And what did she tell you that Ms.
20 Geaslin's response was to her?
21 A She told her, no, that she wasn't going to sack, because
22 it was crossing her Union and that she was going to go to
23 lunch.
24 Q Now, what were you asked to do by Ms. Pelo, if anything,
25 at that point?

1 A I wasn't asked to do anything.
2 Q Were you later included in a meeting?
3 A Yes.
4 Q And who else was in that meeting?
5 A Roxy and the Union -- Danny.
6 Q Mr. Craine?
7 A Yes.
8 Q And why were you in attendance for that?
9 A Just as a witness.
10 Q Had Ms. Geaslin come to you at any time between the time
11 that Ms. Pelo told you about this incident and when you had
12 this meeting?
13 A No.
14 Q Did she provide to you any information at all, Ms.
15 Geaslin, about why she wouldn't sack?
16 A No.
17 Q What happened in that meeting?
18 A It was -- started off, you know, with Theresa explaining
19 to her why she had been suspended, and it just really got very
20 heated. Ms. Geaslin got very agitated and aggravated. She
21 started getting loud with Theresa, yelling above Theresa while
22 she was talking. She turned very red. You could see in her
23 expression that she was angry. She started just being very
24 vocal and loud, and it just wasn't very pretty.
25 Q So as you were sitting in the room, could you see Ms.

1 Geaslin?
2 A Yes.
3 Q Did she motion towards --
4 A She would lean forward and kind of be like that (gestures)
5 towards her.
6 Q -- now, you're -- okay. So in your chair you're leaning
7 forward, and you have your fists clenched.
8 A Uh-huh.
9 JUDGE TRACY: Yes.
10 THE WITNESS: Yes.
11 Q BY MR. DEENY: What was --
12 A Sorry.
13 Q -- thank you. When she would do so -- was that more than
14 one time?
15 A Yes.
16 Q Was she making facial expressions to Ms. Pelo --
17 A Yes.
18 Q -- as you observed? What was she doing? Please do it.
19 A She was just -- and at one point, Theresa was just like --
20 and we all were just shocked, and Theresa was kind of -- slid
21 back in her chair, because it was so aggressive.
22 Q Was she -- was Ms. Geaslin baring her teeth at her while
23 she was doing this?
24 A Yes.
25 Q And moving forward in her chair.

1 A And her face was bright red.
2 Q What happened at that point?
3 A At that point, Danny took her out of the room.
4 Q Do you recall any comment by Ms. Geaslin before she left?
5 Anything having to do with Ms. Geaslin saying she would not
6 show respect?
7 A Yes.
8 Q What do you recall?
9 A Theresa told her that she was being very disrespectful,
10 and Mrs. Geaslin told her that she didn't have to respect her.
11 Q And that was before Mr. Craine took them out of the room?
12 A Yes.
13 Q How long were they gone, approximately?
14 A Maybe five minutes --
15 Q What --
16 A -- ten at the most.
17 Q -- what happened when they came back?
18 A Ms. Geaslin was very passive, and she shut down.
19 Q Did she talk at all?
20 A No.
21 Q Did she continue to make any of these motions that you're
22 describing?
23 A Maybe not leaning forward, but she was still making the
24 faces at Theresa.
25 Q And were they just one time or?

1 A No.
2 Q Were they an expression of -- was she turning her head
3 towards you as well when she was making these faces?
4 A No.
5 Q Just directed at Theresa.
6 A Yes.
7 Q And were they -- in your viewing of this, were they in any
8 way an expression of disbelief of what was going on?
9 A No, it was anger.
10 Q And aggression.
11 A Yes.
12 Q And did Ms. Pelo comment on that?
13 A Yes.
14 Q What did she say?
15 A She asked her to quit making faces at her.
16 Q And you had observed that she was still doing that?
17 A Yes.
18 Q So you knew what Ms. Pelo was talking about?
19 A Yes.
20 Q At the end of that meeting, what was the status of Ms.
21 Geaslin's employment?
22 A She was sent home on a suspension, because Theresa needed
23 to get a hold of Labor Relations and get direction on what she
24 should do.
25 Q So the -- she had already had one suspension --

1 A Correct.
2 Q -- and it was continued while she talked with Labor
3 Relations --
4 A Yes.
5 Q --and her manager -- Ms. Pelo's manager?
6 A Yes, the district manager.
7 Q Do you know who that was at the time?
8 A Sally.
9 Q Okay. Is that a customary practice at King Soopers?
10 A Yes.
11 Q You were in the assistant manager position at that period
12 of time. The behavior that you observed by Ms. Geaslin,
13 directed towards Ms. Pelo, did that cause you any concerns as
14 an assistant store manager?
15 A Just the concern that -- how if I were to give her
16 direction again, how she would react, because I know that she
17 or I was told she blew up on the sales floor, and she had told
18 me no before, so I was concerned that it would escalate.
19 Q To your knowledge, was there ever a grievance filed on
20 behalf of Ms. Geaslin concerning being asked to sack?
21 A No.
22 Q Any grievance filed about not taking a lunch?
23 A No.
24 Q In the meeting on the 15th, do you recall Ms. Geaslin
25 making any statement about -- that she was calling the Labor

1 Board on Ms. Pelo?
2 A Yes.
3 Q Did she express what that was about?
4 A Because we were making her cross her Union.
5 Q In this instance --
6 A And we were trying --
7 Q -- of sacking?
8 A -- in -- uh-huh. Yes.
9 Q Did she say that?
10 A Yes.
11 Q And, did anybody ask her about that or did she just
12 volunteer that?
13 A She volunteered that.
14 Q And did she make any reference at all about calling the
15 Labor Board on Theresa because she had asked her to ever do
16 samples?
17 A Not to my knowledge. I don't --
18 Q Not in that meeting?
19 A -- remember that.
20 Q And had she ever made any allegation in that connection
21 that she had called the Labor Board because she was being
22 unlawfully interrogated?
23 A Not to my knowledge.
24 Q Had you ever heard that --
25 A No.

1 Q -- from Ms. Geaslin?
2 (Counsel confer)
3 MR. DEENY: Thank you, Ms. Pandearella. Ms. -- I was
4 going to use the old name, sorry about that -- Ms. Saveland may
5 have some questions for you.
6 JUDGE TRACY: Go ahead, Ms. Saveland.
7 **CROSS-EXAMINATION**
8 Q BY MS. SAVELAND: I just want to clarify a few things,
9 Ms. Pandearella. Just to be clear, you actually didn't witness
10 the event on the 9th --
11 A No.
12 Q -- that led to the initial suspension --
13 A No.
14 Q -- correct? So all your knowledge about that day is
15 secondhand from other people?
16 A All my knowledge from that day is what I was told.
17 Q Okay. So you mentioned that you had had some issues with
18 Wendy kind of fighting you on handing out bakery items at
19 Starbucks --
20 A Yes.
21 Q -- is that correct? Did you ever discipline her for that
22 or write her up?
23 A No.
24 Q And so even though she was being insubordinate, you never
25 did anything -- or what you would consider being insubordinate,

1 you -- you didn't consider it big enough?
2 A I just asked her to do it.
3 Q And then she did it, correct?
4 A She did do it.
5 Q Oh.
6 A After arguing with me.
7 Q Okay. So she was asking about her rights under the
8 contract, and then she eventually did what you asked her,
9 correct?
10 A She never brought up the contract with me.
11 Q So you mentioned that -- well, actually, let me -- let
12 me -- strike that. Is Ms. Pelo your direct supervisor?
13 A Yes, she is.
14 Q And is part of your job reporting to her what goes on when
15 she's not there?
16 A Yes.
17 Q And so, for example, if the Union makes a complaint about
18 something, you would normally report that to --
19 A Yes.
20 Q -- Ms. Pelo, correct? You testified that Latrice had come
21 to you and told you that Ms. Geaslin was complaining about
22 having to sample bakeries -- pastries one day. Did you tell
23 Ms. Pelo about the complaint that you got from Latrice?
24 A Yes.
25 Q And you told her it was Wendy who made the complaint?

A Yes.
Q Do you recall testifying at a Colorado Department of Labor and Employment hearing on behalf of the Respondent on November 10th, 2014?
A Yes.
Q Do you recall who was present at that hearing?
A Theresa, our lawyer, and that is all.
Q On -- excuse me. So is that everybody who's there on behalf of King Soopers?
A Yes.
Q Okay. Was Ms. Geaslin present?
A She was not in the room. I do not believe that she was in the room when I was testifying.
Q And there was a hearing officer who asked you questions, correct?
A Yes.
Q And she swore you to tell the truth under penalty of perjury, correct?
A Yes.
Q And so at that point you knew it was important to testify to the facts as accurately as possible, right?
A Yes.
Q And the hearing officer, when she asked her questions, gave you a full opportunity to answer them; is that correct?
A Yes.

1 Q So during the entirety of your testimony, you never once
2 mentioned anything about Ms. Geaslin having -- expressing
3 aggression or baring her teeth. Yet, today, you've added those
4 extra details. Is there any reason why you're remembering more
5 details now than you were back then --
6 A I don't believe the --
7 Q -- when you were under oath?
8 A -- hearing officer asked me anything like that.
9 Q Hearing Officer asked you, "What makes you say she was
10 angry?" And you respond, "She was sitting and clenching her
11 fists and making really nasty faces. She was red."
12 Then Hearing Officer says, "Then what happened?"
13 You responded, "Wendy kept getting louder and louder, and
14 Theresa had asked her to calm down.
15 And at that point the Union took Wendy out of the room.
16 When she came back, she was more" sunsue (sic) -- "subdued."
17 That was the entirety of what you said about --
18 MR. DEENY: That's not impeachment. That's quite
19 consistent with what she just testified.
20 MS. SAVELAND: That's up to the judge to figure that out.
21 JUDGE TRACY: Yeah. So if that was an objection, it's
22 overruled.
23 MR. DEENY: That's my objection. That's --
24 JUDGE TRACY: Yeah. It's --
25 MR. DEENY: -- not impeachment.

1 JUDGE TRACY: So it's overruled. Go ahead, Ms. Saveland,
2 please.
3 Q BY MS. SAVELAND: So are you saying that you -- that you
4 did mention the aggression or the baring of teeth at that
5 hearing?
6 A Oh, I don't recall.
7 Q Okay. Would you like me to play it for you because I can
8 play it for you?
9 A Sure --
10 MR. DEENY: She's testified that she wasn't asked that
11 question by the hearing officer.
12 MS. SAVELAND: I just want her to tell me if she
13 recalls --
14 MR. DEENY: It's been asked and answered.
15 MS. SAVELAND: -- saying those questions -- those words.
16 MR. DEENY: It's been asked and answered.
17 (Counsel confer)
18 Q BY MS. SAVELAND: Oh. You said you didn't recall if you
19 said those words. Is it that you don't recall or that you
20 didn't say them because I can play the --
21 MR. DEENY: She has --
22 MS. SAVELAND: -- CD for you again.
23 MR. DEENY: -- already testified that the hearing officer
24 didn't ask her about that.
25 MS. SAVELAND: There's a difference between --

1 MR. DEENY: She's describing --
2 MS. SAVELAND: Sorry.
3 MR. DEENY: -- clenching and making lots of faces towards
4 Theresa. She didn't ask about -- the hearing officer didn't
5 ask anything about clenching teeth or any of the rest of it.
6 She's already testified to that.
7 JUDGE TRACY: So, Ms. Saveland, I think that you just
8 asked -- the last question -- the witness testified that she
9 doesn't recall or doesn't remember, I think. And so, you know,
10 if you're using that to impeach her, I mean, you just already
11 have addressed her prior testimony with that. So I mean, I
12 think that it speaks for itself, if that's what she testified
13 to previously.
14 MS. SAVELAND: And, Your Honor, just one moment.
15 (Counsel confer)
16 MS. SAVELAND: Actually, Your Honor, at this point then, I
17 would like to move to admit into evidence the portion of
18 Ms. Pandearella's testimony on that hearing.
19 Since she can't recall one way or the other, I believe you
20 should consider -- you should be allowed to consider it as
21 substantive evidence, something to believe over what she's
22 testifying to today.
23 And I can provide that CD for all parties. And I can have
24 her identify her voice, whatever you would like.
25 JUDGE TRACY: Okay. Let's go off the record.

(Off the record at 5:04 p.m.)

JUDGE TRACY: Ms. Saveland, go ahead and continue with the cross-examination.

Q BY MS. SAVELAND: Okay. And, Ms. Pandearella, at the beginning of the meeting on 5/14, was it Ms. Pelo's intention to let Wendy serve a suspension and just go with suspension served for the insubordination on --

A Yes.

Q -- the 9th? So it wasn't until after the meeting that she decided to terminate; is that correct?

A It was -- I don't know when she decided to terminate. She suspended her so that she could get advice from Labor Relations on the Actions that Wendy --

Q Did -- did Ms. Geaslin use any profanity or inappropriate language?

A No.

Q All right.

MS. SAVELAND: Nothing further.

JUDGE TRACY: Mr. Deeny, go ahead, please.

REDIRECT EXAMINATION

Q BY MR. DEENY: Ms. Pandearella, I wanted to ask you about the -- you said that -- on cross, you said that you told Ms. Pelo about Wendy going to Latrice, and Latrice coming to you?

A Yes.

1 Q Did you also tell Ms. Pelo what Latrice had instructed
2 Wendy --
3 A Yes.
4 Q -- about that? And what was that?
5 A That Wendy needs to do what she is asked by upper
6 management.
7 Q And that was the Union Steward in the store?
8 A Yes.
9 Q Either -- at any time did Latrice say to you that that
10 violates the Collective Bargaining agreement --
11 A No.
12 Q -- to work across different departments?
13 A No.
14 Q And did the conversation with Latrice and Ms. Geaslin
15 occur in your presence?
16 A No.
17 Q But she told you she gave her that instruction?
18 A Yes.
19 (Counsel confer)
20 MR. DEENY: Thank you, Your Honor.
21 JUDGE TRACY: Okay. Anything else?
22 MS. SAVELAND: Oh, no. Thank you.
23 JUDGE TRACY: Okay. All right. Thank you very much. We
24 have a sequestration order in effect so please don't discuss
25 your testimony until after the hearing ends.

THE WITNESS: Okay. Thank you.

JUDGE TRACY: Thank you. Okay. So, Mr. Deeny, who's the next witness?

MR. DEENY: We'll have Roxandra Barbos next.

JUDGE TRACY: Okay. And let's go off the record so they can get this witness.

(Off the record at 5:12 p.m.)

JUDGE TRACY: Okay. Go ahead and stand up, please.

THE WITNESS: Oh.

JUDGE TRACY: Raise your right hand.

Whereupon,

ROXANDRA BARBOS

having been duly sworn, was called as a witness herein and was examined and testified as follows:

THE WITNESS: I do.

JUDGE TRACY: Okay. Go ahead and have a seat and state your name and address for the record.

THE WITNESS: Roxandra Barbos, 2445 South Osceola Street, Denver, Colorado 80219.

DIRECT EXAMINATION

Q BY MR. WATSON: Good afternoon, Ms. Barbos. Where --

A Hi.

Q -- are you currently employed?

A King Soopers.

Q What is your position at King Soopers?

A Assistant store manager.
Q Which store are you at?
A Store number 122.
Q Number 122? How long have you been at store 122?
A Three weeks.
Q Where were you before working at store 122?
A Store 1.
Q How long were you at store 1?
A About a year-and-a-half.
Q Were you at store 1 in May of 2014?
A Yes.
Q How long have you been an assistant store manager?
A A little over two years.
Q A little over three years?
A Two years.
Q Two years. And how long have you worked with King Soopers?
A Eleven years.
Q Eleven years total? Do you remember if you were working at store number 1 on May 9th, 2014?
A I was.
Q Were you there around noon on that day?
A Yes. I was actually on my way out to a meeting.
Q And do you remember what the front end of the store was like at that point in the day?

1 A It was very busy.
2 Q Very busy in the check stand?
3 A Very busy in the check stand, very busy -- customers
4 waiting in line.
5 Q Did you happen to see if it was busy in the Starbucks at
6 that point?
7 A No. I was not.
8 Q No, you didn't see?
9 A I didn't -- I -- it wasn't that -- it wasn't busy. There
10 was nobody in line.
11 Q Okay. Oh, so you did see, and it was not busy?
12 A As I was walking through, yes.
13 Q As you were walking through, did you see an incident with
14 Ms. -- between Ms. Geaslin and Ms. Pelo?
15 A Briefly.
16 Q And just so we're clear, Ms. Pelo, she's the store
17 manager?
18 A Yes.
19 Q Is she your direct supervisor?
20 A Yes.
21 Q And what did you witness -- occur then?
22 A I did hear Theresa calling over the intercom for help to
23 the front end. We had most of the departments come up. As I
24 was walking through, I heard her telling Wendy, who was taking
25 her apron off, to -- she says, oh, good, you're coming to help.

1 And Wendy says, no, I'm not. But that was the last I heard.
2 Q As you were walking by and you said that you saw
3 Ms. Geaslin taking off her --
4 A Apron --
5 Q -- her apron?
6 A -- her Starbucks apron.
7 Q Was she already out of the Starbucks?
8 A Kiosk? I do not remember, no.
9 Q You do not remember. Did you see Ms. Eastburn standing
10 there at that point or --
11 A No, I did not.
12 Q You didn't see her? Did you ever hear Ms. Geaslin agree
13 to sack?
14 A No.
15 Q You didn't hear her say, I -- I will go sack groceries?
16 A No.
17 Q Did you see her put her hands up in the air and say, I
18 guess I'll go sack?
19 A No.
20 Q Did you -- when you were walking by, did you --
21 MS. SAVELAND: This is leading. Objection.
22 JUDGE TRACY: Sustained.
23 MR. WATSON: Asking, "Did you hear," is a yes or no
24 question, but it doesn't --
25 JUDGE TRACY: Well, there --

1 MR. WATSON: -- suggest the answer --
2 JUDGE TRACY: -- there have been sort of a series leading.
3 So just reframe it a little bit to be a little bit more open-
4 ended.
5 MR. WATSON: Okay.
6 Q BY MR. WATSON: Have you helped bag groceries when the
7 store's busy?
8 A Yes.
9 Q Even as the store manager, is that true?
10 A Yes.
11 Q I mean, as the assistant store manager, excuse me?
12 A Yes.
13 Q Is it common for clerks to help out when the front end is
14 busy?
15 A Yes.
16 Q How long did you see the conversation between Ms. Pelo and
17 Ms. Geaslin? How long were you there for that?
18 A Not even a minute.
19 Q Not even a minute? And where were you going?
20 A I was on my way -- my way out to a different store for a
21 bakery meeting.
22 Q Did you come back to the store?
23 A I did.
24 Q Did you see Ms. Pelo later in the day when you came back
25 to the store?

A Yes.
Q Did the two of you speak about that incident?
A Yes.
Q What did Ms. Pelo say?
A She said she had a conversation with Wendy, and she had to send her home.
Q Did she give you any details?
A She said that she was -- she refused to sack and -- and that's pretty much it.
Q Was Ms. Pelo upset about the situation?
A She was very upset.
Q Now, fast forward a few days. Were you present for a meeting on May 14th, 2014?
A Yes.
Q Who all was there for that meeting?
A Theresa, Lisa, Wendy, Danny, and I.
Q Danny is Danny Craine?
A Yes.
Q Lisa is Lisa Pandearella?
A Yes.
Q Theresa is Theresa --
A Pelo.
Q -- Pelo? And then Wendy Geaslin?
A Yes.
Q Did you intend -- attend the entire meeting?

1 A I -- I did.
2 Q You didn't show up late?
3 A No.
4 Q Did you leave at some point and come back?
5 A No.
6 Q You were there for the whole meeting?
7 A Yes.
8 Q Do you know why you were involved in that meeting?
9 A Because Theresa Pelo did not feel comfortable being by
10 herself with Wendy from the previous meeting that she was
11 really upset about.
12 Q And what happened in that meeting?
13 A Well, as Theresa was going over her stuff -- I don't
14 remember the whole thing, but Wendy got -- she started making
15 faces at her. She told Theresa, first you have to earn my
16 respect to have my respect back.
17 Q Okay. Let -- let's break -- let's break that down. Do
18 you remember how the meeting began?
19 A Not really.
20 Q Not really? Do you remember --
21 A I remember we were all sitting there, and that's pretty
22 much it.
23 Q Do you remember if Ms. Pelo started talking about the
24 incident on May 9th?
25 A She did, actually.

Q Do you remember what she said about that?
A Sh -- no.
Q No?
A She did talk about a little bit but --
Q DO you remember if Ms. Pelo said to her, you need to follow my instructions?
A Yes.
Q Do you remember if in this meeting on the 15th, if Ms. Geaslin argued with Ms. Pelo?
A She did, and she was just rolling her eyes and making faces at her. And like I said, she told her, "Well you need to earn my respect first."
Q What kind of faces was she making?
A She kind of clench her -- her hand --
Q Yeah, show us.
A -- and like, "Okay, I'm going to try to do my best." And she's like -- and she kept doing this (gestures).
Q So she was lunging forward --
A Yeah, she was kind of like --
Q -- in her chair?
A -- clenching her hands and lunging forward.
Q And her fists were clenched is what you said?
A Yes.
Q Was she showing her teeth?
A Yes.

Q Was her face red?
A Yes.
MS. SAVELAND: This is leading again, Your Honor. Objection.
JUDGE TRACY: Well, I think, also, he's trying to -- I'm going to overrule the objection. He's trying to put into words what we cannot -- we have to see in a transcript. See, so he's just doing that. So I'm going to overrule that. And go ahead, please.
Q BY MR. WATSON: When she was speaking with Ms. Pelo, was her voice raised?
A Yes.
Q Was she yelling?
A Her voice was -- was raised. I do not think she was yelling.
Q You don't know if she was yelling? And just so we're clear about the face-making, I can't remember if I asked so I apologize if I have. But was her face red?
A Yes.
Q Was she shaking?
A Yes.
Q Okay. And how many times would you say that she did that lunging motion that you showed us?
A I would say twice.
Q Twice?

A Yeah, I saw her twice.
Q And were there other faces she was making?
A She was just sitting there, and she was rolling her eyes when Theresa was talking. And she was just like kind of clenching her mouth on the side.
Q Kind of clenching her mouth on the side?
A Clenching her mouth on the -- yeah/
Q What do you mean by that?
A She was kind of doing this like --
Q Did you find her behavior to be disrespectful?
A Yes.
Q Was she -- who was she looking at when she was making those faces?
A Most of the times at Theresa, and then most of the times just up.
Q Did Ms. Pelo say anything to her about making those faces?
A Yeah, she told her stop.
Q And what --
A She says, "What are you doing? Stop. You are being really disrespectful."
Q BY the way, did you find -- did you feel threatened by Ms. Geaslin's behavior?
A A little bit because if I would have been by myself with her, I probably wouldn't know how to deal with her.
Q What was Ms. Geaslin's response when Ms. Pelo asked, "What

1 are you doing?"
2 A I don't remember.
3 Q You don't remember. At some point was -- did Mr. Craine
4 pull Ms. Geaslin out of --
5 A She did -- he did.
6 Q And how long were they gone?
7 A I want to say a few minutes.
8 Q What happened when they came back?
9 A Mr. Craine said that he -- she -- she's good. She's --
10 she won't be doing that anymore and she's calm.
11 Q Was she more calm when she came back in?
12 A A little bit.
13 Q Did she continue making faces?
14 A I don't think so.
15 Q She wasn't rolling her eyes when she came back in?
16 A No.
17 Q Did Ms. Pelo respond to Mr. Craine's statement that she
18 would be better now?
19 A I'm sorry. Say that again.
20 Q You said when they came back in, Mr. Craine said that she
21 would be fine now. Did Ms. Pelo respond to that?
22 A Yes. She did, and she said, I am not sure if I'm fine
23 now.
24 Q Ms. Pelo --
25 A Ms. Pelo said --

1 Q -- said I'm not sure if I --
2 A -- I'm not sure am -- I'm -- if I am fine now.
3 Q And what happened next?
4 A And then she suspended her for another five days.
5 Q Do you know why she suspended her for five days?
6 A Because she felt disrespected.
7 Q Did she need to speak with anyone in --
8 A And then --
9 Q -- Labor Relations?
10 A Yes. Well, we -- she needed to speak with Labor
11 Relations.
12 Q Is that typical practice -- a common practice?
13 A Yes.
14 Q You said that you have some concerns that you wouldn't --
15 that she would behave like that when it's just you, and you
16 wouldn't know how to stop her. Is that correct, is that your
17 testimony?
18 A Yes.
19 Q Are there times in which you will have to supervise --
20 would have had to supervise Ms. Geaslin?
21 A Yes.
22 Q When is that?
23 A Every day, I guess.
24 Q If Ms. Pelo --
25 A Every day.

1 Q -- was out of the store, then as an assistant store
2 manager, are you --
3 A I would say about twice a week, three times a week or
4 vacations.
5 Q Are you aware of other times in which Ms. Geaslin had
6 refused to -- to help -- help out?
7 A Yes. It was my first week at store 1, and she was asked
8 to cut Mardis Gras cake for samples at the Starbucks kiosk, and
9 she said it's not part of her Union.
10 Q Do you know what happened with that?
11 A She settled her work now, grieve later.
12 Q Who told her to work now, grieve later?
13 A Theresa Pelo.
14 Q Theresa Pelo. Do you know if there was ever a grievance
15 filed on that?
16 A Not that I know of, no.
17 Q Do you know if there was ever a grievance filed about
18 Ms. Geaslin being told to sack on the 9th?
19 A Not that I know of.
20 Q That issue with the samples and Mardis Gras, was it
21 Theresa who spoke with Ms. Geaslin or was it Ms. Pandearella?
22 A My understanding was that it was both of them so I do not
23 know for sure.
24 Q Okay.
25 (Counsel confer)

1 MR. WATSON: That's all. Thank you.

2 JUDGE TRACY: Ms. Saveland.

3 **CROSS-EXAMINATION**

4 Q BY MS. SAVELAND: So to clarify, you were not present for

5 the events on the 9th in the office?

6 A No, I was not.

7 Q Is there a security guard at that King Soopers?

8 A Yes.

9 Q At that meeting on the 14th, did Ms. Pelo call the

10 security guard to escort out Wendy?

11 A No.

12 Q Okay. Thank you.

13 MS. SAVELAND: Nothing further.

14 JUDGE TRACY: Okay.

15 MR. WATSON: Nothing further for --

16 JUDGE TRACY: Anything further?

17 MR. WATSON: -- us, your Honor.

18 JUDGE TRACY: Okay. All right. So thank you for your --

19 testifying today. Please don't discuss your testimony with

20 anyone else until after the close of the hearing.

21 THE WITNESS: Okay.

22 JUDGE TRACY: Okay? Thank you.

23 THE WITNESS: Thank you.

24 JUDGE TRACY: Okay. So how many more witnesses do you

25 have? It's about 5:30 almost?

1 MR. DEENY: Two, Your Honor.
2 JUDGE TRACY: Two. And how much longer are each going to
3 take?
4 MR. DEENY: Ms. -- our next witness is Ms. Pelo so I
5 suspect that will be fairly substantial.
6 JUDGE TRACY: Uh-huh. And then the other one?
7 MR. DEENY: Ms. Bouknight.
8 JUDGE TRACY: Ms. who? Oh, you --
9 MR. DEENY: Ms. Bouknight.
10 JUDGE TRACY: Okay. I'm sorry. How long do you think
11 that your direct examination will take of the first witness?
12 MR. DEENY: Probably -- with amendments, let's see.
13 Probably 45 minutes to an hour, I would think.
14 JUDGE TRACY: Uh-huh. And then you'll take a little bit
15 of time. And then for Ms. Bouknight's testimony?
16 MR. DEENY: It's briefer. Probably more like a half an
17 hour of --
18 JUDGE TRACY: Okay. And it doesn't make sense for your --
19 your case and not to mess it up to have her go first today --
20 MR. DEENY: Right.
21 JUDGE TRACY: -- and then you just wait for them. So I
22 suggest this; that we stop now, we start again at 8:00, and get
23 these other two done. And then that way if you have rebuttal,
24 you do that. And then we should be done, I would say, you
25 know, 11:00 or 12:00.

And I might change my flight to like 2:00. I might do that, yeah, just to be safe. How does that sound?

MR. DEENY: That sounds fine.

JUDGE TRACY: Okay. And your witnesses are available and fine?

MR. DEENY: Yes.

JUDGE TRACY: Okay. All right. So are we on the record or off?

THE COURT REPORTER: We are, still.

JUDGE TRACY: Okay. So let's go ahead and go off the record, and we'll begin again tomorrow at 8:00 a.m.

MR. DEENY: Thank you.

(Whereupon, the hearing in the above-entitled matter was recessed at 5:28 p.m. until Wednesday, August 12, 2015 at 8:00 a.m.)

1 **C E R T I F I C A T I O N**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 27, Case 27-CA-
4 129598, KING SOOPERS, INC. and WENDY GEASLIN, AN INDIVIDUAL, at
5 the National Labor Relations Board, Region 27, Byron Rogers
6 Federal Office Building, 1961 Stout Street, Suite 13-103,
7 Denver, Colorado 80294, on Tuesday, August 11, 2015, at 8:00
8 a.m., was held according to the record, and that this is the
9 original, complete, and true and accurate transcript that has
10 been compared to the reporting or recording, accomplished at
11 the hearing, that the exhibit files have been checked for
12 completeness and no exhibits received in evidence or in the
13 rejected exhibit files are missing.
14
15
16
17 KEN IGLEHART
18 Official Reporter
19
20
21
22
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25

[transcript pp. 261 – 315]
(Fed. R. App. P. 30(d))

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 27

In the Matter of:

King Soopers Inc., Case No. 27-CA-129598

and

Wendy Geaslin, An Individual,

Place: Denver, Colorado

Dates: August 12, 2015

Pages: 261 through 315

Volume: 2

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 27

In the Matter of: KING SOOPERS INC., and WENDY GEASLIN, AN INDIVIDUAL,	Case No. 27-CA-129598

The above-entitled matter came on for hearing, pursuant to notice, before **AMITA BAMAN TRACY**, Administrative Law Judge, at the National Labor Relations Board, Region 27, Byron Rogers Federal Office Building, 1961 Stout Street, Suite 13-103, Denver, Colorado 80294, on **Wednesday, August 12, 2015, at 8:00 a.m.**

A P P E A R A N C E S

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
Theresa Pelo	265	286			
Stephanie Bouknight	288	309			

E X H I B I T S

EXHIBIT	IDENTIFIED	IN EVIDENCE
Employer:		
E-10	306	308
E-11	306	308

1 **P R O C E E D I N G S**

2 JUDGE TRACY: Let's go ahead and go back on the record.

3 Okay. All right.

4 So, Mr. Deeny, I think you have another witness to call.

5 MR. DEENY: I do. Thank you, Your Honor. May we call

6 Theresa Pelo, please?

7 JUDGE TRACY: All right. If you could go ahead and raise

8 your right hand.

9 Whereupon,

10 **THERESA PELO**

11 having been duly sworn, was called as a witness herein and was

12 examined and testified as follows:

13 JUDGE TRACY: Okay. Go ahead and have a seat, and state

14 your name and address for the record, please.

15 THE WITNESS: Okay. My name is Theresa Pelo, and I live

16 at 13232 Acres Green Drive, Littleton, Colorado.

17 JUDGE TRACY: Mr. Deeny, go ahead, please.

18 **DIRECT EXAMINATION**

19 Q BY MR. DEENY: Ms. Pelo, where are you employed?

20 A King Soopers.

21 Q And what is your position with King Soopers?

22 A I'm a store manager.

23 Q And what is your present assignment as store manager?

24 A Where am I located?

25 Q Yes.

1 A 14th and Speer in Denver.
2 Q Is that referred to as Store Number 1?
3 A Yes.
4 Q And how long have you been the store manager at Store
5 Number 1?
6 A Just a little over two years.
7 Q How long have you been a store manager in total for King
8 Soopers?
9 A Fourteen years.
10 Q And how long have you been working for King Soopers?
11 A Thirty-six years.
12 Q So have you been in positions in the bargaining units at
13 King Soopers over time?
14 A Yes, I was hired as checker.
15 Q And have worked your way up into store manager?
16 A Yes, sir.
17 Q As store manager, who are the only supervisors in the
18 store, besides yourself?
19 A Well, I have assistants. I'm the top, so nobody is above
20 me at the store level.
21 Q And under the collective bargaining agreement, are the
22 store manager and the two assistant managers the only
23 supervisors in the store, as that term is used by the NLRB?
24 A In the higher, yes --
25 Q Yeah.

1 A -- we're higher management.
2 Q In other words, they're exempt under the collective
3 bargaining agreement?
4 A Correct.
5 Q And then you have a store administrative assistant?
6 A Yes, I do.
7 Q And that person is also not in any bargaining unit?
8 A No.
9 Q Okay. Excuse me.
10 MR. DEENY: I'm sorry, Your Honor.
11 Q BY MR. DEENY: At Store Number 1, did you come to know an
12 employee by the name of Wendy Geaslin?
13 A Yes, I did.
14 Q And how long had she worked at Store Number 1?
15 A Honestly, I can't tell you how long she was there. She
16 came after I was already there. So probably I would put her --
17 I don't know, six months maybe.
18 Q Okay. And did she transfer in from another store?
19 A Yes, she did. She transferred from 29.
20 Q And that was by her election?
21 A Yes.
22 Q And 29, approximately, how far is that from Store 1?
23 A Probably two-and-a-half miles, three miles.
24 Q How would you describe your working relationship with Ms.
25 Geaslin for the period of time that she worked in your store?

A It was fine. We had no issues. I -- you know, she had a couple things come up where she got mugged one day on her way to work, and I really felt bad for her. I bought her lunch; I tried to send her home. Anything she wanted. I was going to pay her for the rest of the day.

MS. SAVELAND: Objection. Relevance.

MR. DEENY: This goes to animus, Your Honor.

JUDGE TRACY: Okay. So I'm going to overrule the objection.

Q BY MR. DEENY: Would you please continue with your discussion?

A Well, yeah, I felt really bad for her, because she got her lunch stolen. They thought it was a purse, but it was actually her lunch. So I bought her lunch for the day. I tried to send her home, asked her if she needed any counseling, because we do have work counseling that we can bring in for episodes like that, and she refused. I mean, she said she was fine.

Q Okay. I want to direct your attention to approximately March of 2014, and you're familiar with the celebration Mardi Gras?

A Yes.

Q And does King Soopers do certain promotional items at that time?

A Yes, we really focus on trying to sell King cakes.

Q And do you try to do that in concert with Starbucks, so

1 people are drinking coffee and experiencing the pastries?
2 A Yes.
3 Q What do you do in that regard?
4 A We sample at the front table. My whole front lobby was
5 decorated with Mardi Gras, a big mask I had, and we had samples
6 all day long, so we could sell them.
7 Q And when you say sample, what is required to create a
8 sample?
9 A We have to cute them up, put them in papers, and put them
10 in a dome.
11 Q And then those -- I take it from the name samples -- are
12 free to the customers?
13 A Yes.
14 Q And then the marketing idea is to do what?
15 A Is to sell and to cross sell with coffee, with everything
16 in the store, but mainly to sell them.
17 Q Are you aware that there had been an incident with Ms.
18 Geaslin in which she was refusing to cut up those samples?
19 A Yes, my assistant came to me and let me know that she had
20 said, no, she didn't have to do it. And my assistant told me
21 that she went to the Union steward, which was Latice (sic
22 throughout), and Latice and Lisa spoke to her, and Latice said
23 this isn't a violation of the Union; you need to cut the
24 samples.
25 Q Okay. And that assistant was which assistant?

A Lisa Pandearella.
Q Pandearella.
A Uh-huh.
Q And Latice, what was her classification?
A She was an all-purpose clerk.
Q And was she in the retail -- covered under the retail agreement as an all-purpose clerk?
A Yes.
Q And did you ever go and interrogate Ms. Geaslin about that episode?
A No, there would be no reason to. I know that Lisa and Latice had already addressed it.
Q And did you, in any way, ever threaten her in regards to that?
A Absolutely not.
Q Let me direct your attention to approximately a month later, May 9 of 2014. Were you working that day?
A Yes.
MR. DEENY: Your Honor, I'm sorry.
JUDGE TRACY: That's all right.
MR. DEENY: I mostly apologize to the court reporter.
Q BY MR. DEENY: I'm sorry; I was directing your attention to your work on May 9, 2014. Could you describe -- first of all, do you know whether there's any holiday coming up at that time?

A Yes, Mother's Day weekend.
Q What does that typically signify as far as store activity?
A We're very, very busy. We sell a lot of flowers. So we had a lot of customers in.
Q May 9 was the Friday preceding Mother's Day, correct?
A Yes.
Q And what is significant at Store Number 1 about a Friday?
A It's one of our busiest days. We do a lot of check cashing. I have approximately; at that point, it was seven to eight -- well, no, about 6,000 customers a day. So 6,000 customers in my store that day.
Q Compared to an average of what?
A Forty-five hundred.
Q On that day, where were you -- when you have that sort of volume, what do you typically do as store manager?
A Well, everyone goes on the check stand. They call me. I'm the first one to call, and then I call for relief help throughout the store. So I bring up anybody and everybody when it's very, very busy.
Q So you're working, and you're calling other people up to help as well?
A Yes.
Q From every department?
A Yes.
Q Including Starbucks?

A Not normally, but, yes, that day I did.
Q And why was that?
A Because I had called everyone else up. I had bakery up there, grocery, produce. They were all up checking or sacking, and I looked over at Starbucks and there was nobody in line. There was two of them standing there talking, so I called Starbucks to help me sack.
Q Did you make a specific request for Ms. Geaslin?
A No, I said can I have someone from Starbucks to help sack. I paged that.
Q What then happened?
A Well, I was in front of the U-Scan, because I was directing the customer flow, and I looked over at Starbucks, and I saw Wendy take off her apron and hang it over the door, and she came over to me. I was right in front of U-Scan and Floral.
Q And was there any conversation at that point?
A Yes, as she walked up I thanked her. I said thank you for coming to help me. You know, just give me a hand sacking for a minute, please.
Q And what happened then?
A She said, "No, I'm going to lunch."
And I said, "No, you're going to give me help. Ten minutes, that's all I ask, and then you can go to lunch."
Q As you saw her leave and come across the front end of the

1 store, had she made any attempt to go sign out for lunch?
2 A No, she came directly towards me.
3 Q Okay. What happened then?
4 A She said that she didn't have to sack, because it was in
5 violation of her contract, and I told her, no, it wasn't, but I
6 needed her to sack, and she could grieve it later.
7 And then she said, she was going to call the District
8 Manager of Starbucks and, you know, talk to him, because she
9 didn't have to do that. And I said, "He is not your boss, I am
10 your boss, and I need you to sack."
11 Q Just on that point, is the District Manager of Starbucks a
12 King Soopers employee?
13 A No.
14 Q And do they give work directions in the store?
15 A No.
16 Q Did she go sack?
17 A No.
18 Q What happened then?
19 A It got a little escalated, and she was like, "So now
20 you're going to deny me a lunch?"
21 And I said, "No, I'm not going to deny you a lunch. I'm
22 going to let you got to lunch," and then she got very upset.
23 And, you know, the voices were escalated, and she looked
24 at my Starbucks -- or my Assistant Deli Manager, who happened
25 to be there, Ica (phonetic), and she said we should take this

in the office, and I said absolutely right. You're right. We need to take this off the sales floor.

Q Now, was -- were there customers throughout the front end?

A Oh, absolutely, a lot of customers.

Q Was this occurring in their presence?

A Yes.

Q And when you say voices were escalated, what do you mean?

A That she was like, no, I'm not doing it. And I was like, yes, you are. And I speak loud anyway, and then I realized, of course, we need to get this off the sales floor. It's nowhere for the customers to hear.

Q Okay. So did you then go into your office?

A Yes.

Q Did Ica join you?

A Yes.

Q Why?

A Why did Ica join us?

Q Yeah.

A Because, basically, she was her direct boss, supervisor in the deli. She was present at the time. So it's always better to bring somebody else in, so I did.

Q Did she make any -- she, meaning Ms. Geaslin, make any request for a Union representative?

A No.

Q Can you describe what happened in the office?

1 A Well, we went into the office, and she was very abrasive,
2 disrespectful, telling me she didn't have to respect to me,
3 that she didn't have to do what I said. And I explained to
4 her, "Yes, you do, because I am the boss." As long as it does
5 not hurt you -- it doesn't hurt you, it's against ethics,
6 against the law, and I explained that to her.
7 Q Did you -- at any time, either on the floor or in the
8 office, did she say she was acting on behalf of anyone else?
9 A No.
10 Q This was purely her issue?
11 A Yes.
12 Q Did she say that you were doing anything that was unsafe?
13 A No.
14 Q That she didn't know how to sack?
15 A No.
16 Q Did she raise any issue about receiving previous
17 counseling about work now and grieve later?
18 A She didn't mention any of that.
19 Q Did she mention anything about the previous incidents
20 involving the cake and the samples?
21 A No.
22 Q Did the level of her voice and actions towards you
23 increase or subside while you were in the office?
24 A They totally increased.
25 Q In what way?

A She just -- she was, you know, like kind of out of control. I mean, not totally, but I could tell we were going to get nowhere in this conversation. So at that point, I said, you know, we're done. I'm going to send you home. Come back in a week, and we'll discuss this further.

Q And did she do so?

A She did. She walked out of the office and as she walked out of my office, she started going "waa-waa-waa," and I was just taken aback. And I said, "Wendy, return to the office." And I said, "What are you doing?"

She goes, I'm crying, "Waa."

And I said, "Okay."

And she goes, "You can't hurt me."

And I said, "Well, you're going to lose a week's pay. That's going to hurt you." And she just walked out of the office.

Q When you say you're going to lose a week's pay, were you trying to hurt her?

A No, she was -- knowing that she was going to be not working for a week.

Q Was she getting the point in your estimation?

A No.

Q You set up a meeting for the following week.

A Yes.

Q Who did you contact to do so?

1 A I didn't contact anyone. Wendy contacted Danny. I
2 contacted Stephanie Bouknight for advice; I contacted my boss
3 for advice, and explained the situation of what happened.
4 Q When you contacted Ms. Bouknight, did she give you any
5 protective or instructions?
6 A She recommended that I terminate her.
7 Q And did you explain to Ms. Bouknight you wanted to have a
8 subsequent meeting with Ms. Geaslin?
9 A Absolutely.
10 Q And why did you want to do that?
11 A Because I don't disagree with Stephanie often, but I did.
12 I felt that that didn't warrant, and so Stephanie and I talked
13 about -- more on the termination. So I said, Stephanie, I want
14 to give her another chance. I feel sorry for her, because I
15 did. I felt sorry for her, and she agreed.
16 Q Okay. So you had the meeting the following week?
17 A Yes.
18 Q And who was in attendance?
19 A Lisa Pandearella, Roxy Barbos, and Danny Craine --
20 Q And --
21 A -- and Wendy.
22 Q -- why did you have those two assistants with you?
23 A Well, I normally would have one. I think Lisa just
24 happened to walk in the room, but I brought one in just to
25 validate that I did everything correctly, that I didn't say

1 anything that -- to observe Wendy's behavior in case it got out
2 of control again.
3 Q And can you describe, please, how that meeting started?
4 What did you say to Ms. Geaslin?
5 A Well, I told her that I brought her in to discuss the
6 incident that happened the week before on the insubordination,
7 her refusal to sack for me, and that was about it. And then it
8 just really kind of let loose.
9 Her telling me that, you know, she didn't have to respect
10 me, she didn't have to do what I said. And I said, yes, you do
11 have to respect me. You don't have to like me, but you do have
12 to do what I say.
13 Q Was -- can you describe her demeanor?
14 A She was very angry, very upset. She kept clenching her
15 fists, and lunging at me, and making this face, baring her
16 teeth. It was -- I guess I was taken aback by how she was
17 acting.
18 Q Were you trying to -- were you raising your voice at her?
19 A Not at all.
20 Q Can you describe your demeanor? Were you lunging at
21 her --
22 A No.
23 Q -- or were you retreating?
24 A I was retreating, because she kept almost coming out of
25 her chair at me. And so, I just scooted my chair back, and I

1 was -- and I did say to her, I said, "What are you doing?"
2 What -- why do you keeping making these faces at me? And I
3 looked at my assistants, and I said, "Do you see this?" And
4 they were just taken aback. And she just kept doing it.
5 Q What happened at that point?
6 A Danny stopped the meeting. He said, Theresa, "Do you mind
7 if I stop the meeting. Can I talk to Wendy outside; I just
8 need to meet with her?"
9 I said, okay, that's fine. So we stopped the meeting, and
10 it was probably for about five minutes.
11 And then they came back in the office, and Danny said to
12 me, "It's okay now, she's better. She won't do that again,
13 Theresa."
14 And I said, well, I'm not necessarily okay about this
15 whole episode. And I said, I -- it was unacceptable. It was
16 disrespectful, unacceptable, and I am going to send her home
17 again and think about retaining her job.
18 Q Did you advise them that you were going to talk with
19 anybody as well about that?
20 A Yes, I said I will consult with my bosses.
21 Q And who are those?
22 A It was Sally Moragas, and Melanie Greer, and also
23 Stephanie Bouknight.
24 Q So taking those one at a time, who is Sally?
25 A Sally was my brand new boss. She had only been my boss

1 for two weeks.
2 Q And what's her title?
3 A District Manager.
4 Q So she has responsibility for many different King Soopers
5 Stores?
6 A Eighteen stores.
7 Q Okay. And then you said, as well -- I'm sorry, did you
8 say Gwen or?
9 A No, Melanie.
10 Q Oh, Melanie. And is she also a district manager?
11 A She is now. She had just gotten promoted, and we were
12 kind of in a transition on districts. So she was my boss, but
13 going to transfer to another district to be their boss.
14 Q Okay. And then you also said you were going to consult
15 with Mr. Bouknight.
16 A Correct.
17 Q And all of that is customary?
18 A Yes.
19 Q Did you indeed do so?
20 A Yes.
21 Q Did you explain the circumstances to all of them?
22 A Yes, I did.
23 Q Do you recall Ms. Bouknight's observations about this?
24 A Yes, she recommended I term, which I agreed with.
25 Q Did any of those DMs disagree with that?

A No.
Q What did you do then?
A Well, I brought her back in. So you're talking about when I terminated her?
Q Yes.
A Yes, I brought her back in a week later with -- and Danny, of course, showed up with her, and it was a very short meeting. I basically said I'm terminating you for this.
Q Did she say anything in that meeting?
A Nothing. She was very quiet. I don't even think she said anything.
Q Going back to the meeting on the 15th, I believe it was, when you said I'm continuing the suspension. When she came back into the room with Danny, and he said, she'll be better, did she say anything during the remaining part of that meeting?
A No.
Q But did she behave better?
A She just sat there very quiet and stoic. Just didn't move, just sat there.
Q Okay. And in the meeting on the -- I believe it was the 21st, the termination meeting --
A Uh-huh.
Q -- did she do anything in that meeting? Say anything or do anything?
A No.

Q Did she apologize?
A No.
Q Did she ask for any indulgence from you, short of termination?
A No.
Q In that meeting itself, did Danny Craine ask for any indulgence?
A No.
Q Did you see Mr. Craine later that day?
A Yes.
Q Where?
A On the sales floor.
Q And did he address you about Ms. Geaslin?
A Yes, he asked if I would give her another chance.
Q And what did you say?
A No.
Q Why not?
A I had already given her a chance, because the first time, she was suspended it was going to be a final suspension, and we were just going to move on. That was it. But the way she came into that meeting and acted throughout that meeting, I did not feel that it was going to be a good fit for her to work for me.
Q How did that meeting with Mr. Craine end?
A He just basically, Step One, okay, and that's exactly what it was.

1 Q And so, that's when he said consider this a Step One?
2 A Uh-huh.
3 JUDGE TRACY: Can you say yes or no?
4 THE WITNESS: Yes, I'm sorry.
5 MR. DEENY: Thank you.
6 Q BY MR. DEENY: And is that a pretty common practice --
7 A Yes.
8 Q -- after you've had a meeting. That's an oral discussion
9 about trying to resolve the matter?
10 A Yes.
11 Q And a grievance was filed at that point?
12 A Yes.
13 Q After a grievance is filed, and you've had the discussion
14 at Step One, do you have any further involvement in the
15 grievance process?
16 A Not until it gets to arbitration.
17 Q And was there any arbitration in this case?
18 A No.
19 Q And do you know why that is?
20 A What I have heard is that the Union dropped the case, they
21 didn't want to represent her.
22 Q Did you hear that internally from Ms. Bouknight?
23 A No, I heard it through the store and the Union steward.
24 Q And so, the Union steward herself told you that?
25 A Yes, it was definitely out there, a lot of talk going on

1 in the store.
2 Q Okay. In the meeting on the 15th, when Danny Craine came
3 back into the room, did he also say to -- did he say anything
4 to you about she won't say anything, she won't make any more
5 faces?
6 A Yes, she will be good now.
7 Q And did your two assistant managers confirm for you that
8 indeed she was making these faces and behaving that way?
9 A Yes, when I said to them, do you see this? Do you see
10 what she is doing? I said, "Why are you making faces at me?
11 You need to stop. It's disrespectful."
12 Q The -- if I understand this correctly, the introduction to
13 that meeting, did you explain that we were here to discuss
14 whether she kept her job?
15 A No, I said, we were there to document the incident that
16 happened the prior week.
17 Q And was there any discussion about -- at that point, from
18 Ms. Geaslin about, you're right, I shouldn't have done that.
19 Anything like that?
20 A No.
21 Q At any time in that meeting, did Danny Craine identify
22 that this was an issue about her enforcing the collective
23 bargaining agreement?
24 A No.
25 Q Did he, at any time, say the contract prohibits you from

1 assigning a Starbucks clerk to bag groceries?
2 A Not that I recall.
3 Q And are you aware of any contract provision that does so?
4 A No.
5 Q Have you indeed disciplined others who have refused
6 assignments to work?
7 A Yes.
8 Q At every -- virtually every position in the
9 classifications?
10 A Yes.
11 Q What's the typical discipline for refusing a work order?
12 A Typical is termination.
13 Q And have you indeed terminated people before --
14 A Yes, I have.
15 Q -- for doing so?
16 A Yes.
17 Q What is -- have you indeed terminated people who claimed
18 that that's not their jurisdiction?
19 A Yes, I -- well, I've disciplined. I've given a five day.
20 So, you know, I take into account the variables, what's
21 happening, that kind of thing. I have sent people home and
22 suspended them for five days, and I have also terminated.
23 Q And have any of those decisions ever been successfully
24 challenged in arbitration?
25 A No.

MR. DEENY: That's all I have, Your Honor. Thank you.

MS. SAVELAND: May I have a few minutes?

JUDGE TRACY: Oh, sure.

MS. SAVELAND: Thank you.

JUDGE TRACY: Let's go off the record.

(Off the record at 8:31 a.m.)

JUDGE TRACY: Go ahead.

CROSS-EXAMINATION

Q BY MS. SAVELAND: Hi, Ms. Pelo. I just have a couple short questions. You testified on direct that Wendy was coming out of her chair and that you were kind of leaning back; is that correct?

A Yes.

Q Just to get the layout correct though, did you have a desk between you and Wendy?

A Yes.

Q Okay. And last question. Did you call security or have anybody escort her out that day from the meeting?

A No.

Q Okay. Thank you.

MS. SAVELAND: Nothing further.

JUDGE TRACY: Anything else?

MR. DEENY: Nothing. Thank you.

JUDGE TRACY: Okay.

THE WITNESS: Okay.

JUDGE TRACY: All right. Thank you.

THE WITNESS: Thank you.

JUDGE TRACY: So, again, we have a sequestration order in effect, so please don't discuss your testimony with anyone else until after the close of the hearing.

THE WITNESS: Okay.

JUDGE TRACY: Okay. Thank you.

THE WITNESS: Thanks. Do I need to leave the room then --

JUDGE TRACY: Yes.

THE WITNESS: -- and go in the other room?

JUDGE TRACY: Yes, thank you.

THE WITNESS: Okay.

JUDGE TRACY: All right. Mr. Deeny, who do you have next?

MR. DEENY: Your Honor, and this may be more of a question for the counsel for General Counsel, but is there a plan of any rebuttal case or can I have Ms. Pelo excused, so she can go to work.

JUDGE TRACY: Well, let's go off the record, and you guys can talk about --

MR. DEENY: Okay.

JUDGE TRACY: -- what your plans are.

(Off the record at 8:36 a.m.)

JUDGE TRACY: Okay. All right. Mr. Deeny --

MR. DEENY: Thank you.

JUDGE TRACY: -- who do you have next?

MR. DEENY: May we call Stephanie Bouknight, please?

JUDGE TRACY: Good morning.

Whereupon,

STEPHANIE BOUKNIGHT

having been duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE TRACY: Okay. Have a seat. State your name and address for the record, please.

THE WITNESS: I don't want to give my home address.

JUDGE TRACY: Okay. Give a business address.

THE WITNESS: Okay. Thank you so much. My name is Stephanie Bouknight, B-O-U-K-N-I-G-H-T. My work address is 65 Tejon, T-E-J-O-N, Denver, Colorado 80223.

JUDGE TRACY: Okay. Mr. Deeny, go ahead, please.

MR. DEENY: Thank you, Your Honor.

DIRECT EXAMINATION

Q BY MR. DEENY: Ms. Bouknight, where are you employed?

A King Soopers.

Q And what's your position there?

A I'm the Manager of Labor and Employee Relations.

Q How long have you held that position?

A Since 1996.

Q How long have you been employed by King Soopers?

A Thirty-one years.

Q Has that always been in the labor and employee relations

1 area?
2 A Yes.
3 Q Can you give the Court a description of what your
4 responsibilities are in that regard?
5 A I administer the collective bargaining agreements with the
6 different Unions that we have, I administer the policy and
7 procedure manual, I take care of all the Title VII responses, I
8 handle the NLRB responses, I communicate with the stores,
9 advise them on situations, interpretations of the collective
10 bargaining agreements.
11 Q Ms. Bouknight, do you participate in collective bargaining
12 as well?
13 A Yes.
14 Q How many different Unions does King Soopers have?
15 A We have UFCW, which has approximately about 10 to 12
16 individual contracts within that, we have the BC&T, which
17 represent our bakers and cake decorators, we have operating
18 engineers, which take care of our store maintenance, and then
19 we have USW, which represents our pharmacists.
20 Q That's the Steelworkers Union?
21 A Correct.
22 Q And in the evolution of -- approximately how long have
23 those relationships existed at King Soopers?
24 A Forty, 50 years.
25 Q Would you describe it as a mature relationship?

1 A Extremely.
2 Q Who among those Unions is the most active as far as
3 grievance and arbitration activity?
4 A UFCW.
5 Q Give an estimate, if you would, how many grievances are
6 filed on behalf of the 12 bargaining units represented by UFCW
7 a year?
8 A We average roughly -- they file 2,000 grievances.
9 Sometimes it's more than that, sometimes it's less than that,
10 but that's a good average.
11 Q And of those, how many requests per year do you get for
12 arbitration?
13 A Probably 60 percent of that.
14 Q And recognizing 365 days a year, how many average days are
15 you in arbitration just with the UFCW?
16 A At least three times a month.
17 Q You said that you administer the collective bargaining
18 agreements.
19 A Correct.
20 Q There's been -- you've been through this entire trial,
21 correct?
22 A Yes.
23 Q There's been some discussion about Ms. Geaslin's
24 contention that she is not required to work outside of her
25 Union. Have you heard that?

1 A I heard that, yes.
2 Q Is there any plausibility to that?
3 A No.
4 Q Can you explain?
5 A Well, she's -- it's all the same Union. She works for the
6 UFCW. She's under the Meat Contract, but it's still the same
7 Union.
8 Q Has that issue ever been advanced to arbitration that you
9 can't use somebody from Starbucks to go work up in the front
10 end to help out?
11 A No, we've never had an arbitration or even a grievance for
12 that.
13 Q In the Collective Bargaining Agreement itself, does it put
14 any restrictions on the ability to do that sort of assignment?
15 A There is nothing in the contract that prohibits work
16 across bargaining units.
17 Q Indeed, are there provisions in the agreement that allow
18 somebody to work from one classification to another
19 classification?
20 A Yes.
21 Q And what is that?
22 A Well, basically, anybody in a higher classification can
23 perform work in a lower classification. So, in this situation,
24 our entry level is our courtesy clerks. Ms. Geaslin was a
25 Starbucks clerk, which is a higher rate of pay. So she was

1 doing entry level work at her rate of pay.
2 Q And to your knowledge, was any grievance filed on her
3 behalf about that?
4 A No.
5 Q You've heard the description of the events on May 9th of
6 2014?
7 A Yes.
8 Q How did you become aware of it at the time?
9 A Theresa Pelo, the store manager, contacted me.
10 Q And in relationship to the events themselves of May 9th,
11 was that immediately?
12 A Yeah, she was -- when I talked to her she was still pretty
13 upset.
14 Q And what did -- you listened to what had transpired?
15 A Yes.
16 Q What was your advice?
17 A I advised that she needed to be terminated.
18 Q And did -- were you aware, at that time, that there was
19 any contention that she was being asked to do something
20 illegal?
21 A No, what I understood the facts were is that the store was
22 extremely busy, that Theresa had called up all available
23 departments to help. We try to get the customers out of the
24 store, and that she had asked for somebody from Starbucks to
25 come up. Ms. Gleason came up, and then refused a direct order

1 from management.
2 Q In your conversation with Ms. Pelo, was there ever a
3 discussion about her lunch period?
4 A I don't know that I knew that, at that particular time,
5 that day that she called me. I think, basically, what Theresa
6 explained to me was that -- just as I explained, that the store
7 is extremely busy, that she had contacted all available
8 departments to bring up some help, and that she had asked Ms.
9 Geaslin to go and to bag groceries, and Ms. Geaslin refused to
10 do it. That there was some sort of conversation on the sales
11 floor in front of guests, which we are never to do, never to
12 bring the guest into any of our situations like that. And that
13 she had brought her into her office, they had a conversation,
14 and she just wasn't understanding that she was given a direct
15 order and that she needed to follow that. And if she had a
16 problem with that and felt that that was not proper, then she
17 had every right to file a grievance, but she didn't have a
18 right to refuse a management directive.
19 Q Is there a particular initiative that has been emphasized
20 at Kin Soopers about lunches?
21 A I've been there for 31 years, so through those 31 years
22 we've done a lot of things -- it's kind of a constant thing
23 that we have to keep reminding employees about that, you know,
24 you have to take your lunch. It's a State law, it's required
25 in the contract. King Soopers wants you to take your lunches.

1 And we've done it, you know, like I said periodically, we
2 have to send out reminders and sign-offs to the employees, you
3 know, emphasizing that you can't just not take your lunch. You
4 have to take your lunch, you have to clock, you have to take
5 the 30 minutes, because we've had situations where employees
6 would just clock out and say, take ten minutes or something
7 like that, and we've had to explain to them that's not
8 acceptable. You have to get away; you have to take your full
9 30 minutes. Anything less is not acceptable.
10 Q And did you subsequently learn, through this process, that
11 Ms. Geaslin was saying, as she was walking to the front end,
12 she was taking her lunch?
13 A At some point, I became aware of it, but I couldn't tell
14 here today when that was.
15 Q Was that, in your estimation, compliant with these
16 instructions that had been given?
17 A No.
18 Q And why not?
19 A Because from my understanding, she was an hour-and-a-half
20 away from ending her shift, and she should have taken her lunch
21 a lot sooner than that.
22 Q And did -- you've seen her timecard in this matter.
23 A Yes.
24 Q Did you retrieve at the time that these events started to
25 unfold?

A Yes.
Q And did she make any attempt to punch out that day to go to lunch?
A No.
Q Now, if she had been denied a lunch, is that a matter that can be grieved by an employee?
A Absolutely.
Q Was there ever any grievance filed about that?
A No.
Q So based on your recommendation to Ms. Pelo on the 9th, insubordination, terminate her, have you done that in the past?
A Yes, and, basically, our conversation would have gone something like my recommendation would be to terminate her unless -- you know, we suspend individuals pending. We never terminate them or apply discipline at the time of an incident. They're always suspended pending an investigation. It's just so everybody can kind of calm down and think about it when they're not so upset.

And then they advise the employee of a date that they need to come back in for their meeting and to bring their business agent with them. And then it's in that meeting that I advise the store managers if something happens in that meeting, if additional information is provided at that time that would change any of the facts that we knew at the time that we needed to re-evaluate it, that we needed to do that, but that if the

1 facts remain that she refused a management directive, that my
2 position was that she should have been terminated.
3 Q And, thank you, I -- and that's what I was going to ask.
4 Do you make actual termination decisions in the King Soopers
5 system?
6 A No, it's up to the store manager. I make recommendations.
7 Q And did so in this case?
8 A Yes.
9 Q Did Ms. Pelo express to you that she wanted to have this
10 discussion with her and her Union representative?
11 A Well, yeah, I mean, like I said at the time that I talked
12 to Ms. Pelo, she was very upset and, you know, she followed all
13 of the required steps as far as, you know, not making a
14 decision at that time to suspend her pending, and, you know, to
15 talk with others.
16 And, I believe that it was sometime after that original
17 conversation that we had on the 9th that she wanted to, you
18 know, give her a second chance and at that point if that's what
19 she wanted to do, I was willing to accept that.
20 Q And what did you next hear about these circumstances?
21 A When she called me and -- Theresa Pelo, the store manager
22 -- and described the meeting, that they had had the second
23 meeting where Ms. Geaslin still wasn't getting it and was still
24 as combated and adamant that she didn't have to do what her
25 store manager told her to do and, you know, it's just not

1 acceptable.
2 Q At that point, did you make a further recommendation?
3 A I probably said to her, I told you to terminate her first,
4 but --
5 Q But other than your spiteful comment --
6 A It wasn't spiteful, but I told her that my recommendation
7 is that she should be terminated.
8 Q Ms. Pelo described that she also talked with district
9 managers. Is that the practice at King Soopers?
10 A Correct.
11 Q And is there a practice at King Soopers based on an
12 employee's seniority as to how far up the chain any decision
13 is?
14 A Yeah, our basic requirement is that anybody that has five
15 or more years, they have to review it with me and the DM, but a
16 lot of times store managers, even if they have less than that
17 will do the same thing.
18 Q Okay.
19 A But it's required of any employee that has five or more.
20 Q In -- you became aware that she was terminated, a
21 grievance was filed over this matter --
22 A Yes.
23 Q -- and, simultaneously, virtually, there was an unfair
24 labor practice charge filed about this.
25 A Yes.

Q Did you respond to the unfair labor practice charge to the Region?

A I did.

Q And do you recall that response to have been in June of 2014?

A Sometime in June, yes.

Q And in there did you make any particular request as to what should happen with this charge?

A I felt that it should be Collyer or Dubeau to the arbitration process.

Q And stated that.

Q Yes.

Q At some point after that, did you receive notification from the Union that they were withdrawing this grievance?

A Yes.

Q And from whom did you receive that notification?

A I think the original withdrawal came from, I think President Cordova's secretary and then Ms. Gleason had the ability to appeal that, and then when it went to the E-Board, the letter came directly from President Cordova.

MR. DEENY: Your Honor, may I approach, please?

JUDGE TRACY: Yes.

Q BY MR. DEENY: Ms. Bouknight, I've handed you what's been pre-marked as Respondent's Exhibits 10 an 11.

(Respondent Exhibit Numbers 10, 11 Marked for Identification)

1 Q Do you have those in front of you?
2 A I do.
3 Q So the 10 -- Exhibit 10, is a letter from Ms. Cordova, the
4 President of the UFCW, dated October 20, 2014, and you're
5 copied on that letter, correct?
6 A Correct.
7 Q And by that time had the second step grievance meeting
8 occurred?
9 A I believe so.
10 Q And who in your staff chaired that second step grievance
11 meeting?
12 A Ken Aragon.
13 Q And what was his position at the time?
14 A He was a labor relations specialist for me.
15 Q And reports to you?
16 A Yes.
17 Q And did Mr. Craine appear at that second step?
18 A No.
19 Q But was all -- were all of the arguments from Ms. Geaslin
20 presented to Mr. Aragon about this matter?
21 A Yes, she was represented by another business agent for
22 UFCW.
23 Q And who was that?
24 A Lita Trujillo.
25 Q So, Ms. Geaslin and Ms. Trujillo were there to plead their

1 case to Mr. Aragon?
2 A Yes.
3 Q And what did he do with the grievance, Mr. Aragon?
4 A He denied it.
5 Q In Mr. Aragon's background, had he been in store
6 management as well?
7 A Yes, I think Mr. Aragon had almost 40 years with King
8 Soopers, and he had come to me from retail. He was an
9 assistant store manager.
10 Q And does King Soopers try to work through the labor
11 relations group people that have retail experience?
12 A We have done that before, yes.
13 Q He denied it in August, and then you received this letter
14 from Ms. Cordova.
15 A Correct.
16 Q And that's from the Executive Board?
17 A The E-Board, correct.
18 Q And in your experience with the E-Board, are they provided
19 advocacy on behalf of the grievant before they make their
20 decisions?
21 A It's an internal Union process, but my understanding of it
22 is that once the original, it goes to EGC, which is what
23 happens right after we have the Step Two and if it is denied by
24 EGC, then the employee has the right to appeal it.
25 I'll get a notice from the Union that the employee has

1 requested to appeal the Union's decision to withdraw it, and
2 they'll provide me with a date telling me when they're going to
3 go to -- their appeal is going to be heard, and then it goes to
4 the Executive Board or the E-Board and that it's a different
5 group of individuals than was at EGC, and they re-present the
6 facts of the case. So it's a different group looking at the
7 facts again.
8 Q The Union -- UFCW Union has a General Counsel office,
9 correct?
10 A Yes.
11 Q Who is the General Counsel of the UFCW Local 7?
12 A John Bowen.
13 Q Do you deal with Mr. Bowen routinely?
14 A Yes.
15 Q Does he present most of the arbitration cases for Local 7?
16 A That deal with King Soopers, yes.
17 Q And does he have an Assistant General Counsel as well?
18 A He does.
19 Q And what's her name?
20 A Jamie Scu -- oh, I can't pronounce her last name.
21 Q For the record is it Scubelek?
22 A Yes.
23 MR. DEENY: Usually spelling for the court reporter, it's
24 S-C-U-B-E-L-E-K.
25 Q BY MR. DEENY: Now, Ms. Bouknight, I noticed as well

1 copied on this Exhibit 10 is Danny Craine and Kevin Schneider.
2 A Correct.
3 Q Do you have a practice at King Soopers to have what's
4 referred to as third step meetings with Mr. Schneider?
5 A We have kind of given it that name. It's not actually the
6 third step as described in the collective bargaining agreement,
7 but, yes, basically, what it is, is once we've gone through all
8 the steps, Step One, Step Two, a request for arbitration has
9 been made.
10 Then prior to actually scheduling it for arbitration, I
11 will meet with Mr. Schneider, who is the Secretary/Treasurer of
12 the Union, and we will review all the facts of the case one
13 more time to see if there's anything else that we can do before
14 it advances on to actually arbitration.
15 Q So in any of these steps, has Mr. Bowen, Mr. Schneider,
16 Ms. Scubelek -- any of these steps -- ever contacted you and
17 said, well she was engaged in protected concerted activity?
18 A Never.
19 Q Are you familiar with that term?
20 A Very much so, yes.
21 Q In your assessment of the circumstances, was she ever
22 engaged in any protected concerted activity?
23 A Not in my opinion, no. There was no issue of safety;
24 there was no issue of wages, hours, benefits. There was no
25 violation of any seniority provision. It was just simply that

1 she refused a management directive to provide services for the
2 company that she is paid to do that for.
3 Q Now, indeed, when there is such an issue in the Union's
4 estimation, have you indeed received grievances saying just
5 that?
6 A Oh, yeah, I've -- I get grievances from the Union. They
7 usually refer to it as collective concerted activity, which I'm
8 not sure exactly what the collective part of it is, but -- or
9 it will just say unjustly terminated or demoted for upholding
10 Union principals.
11 Q And was that ever asserted by any level of UFCW to you?
12 A Never.
13 Q And indeed have those cases where there was such a
14 contention proceeded to arbitration?
15 A Yes.
16 Q In the second step meeting -- and you reviewed those
17 minutes of the meeting?
18 A Yes.
19 Q Do you recall whether Mr. Geaslin acknowledged that the
20 store was very busy?
21 A Yes.
22 Q And do you recall that she said that she didn't have to do
23 it, because it's a different Union?
24 A Yes.
25 Q And was that her only contention?

1 A Yes.
2 Q And is that the case?
3 A It was her Union.
4 Q Ms. Bouknight, you sat through these proceedings, you're
5 aware that Ms. Geaslin had transferred from Store 29 to
6 Store 1.
7 A Correct.
8 Q It's her right to do so under the collective bargaining
9 agreement?
10 A Correct.
11 Q You've seen the discipline that she experienced at Store
12 29 --
13 Q Yes.
14 Q -- about her lunch periods?
15 A Yes.
16 Q She contends -- you heard her here contend that that
17 suspension really wasn't the case, because she had never served
18 it? Did you hear that testimony?
19 A I did.
20 Q Is that true?
21 A Regardless of whether the employee serves the suspension
22 or not, the discipline stands.
23 Q It's a matter of her record?
24 A Correct.
25 Q At any time during your review of this or response to the

1 NLRB, was there ever any evidence provided to you that Ms.
2 Geaslin was acting on behalf of anyone else besides herself?
3 A No.
4 Q Any evidence that she was required to do anything that was
5 unsafe?
6 A No.
7 Q You've heard the testimony that she had been told by her
8 assistant store manager and her Union steward at Store 1 that
9 working across functions in the store is not a violation of the
10 agreement?
11 A Correct.
12 Q As it relates to cutting samples.
13 A Correct.
14 Q Does that comport with your experience?
15 A Correct.
16 Q Having received that instruction from both her assistant
17 store manager and the steward in the store, do you think she
18 has any reasonable basis to contend that that was a violation
19 of the agreement?
20 MS. SAVELAND: Objection. That's calling for a legal
21 conclusion.
22 MR. DEENY: She's entitled to assess protective concerted
23 activity.
24 JUDGE TRACY: But maybe rephrase that question.
25 Q BY MR. DEENY: Based on her previous counselings, do you

1 believe she had any reasonable basis to refuse this order?
2 A No.
3 MR. DEENY: That's all I have, Your Honor. Oh, I'm sorry,
4 may I move for admission of 10 and 11?
5 JUDGE TRACY: Any objections?
6 MS. SAVELAND: No objection.
7 JUDGE TRACY: Well, I have a question, because I don't
8 know what 11 means.
9 MR. DEENY: Okay.
10 Q BY MR. DEENY: Ms. Bouknight, if you would just describe
11 -- I think you said it came -- a document came from Ms.
12 Cordova's secretary. Can you explain to the Arbitrator what
13 that 11 is?
14 A Correct. Basically, it's a letter to me, and it is a list
15 of grievances, including Ms. Geaslin's whose is on the second
16 page. Hers is second from the bottom, on the second page, and
17 it just is identifying to me -- letting me know that the Union
18 has withdrawn the following grievances on a non-precedent
19 setting basis.
20 JUDGE TRACY: Well --
21 Q BY MR. DEENY: And just for the Arbitrator's reference,
22 can you turn to page 2 of that document. And do you see Ms.
23 Geaslin's case referenced the second from the bottom there?
24 A Yes.
25 Q And for clarification, when you use the term secretary,

1 Patty Harrison, that's the Executive Secretary of the UFCW,
2 Local 7, correct?
3 A Correct.
4 Q Which is an officer position of the Union.
5 A I don't think so, no.
6 Q Oh.
7 A She's just the Executive Secretary to President Cordova.
8 Q They do have an Executive Secretary, correct?
9 A Yes.
10 Q That's Mr. Schneider.
11 A Oh, no, Mr. Schneider is the Secretary/Treasurer.
12 Q Secretary/Treasurer, I'm sorry with that terminology. And
13 Mr. Schneider, as well as all the other Executive Board Members
14 are listed on there, correct?
15 A Mr. Schneider is on there, and then these are business
16 agents that would have been responsible for these individual
17 cases that have been withdrawn. So they're also being notified
18 that their cases have been withdrawn.
19 Q Including Mr. Craine.
20 A Correct.
21 MR. DEENY: So, does that help, Your Honor?
22 JUDGE TRACY: Yes, but one thing of a concern that I have
23 is, you know, I don't feel comfortable with all these different
24 grievant's names on here, because this case is about one
25 person. So I'd prefer if we just redact the names of all these

other individuals.

I mean you can leave the issue, it doesn't matter, but just redact the grievant names, and you can leave, obviously, Ms. Geaslin's name on here, but all these others, you know this is a public record, and I just don't think it's needed.

MR. DEENY: Yeah, that's fine, Your Honor.

JUDGE TRACY: Okay.

MR. DEENY: We'll be happy to withdraw the names except for Ms. Geaslin's name.

JUDGE TRACY: Yeah. Okay.

MR. DEENY: I take it we can leave the issue and the date of filing --

JUDGE TRACY: Oh, that's --

MR. DEENY: -- and all that kind of --

JUDGE TRACY: -- yeah, that's fine. It's just, you know, I don't see a need for the names, and I understand now what this is. So no objections.

MS. SAVELAND: No objection.

JUDGE TRACY: Okay. So Response Exhibit 10 and 11 are admitted into evidence.

(Respondent Exhibit Numbers 10 and 11 Received into Evidence)

JUDGE TRACY: And at the end of this, we'll have you black out --

MR. DEENY: That's fine.

JUDGE TRACY: -- so that way -- I mean their -- the court

reporter's copies.

MR. DEENY: Okay.

JUDGE TRACY: Okay. Anything else?

MR. DEENY: No, I have nothing further on Ms. Bouknight.

MS. SAVELAND: I just have a couple questions.

CROSS-EXAMINATION

Q BY MS. SAVELAND: I just want to clarify. You were not present in Store 1 on May 9th, at all?

A No.

Q And you weren't present for the events on May 14th either?

A No.

Q So your knowledge comes second hand form other people?

A Correct.

Q Okay. And then one other thing. So you said Ms. Pelo called you on the 9th after the meeting with Wendy and your recommendation was to terminate?

A Correct.

Q Did you hear Ms. Pelo testify that she actually asked you fi it was possible to suspend her or that she would prefer to suspend?

A Yes.

Q Okay. And you didn't order her then to terminate her at that time, you agreed with her and let her make that decision?

A It's the store manager's decision. The only time that I would go against what a store manager wanted to do is if I

1 really felt that it was going to set a bad precedence for the
2 company, and at that point in time, then I would take it to the
3 BP --
4 Q Okay.
5 A -- and then he would make the decision --
6 Q Okay. So --
7 A -- but mostly it's the store manager's decision.
8 Q -- so you allowed Ms. Pelo to make the decision on that
9 particular matter, on that particular day.
10 A Absolutely.
11 Q Okay. And then on the 14th, when she called you again,
12 and she expressed her wish to terminate, then you agreed with
13 her recommendation as well?
14 A Exactly.
15 Q Okay.
16 MS. SAVELAND: That's all I wanted to clarify. Thank you.
17 **REDIRECT EXAMINATION**
18 Q BY MR. DEENY: Ms. Bouknight, of the -- what did you say
19 number of grievances just by Local 7 a year?
20 A That are filed --
21 Q Yes.
22 A -- or requested?
23 Q Filed.
24 A Average 2,000 a year.
25 MS. SAVELAND: Objection. Out of the scope of cross --

1 yeah, cross.
2 MR. DEENY: It was not out of the scope of cross at all.
3 Q BY MR. DEENY: Are you in the stores for any of those
4 2,000 grievances that are filed?
5 JUDGE TRACY: Okay. All right. So just a second. Again,
6 you know --
7 MR. DEENY: I agree, Your Honor. Please rule. I'm sorry.
8 JUDGE TRACY: Okay. Well, before I rule, please explain
9 where you're headed and how this is related to the cross?
10 MR. DEENY: The objection was scope and the question
11 specifically was were you in the store on May 9th of 2014,
12 about these events, and did you receive this information second
13 hand. And I think I'm entitled to explain that's how it works.
14 JUDGE TRACY: Okay. So I'm going to overrule the
15 objection. Go ahead, please.
16 Q BY MR. DEENY: Ms. Bouknight, of those 2,000 grievances,
17 are you in the store every time that these occur?
18 A No.
19 Q Are you in the store any time these occurred?
20 A No, I just receive the -- the grievances come to me
21 though, directly.
22 Q You rely on what's told to you and the facts of the store
23 manager in making your recommendations?
24 A Correct, and then the facts that come out of the Step Two,
25 which is handled out of my office by my specialist.

1 Q And you review every one of those --
2 A Yes.
3 Q -- before you decide we're not resolving this, it's going
4 to arbitration?
5 A Yes, because I meet with Kevin Schneider before it
6 actually goes to arbitration, and we review all the facts
7 again.
8 JUDGE TRACY: Anything else?
9 MR. DEENY: Thank you, that's all I have.
10 JUDGE TRACY: Okay. Ms. Saveland, anything else?
11 MS. SAVELAND: No, not at all.
12 JUDGE TRACY: Okay. All right. Ms. Bouknight, thank you
13 very much.
14 THE WITNESS: Thank you.
15 JUDGE TRACY: And remember -- I mean you're sitting in
16 here, but don't discuss your testimony with anyone else.
17 THE WITNESS: Okay.
18 JUDGE TRACY: Okay. Mr. Deeny, is there anything else in
19 terms of your case in chief?
20 MR. DEENY: No, Your Honor, we rest.
21 JUDGE TRACY: Okay. Ms. Saveland, would you like about
22 ten minutes or so to discuss whether -- how you'd like to
23 proceed, if there's a rebuttal?
24 MS. SAVELAND: If I can have a short break.
25 JUDGE TRACY: Okay. Ten minutes, does that work?

1 MS. SAVELAND: That's perfect.

2 UNIDENTIFIED MALE: Yeah, that's fine.

3 JUDGE TRACY: Okay. So we'll go off the record, and we'll

4 start back at 9:25 or so.

5 (Off the record at 9:15 a.m.)

6 JUDGE TRACY: So, Ms. Saveland, does the General Counsel

7 have any rebuttal?

8 MS. SAVELAND: No, we do not.

9 JUDGE TRACY: Okay. All right. So I'll prepare and file

10 with the Board my decision in this proceeding. A copy will be

11 served on each of the parties. You are reminded to refer to

12 the Board's Rules and Regulations for information regarding the

13 filing of briefs and proposed findings for my consideration,

14 and regarding procedures before the Board after the issuance of

15 a Judge's decision.

16 Now, that all the evidence is in, you have a better

17 opportunity to assess your chances regarding the outcome of the

18 issues you have -- than you had at the outset of the trial.

19 All parties should carefully weigh the risk entailed and decide

20 whether an amicable settlement of the issues might not offer a

21 more satisfactory solution. Settlement may be arranged now or

22 at any time before I issue my decision.

23 So I will allow until September 16th, which is 35 days

24 from now for the filling of briefs and any proposed findings

25 and conclusions. So those briefs should be filed directly with

1 the Judge's Division in San Francisco regardless of whether
2 they are mailed or e-Filed.
3 And any requests for extension of time for the filing of
4 briefs must be made in writing to the Associate Chief Judge in
5 San Francisco and served on the other parties. The position of
6 the other parties regarding the extension should be obtained
7 and set forth in the request.
8 It is the policy of the Division of Judges to grant
9 discretionary extensions only when they are clearly justified.
10 Request for extensions must contain specific reasons and show
11 that the requesting party cannot reasonably meet the current
12 deadline.
13 There being nothing further, the trial is now closed, and
14 we're off the record.
15 MR. DEENY: Thank you, Your Honor.
16 MS. SAVELAND: Thank you.
17 **(Whereupon, the hearing in the above-entitled matter was**
18 **closed at 9:22 a.m.)**
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25

1 **C E R T I F I C A T I O N**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 27, Case 27-CA-
4 129598, KING SOOPERS, INC. and WENDY GEASLIN, AN INDIVIDUAL, at
5 the National Labor Relations Board, Region 27, Byron Rogers
6 Federal Office Building, 1961 Stout Street, Suite 13-103,
7 Denver, Colorado 80294, on Wednesday, August 12, 2015, at 8:00
8 a.m., was held according to the record, and that this is the
9 original, complete, and true and accurate transcript that has
10 been compared to the reporting or recording, accomplished at
11 the hearing, that the exhibit files have been checked for
12 completeness and no exhibits received in evidence or in the
13 rejected exhibit files are missing.
14
15
16
17 KEN IGLEHART
18 Official Reporter
19
20
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25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 27

In the Matter of:

KING SOOPERS INC., Case No. 27-CA-129598

and

WENDY GEASLIN, AN INDIVIDUAL,

JOINT EXHIBITS

Place: Denver, Colorado

Dates: August 12, 2015

OFFICIAL REPORTERS

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AGREEMENT

Between

KING SOOPERS INC.,
A DIVISION OF DILLON COMPANIES, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7,
DENVER, COLORADO
Chartered by the
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO

Denver, Colorado (Meat)

TERM: May 13, 2012 through September 12, 2015

JOINT EX. 1
27-CA-129598

Respondent 0001

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AGREEMENT

Between

KING SOOPERS, INC.
A DIVISION OF DILLON COMPANIES, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7
Chartered by the
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO

TERM:

Denver, Colorado (Meat):
May 13, 2012 through September 12, 2015

THIS AGREEMENT has been made and entered into by and between KING SOOPERS, INC., a Division of Dillon Companies, Inc., hereinafter referred to as the "Employer," and UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7, chartered by the United Food and Commercial Workers International Union, AFL-CIO, hereinafter referred to as the "Union".

WITNESSETH:

That for and in consideration of the mutual promises and conditions hereinafter set forth, and in order to assure and secure the benefits intended to be derived by the employees and the Employer under these Articles of Agreement herein, it is hereby expressly understood and agreed as follows:

ARTICLE 1

RECOGNITION AND EXCLUSIONS

Section 1. The Employer recognizes the Union as the sole collective bargaining representative for all meat cutters, apprentices, wrappers, butcher block sales persons and delicatessen employees, clean-up personnel, including part-time workers who work regularly one (1) day or more a week, employed by the Employer in the meat market or markets owned or operated by the Employer in the metropolitan area of Denver, Colorado (as such area as is shown on the map attached hereto and by this reference made a part hereof) but excluding all store managers, courtesy clerks, office and clerical employees, janitors, parking lot attendants, food clerks, warehouse employees, watchmen, guards and professional employees and supervisors as defined in the National Labor Relations Act, as amended, and all other employees. Within the geographical jurisdiction of this Agreement, any new stores opened by the Employer shall be accreted and shall be covered by the terms of this Agreement.

Store Managers and Assistant Store Managers can perform all duties in the store.

ARTICLE 2

SERVICE IN MEAT-DELICATESSEN DEPARTMENTS, PLANTS

Section 2. All work performed in the meat, delicatessen and seafood department(s) will be done by members of the bargaining unit, except Store Managers, Assistant Store Managers, and Field Merchandisers may perform all duties in the meat department without restriction. For the purpose of this agreement, the meat department is defined as the area occupied by the meat storage rooms, the meat preparation rooms and the service and/or self-service display cases where fresh, smoked, cooked and frozen meats, poultry, fish and seafood are offered for retail sale, with the exception of poultry products, the pricing of all meat products shall be done on the premises except as provided herein. Notwithstanding, the Employer may have specialized sanitation work, such as cleaning of ceiling tiles, grease traps, drains, walls, etc., performed by personnel outside the bargaining unit.

Section 2 A. Bargaining unit employees shall perform the work of cutting or preparation of meats that are cut, processed or prepared on the Employer's premises for immediate consumption.

All fresh, cured, smoked or frozen meat, refrigerated luncheon meats, fish, poultry and rabbits shall be handled by employees within the bargaining unit. Nothing in this agreement shall be construed to prevent non-bargaining unit employees from selecting customer purchases from the sales floor throughout the entire store, including the storage and retrieval thereof.

No one other than employees covered by this agreement shall be permitted to perform the cutting or preparation of meat in the meat departments, meat markets, seafood or delicatessen departments on the employer's premises, except as set forth below:

1) This does not include the transaction of the checkstand.

2) No representative of management above the level of head meat cutter (except for owners, partners and/or officers of the Employers) shall perform the work customarily assigned to employees in the bargaining unit except: (a) when a bargaining unit employee who has been scheduled to work fails to report to work as scheduled; (b) in connection with the instruction or training of an employee or employees; or (c) in connection with the first thirty days of the opening of a new or remodeled market; or (d) in connection with simple straightening of display cases; or (e) in connection with the removal of outdated, distressed or damaged merchandise from display cases; or (f) in connection with floor maintenance work performed by a member of the retail clerks bargaining unit in connection with work related to the meat, delicatessen and seafood departments; or (g) in response to a specific customer request.

Section 2 B. Vendor Work. Direct store vendors who deliver the product categories of beverages (including juice sold in produce/deli departments), cookies and crackers, bakery, pizza, ice cream, specialty/gourmet/natural foods and chips, shall be allowed to perform all work in connection with the sale of their products directly delivered to the store. For purposes of this provision, the product categories as used herein shall be interpreted to include all products delivered by such vendor. Additionally, all vendors shall be allowed to stock and otherwise

maintain any J-Hook or Clip strip program. Additionally, all vendors may perform: any work in connection with promotional and seasonal displays; facing in connection with the service of product; rotation of product; cleaning of product, shelves and racks; affixing coupons and other promotional materials to products; vendors shall be permitted to perform three (3) major resets per store, per section, per calendar year. Additionally, vendors may perform work, as necessary to accommodate the introduction of new items, or removal of discontinued items, from the set; checking of code dates and removal of out-dated product; and any work in connection with the opening of a new store and the two (2) week period thereafter, or during the two (2) weeks before and after a store remodel.

Section 2 C. A Journeyman Meat Cutter shall be on duty in each store a minimum of eight (8) hours per calendar day. Hours scheduled in the classifications of Head Meat Cutter and 1st Cutter may be used to satisfy this obligation. The Employer agrees not to layoff a Journeyman Meat cutter hired and assigned to a retail store position on or before March 5, 2005 as the direct result of this section.

Section 2 D. Retail Clerks may assist in meat department clean up work, provided such assignments do not conflict with applicable child labor and/or health and safety regulations.

Section 3. It is understood that the cutting or preparation of meats that are cut, processed or prepared on the Employer's premises for immediate human consumption will continue to be performed in the market located on the Employer's premises, unless the Employer transfers said work, in which case the following paragraph will be applicable: If the Employer transfers the cutting and fabricating of retail cuts of fresh meats performed in its retail store or stores covered by this agreement to a location or locations outside of said retail store or stores, the Employer will continue to recognize the Union as the bargaining agent for the meat cutters, apprentices and wrappers employed by the Employer in the cutting and fabricating of retail cuts of fresh meat, and the seniority rights provided in this agreement shall continue to apply throughout the bargaining unit, including said new location or locations of the Employer.

Section 3 A. Notwithstanding anything contained herein to the contrary, the Employer shall not be restricted in, or prohibited from, obtaining and offering for sale fresh, smoked, cured, cooked and frozen meats, poultry, fish or seafood which have been cut, prepared, processed, packaged, weighed and/or priced off the Employer's premises and it is expressly understood and agreed that such shall not constitute a violation of this agreement. Notwithstanding the preceding sentence, the Employer agrees that no head meat cutter, first cutter, journeyman meat cutter or apprentice meat cutter assigned to one of the aforementioned classification by the Employer on or before May 11, 1996 shall be laid off or reduced in scheduled hours. The Employer shall have the right to transfer and/or schedule meat cutters in more than one (1) store within the bargaining unit and/or adjacent bargaining unit (s) as may be necessary to fulfill this obligation, except that the Employer shall not schedule such employees for split shifts.

The Employer shall continue to have the right to layoff employees in accordance with the provisions of this agreement, provided that the layoff of any meat wrapper, butcher block, seafood clerk or delicatessen clerk assigned to such classification on or before May 11, 1996, is for reasons other than the Employers utilization of the products set forth in Section 3A above. It is understood and agreed that in meeting the job guarantees contained herein the Employer

shall have the right to assign any higher classified employee to perform work in a lower classification.

In the event of a store closure, or plant closure, resulting in the layoff of any head meat cutter, first cutter, journeyman meat cutter, apprentice meat cutter or meat wrapper, such affected employee (s) shall be permitted to exercise his seniority to displace the least senior meat cutter or meat wrapper in the involved bargaining unit as provided for herein, or, at the affected employee's discretion, the least senior meat cutter or meat wrapper in the State of Colorado. Such least senior meat cutter or meat wrapper affected by the exercise of the most senior meat cutter's or meat wrapper's seniority shall be laid-off. It is understood that in applying this provision meat cutters may displace only meat cutters and meat wrappers may displace only meat wrappers.

Section 4. In the event of the closure of the King Soopers Meat Plant, meat cutters and meat wrappers assigned to the Retail Cut Line on the date of closure who elect to receive severance, as provided for in this agreement, in lieu of exercising their seniority rights contained in this agreement shall be paid a severance supplemental payment equal to fifty percent (50%) of the severance amount such employee is eligible to receive under the store and plant closing provision of this agreement. It is understood and agreed that in the event a retail cut line meat cutter or meat wrapper covered under this provision elects to bump into a store, the affected store employee subject to layoff shall be eligible for the plant closing severance pay as provided herein. For all other plant classifications impacted by a plant closure, the Employer agrees to discuss with the Union the effects of such decision.

Section 5. No retail employee shall be required to maintain restrooms.

ARTICLE 3

UNION SECURITY AND CONDITIONS

Section 6. Provided the parties to this Agreement have complied with all State and Federal statutes concerning Union security matters, the provisions of these Sections 6, 7 and 8 shall be applicable.

Section 7. Union Shop. All present employees of the Employer who fall within the bargaining unit, as set forth in Section 1 hereof, shall as a condition of continued employment, be or become members of Local No. 7, UFCW, AFL-CIO, between the thirty-first (31st) and thirty-fifth (35th) day following the date of the signing of this Agreement, and shall remain members of the Union in good standing during the life of this Agreement.

Section 8. All employees hired after the date of the signing of this Agreement, who fall within the bargaining unit as set forth in Section 1, shall as a condition of continued employment, become members of the Union between the thirty-first (31st) and thirty-fifth (35th) day following the date of their last employment and shall remain members of the Union in good standing during the life of this Agreement.

Section 9. "Good standing" is interpreted to mean the payment or tendering of initiation fees and periodic Union dues to an authorized agent of the Union.

Whenever the Union requires the Employer to discharge any employee for failure to join or to maintain his membership in the Union in good standing in accord with the terms of this Article, the Union agrees to furnish the Employer an itemized copy of the delinquent's account with the Union together with a written request for discharge. The Employer will discharge any employee who falls within the bargaining unit as described in Section 1 hereof within ten (10) days after the receipt of said written request for discharge, unless within said ten (10) day period the delinquent employee pays or tenders his delinquent initiation fee and/or delinquent Union dues to an authorized agent of the Union.

ARTICLE 4

CHECK-OFF

Section 10. The Employer agrees to deduct the weekly dues, legal rejoining fees and uniform assessments, (including initiation fees for new employees) from the net amount due each employee in the bargaining unit as described in Section 1 hereof who has furnished the Employer (either directly or through the Union) with an individual written authorization for making such deductions on a form mutually agreed upon between the Employer and the Union. It is understood that the check-off authorization is to be entirely voluntary upon the part of each such individual employee and that any such employee may revoke his individual check-off authorization upon giving thirty (30) days written notice to the Employer and the Union. The Employer agrees to remit all such deductions to the Chief Executive Officer of the Local Union no later than the twentieth (20th) day of each month.

Section 11. The Employer agrees to deduct amounts designated by employees for the Active Ballot Club when the Employer has been furnished an individual written authorization for making such deductions on a form mutually agreed upon between the Employer and the Union. It is agreed that the ABC authorization is to be entirely voluntary upon the part of each individual employee and that any such employee may revoke his ABC checkoff authorization upon giving thirty (30) days written notice to the Employer and the Union.

ARTICLE 5

NEW EMPLOYEES, TRANSFERRED EMPLOYEES, PROMOTED OR DEMOTED

Section 12. When an employee is hired for a job, or transferred or promoted or demoted into a bargaining unit job as described in Section 1 hereof, the Employer agrees within three (3) days to fill out a mutually agreeable form in triplicate, which advises the employee of his obligation to join the Union. One (1) copy of this form will be given to the employee and one (1) copy will be mailed to the Union in a stamped, addressed envelope provided by the Union.

ARTICLE 6

RIGHTS OF MANAGEMENT

Section 13. The Employer retains the right to manage its business, to establish reasonable standard of dress, to direct the working forces and to make necessary rules and regulations for the conduct of the business, providing that said rules and regulations are not in conflict with the terms of this Agreement in any way.

ARTICLE 7

DEFINITIONS OF CLASSIFICATIONS

Section 14. Head Meat Cutter. Shall be considered the employee responsible for the operation of the market and the Union will not recognize any employee as Head Meat Cutter who is not employed full-time in any store covered by this Agreement.

Section 15. Apprentice Meat Cutter. If, in the opinion of management (management means higher management than the Head Meat Cutter) an apprentice is fully qualified to perform the duties of a Journeyman Meat Cutter prior to three (3) years of service with a minimum of six thousand two hundred forty (6,240) hours of actual work experience on the job, the Employer may advance such apprentice to the duties and pay of a Journeyman Meat Cutter.

When apprentices have worked three (3) years, and the equivalent hours as set forth above, they automatically become Journeymen and shall be paid as such.

During an apprentice's three (3) years training period, he shall be assigned from time to time to all jobs normally done in the particular market.

One (1) apprentice shall be allowed to every two (2) Journeymen or a fraction thereof in each market, and one (1) additional apprentice to every two (2) additional Journeymen in said market. This limitation on apprentices may be relaxed during emergency periods when the Union is unable to furnish qualified Journeymen to the Employer.

Section 16. First Cutter. A First Cutter may be designated at the discretion of the Employer and is not a required classification.

Section 17. Wrappers. The work allotted to employees falling in the classification of "wrappers" shall be strictly confined to wrapping, weighing, pricing and tagging the packages and clean-up work in this particular department as well as cleaning cases and pans, traying of rewraps, ordering of merchandise, receiving, checking and putting away loads. Wrappers may also be required to stock and rotate cases with fresh meat, cooked and smoked meats and frozen food. Nothing herein shall be construed to limit "Wrappers" from giving service to customers provided such service does not include the sawing or cutting of merchandise. Additionally, Meat Wrappers may use the tools of the trade, except the band saw, to perform work in response to a specific customer request.

Section 18. Clean-up Personnel. Employees assigned as "Clean-up Personnel" shall clean all work areas of the meat and delicatessen departments, including walls, freezer, walk-in box, hold box, cutting room and wrapping area, as well as cleaning blocks, meat and delicatessen cases and disassembled power tools and equipment.

Clean-up personnel shall not disassemble or reassemble power tools or equipment nor handle meat or delicatessen products in display cases.

If a Clean-up employee is found to be doing any work other than set forth above, all hours so spent shall be paid for at the starting apprentice rate.

The Employer retains the right to schedule such employees for a minimum of two (2) hours per day.

Section 19. Assistant Delicatessen Manager. Assistant Deli Managers may be designated at the discretion of Management and is not a required classification.

Section 20. Delicatessen Employees. The work allotted to employees falling in the classification of "Deli Employee" shall be strictly confined to packaging, preparing, selling and pricing all items offered for sale in this department. Such work shall also include use of tools of the trade and such clean-up and other work associated with the practical operation of the department.

Delicatessen Department employees may operate a cash register in the Delicatessen Department. Nothing in this section shall be construed to prevent delicatessen employees from ringing incidental sales from other departments of the store.

Section 21. Delicatessen Clerks and Department Managers will be considered as a separate group for the purpose of applying the Seniority provisions of Articles 27, 28, 30, 31, 32, 33 and 46.

Section 22. Butcher Block Sales Clerks Butcher Block sales persons shall be allowed to perform all work in connection with the processing and sale of product in a specialty meat or seafood department. It is further understood that a Butcher Block Sales Clerk may perform all duties of a meat wrapper. Butcher Block Sales person assigned to a separate Seafood Department (within a store) may prepare all seafood items for said department. It is further understood that Butcher Block Sales Clerks may perform all work necessary for the handling and sale of product in their department including the cutting and processing of all meat and, and in response to a specific customer request.

Butcher Block sales persons will be considered as a separate group for the purpose of applying the seniority provisions of Article 27, 28, 30, 31, 32, 33 and 46.

Section 23. Snack Bar Clerks. The duties of the Snack Bar Clerk shall be relegated specifically to the handling, preparation and/or sale of "snack" items, including, but not restricted to, hot dogs, pretzels, ice cream, popcorn and pizza. The maintenance of the equipment used to sell the above items shall also be the responsibility of the Snack Bar Clerk. In addition, duties enumerated under Section 18 (Clean-up Personnel) may be assigned.

Snack Bar Clerks shall not be temporarily assigned duties in higher classifications.

Section 24. Cheese Steward. In delicatessens with an expanded cheese selection the Employer may employ and designate an employee as a Cheese Steward. The addition of a Cheese Steward to any delicatessen shall be at the Employer's discretion. A Cheese Steward must possess education and/or training sufficient to give them a broad range of knowledge with respect to the varieties of cheeses sold in the delicatessen. Cheese Stewards may perform all work in the delicatessen.

Section 25. New Classification. When a new job is created by the Employer, the Union shall be notified immediately, and a new wage rate for such job shall be determined by the Employer and the Union.

Section 26. Work Between Classifications. It is understood that employees may perform incidental work in another classification without violating this Agreement.

ARTICLE 8

RATES OF PAY

Section 27. The classifications, wages, and special conditions applicable to employees are set forth in Appendix "A," attached hereto, and, by this reference made a part hereof

Section 28. The salary of superannuated members of the Union to be employed by the Employer shall be decided upon between the Employer, the superannuated employee and a representative of the Union.

Prior Experience: In applying Section 27 of Article 8 of this Agreement to any newly hired employee, the Employer will give recognition to the verified number of hours of actual work experience on a comparable job which said newly hired employee may have performed within the previous five (5) years for any other employer in a similar retail grocery operation.

Any grievance over recognition given an employee for comparable work experience at the time of his employment must be filed pursuant to the terms and conditions of the grievance procedure of this Agreement (excluding the employee's trial period).

Any employee shall receive, upon request to his employer or former employer, the following information: Date of hire, date of termination, total hours worked in retail store unless such hours worked shall exceed six thousand five hundred (6,500) and then such fact shall be stated. The employee must show evidence of employment in the grocery industry before making such request.

Section 29. During the life of this Agreement, the Employer shall not raise or lower hourly rates of pay except as dictated by the wage scales set forth elsewhere in this Agreement.

ARTICLE 9

TEMPORARY ASSIGNMENTS

Section 30. When an employee is required to perform work in a higher classification, he shall receive the higher rate, based on his experience; but, if required to perform work in a lower classification, he shall retain his regular rate, except in the case of actual demotion, when the employee shall receive pay according to his classification.

Before an employee is scheduled work in a higher classification, all employees who have requested additional hours in that classification in that store shall have their hours maximized.

Section 31. When a Delicatessen Clerk is assigned by the Employer to assume the duties and responsibilities of the Delicatessen Manager for a continuous period of one (1) week or more, such employee shall be paid the Delicatessen Manager rate of pay for all hours worked while so assigned.

Section 32. When a Journeyman relieves a Head Meat Cutter for one (1) week or longer, he shall be paid the contract rate of pay for Head Meat Cutter for such time spent in relief.

ARTICLE 10

NO REDUCTION IN PAY

Section 33. No employee shall have his hourly wage reduced who may now be receiving more than the minimum wage called for in this Agreement, nor shall his hours be lengthened unless he is properly compensated therefore in accord with the terms of this Agreement, and employees shall not be reclassified to defeat the purpose of this Agreement unless otherwise agreed between the parties. No employee shall be asked to make any verbal or written agreement that shall conflict with this Agreement in anyway.

ARTICLE 11

WORKWEEK

Section 34. The workweek shall coincide with the calendar week.

Forty (40) hours to be worked in any five (5) eight (8) hour days shall be the basic workweek for regular full-time employees. Regular full time employees shall be scheduled for at least forty (40) hours of work to be performed in five (5) days unless reduced in accordance with seniority. Regular full-time employees shall be scheduled for at least thirty-two (32) hours of work to be performed in four (4) days (exclusive of the holiday) during a week in which a holiday occurs, unless reduced in accordance with seniority.

Upon mutual agreement between the Employer and the employee, a regular full-time employee may work four (4) ten (10) hour days to make up the standard workweek, except in holiday or daily vacation weeks when the standard workweek, at the Employer's discretion, may be five (5) eight (8) hour days or four (4) eight (8) hour days. Unless modified herein, the provisions of this Agreement shall apply to such standard workweeks.

1. Overtime to be paid for all time worked in excess of ten (10) hours in any one (1) day.

2. Payment for funeral leave shall not exceed the straight-time hours scheduled per day missed up to a maximum of twenty-four (24) hours pay.

3. After eight (8) hours of work, the employee shall be entitled to a third fifteen (15) minute break.

4. Payment for jury duty shall not exceed eight (8) hours pay per day missed, less what he is paid for serving on the jury. The Employer may reschedule employees required to serve on jury duty, including but not limited to, scheduling them five (5) eight (8) hour days.

5. Sick leave pay will be paid, if eligible and following the full work day absence if such applies, not to exceed the number of hours scheduled on the day missed.

6. Management shall determine the number of four (4) ten (10) hour schedules during any one (1) week.

ARTICLE 12

OVERTIME

Section 35. Overtime compensation at the rate of time and one-half (1-1/2x) the employee's base hourly rate of pay shall be paid under the following conditions:

a. For all time worked in excess of eight (8) hours in any one (1) day.

b. For all time worked in excess of forty (40) hours in any one (1) workweek as described in Article 11.

Employees scheduled and working more than five (5) days in a workweek will receive time and one-half (1-1/2x) for the day on which the least number of hours was worked.

Section 36. It is understood and agreed that overtime compensation shall not be paid twice for the same hours of overtime work.

ARTICLE 13

SUNDAY PREMIUM

Section 37. The premium rate for work performed on Sunday as such shall be one and one-fourth times (1-1/4x) the employee's regular straight-time rate of pay. The Sunday premium, for hours worked up to eight (8), shall in no instance be offset against any weekly overtime which may be due under subparagraph (b) of Section 35 because of the fact that the employee worked over forty (40) hours in the particular workweek. The Sunday premium shall not be averaged into the employee's straight-time rate for the purpose of determining the rate upon which daily or weekly overtime is based in any workweek under Section 35. Employees hired on or after March 6, 2005 shall not be eligible for Sunday Premium.

ARTICLE 14

TRAVEL PAY

Section 38. When an employee is transferred from one store to another store during his workday, reasonable time spent in traveling between said stores shall be considered as time worked. Assigned travel between stores in the employee's personal vehicle shall be

reimbursed in the amount established by the Employer for reimbursement to its non-bargaining unit employees (but not less than the IRS rate), exclusive of travel to and from the employee's home. Before an employee is permitted to use his personal vehicle for company business, the Employer shall have the employee sign a statement acknowledging his risk and certifying possession of a valid drivers license and insurance coverage.

ARTICLE 15

NIGHT PREMIUM

Section 39. A premium of fifty cents (50¢) per hour shall be paid for all work performed between the hours of 12:00 midnight and 6:00 a.m. to all employees. Employees whose shifts are scheduled to end at 12:00 midnight need not be paid any premium under this Section, even where it is necessary for them to remain on the job for a short period in order to complete their work, provided that such additional period does not exceed fifteen (15) minutes.

Night premiums shall not apply where an employee is working at overtime or on a holiday.

ARTICLE 16

HOLIDAYS

Section 40. All employees hired on or before March 5, 2005 who have completed their probationary period shall be paid for the following holidays whether or not they fall on what would normally be a workday for the employees involved: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. Such employees shall be entitled to two (2) personal holidays, which must be requested two (2) weeks in advance and approved by the Store Manager.

All employees hired on or after March 6, 2005 who have completed their probationary period shall be paid for the following holidays whether or not they fall on what would normally be a workday for the employees involved: Thanksgiving Day and Christmas Day. Such employees shall be entitled to one (1) personal holiday after two years of service, two (2) personal holidays after three (3) years of service, and three (3) personal holidays after four years of service. Such holidays must be requested two (2) weeks in advance and approved by the Store Manager.

Section 41. The Employer may operate its stores at its sole discretion on any of the holidays recognized by this Agreement.

Section 42. **Personal Holidays.** To be eligible for personal holidays during each calendar year, an employee must be on the payroll as of January 1 of each year. Such holidays must be taken during the respective calendar year. An employee whose employment terminates prior to having taken his personal holiday or who fails to take his personal holiday in the calendar year shall not be entitled to holiday pay. In the event an employee fails to schedule his personal holiday by October 1 of the calendar year, the Employer will select a date and schedule such employee for his remaining personal holidays for that year.

Section 43. When a holiday falls on Sunday, the following day shall be observed.

Section 44. Holiday Pay for Full-Time. As pay for an unworked holiday, regular full-time employees will be paid at straight-time for the number of hours they would normally have worked on the day in question, but not to exceed eight (8) hours. If the holiday falls on a day which would normally have been such employee's scheduled day off, he shall be paid eight (8) hours at straight-time as pay for the unworked holiday.

Section 45. Holiday pay for Part-Time. Holiday pay for part-time employees who have completed their probationary period, and who otherwise qualify shall be based on the number of hours worked in the calendar week immediately prior to the week in which the holiday occurs, divided by five (5). Provided the employee actually performs work in the calendar week immediately prior to the holiday week (unless on vacation, or receiving sick pay for time not worked during such week, or during the first thirty (30) days of an absence for which an employee is receiving Workmen's Compensation), the employee shall not receive less than three (3) hours holiday pay.

Section 46. Qualifications for unworked holiday pay. In order to qualify for pay for an unworked holiday an employee, otherwise eligible for such pay under the terms of this Article, must work his regularly scheduled day immediately preceding the holiday, the holiday if scheduled and his regularly scheduled day immediately following the holiday unless he has been previously excused from such work by the Employer or unless he was prevented from so working due to a bona fide illness. No employee on leave of absence shall be eligible for holiday pay.

An unworked holiday, even though paid for under the terms of this Article, shall not be counted as a day worked for the purpose of computing overtime pay in a holiday workweek.

Section 47. For employees hired on or before March 5, 2005, when a holiday is worked, the employee shall be paid one and one-half (1½) times his/her normal hourly rate of pay, in addition to the holiday pay provided herein. For employees hired on or after March 6, 2005, when a holiday (as defined above for such employee) is worked, the employee shall be paid one dollar ($1.00) per hour worked.

Section 48. Holiday scheduling. No later than the second Wednesday prior to the beginning of the week in which a holiday observed hereunder occurs (exclusive of personal holidays), the Employer shall post in each store a holiday volunteer work list. An employee desirous of working the upcoming holiday, in the job assignment which he normally performs, shall sign such list no later than the Tuesday prior to the holiday week. Signing of another employee's name on such list shall be cause for disciplinary action.

The Employer will not reschedule the hours of work in the workweek immediately prior to the workweek in which the holidays occur in order to defeat the purpose of this Agreement.

The Employer will select the necessary employees from this list in accordance with seniority and ability, within each store and department, and provided the employee normally performs the work required. Should the Employer not be able to staff his schedule requirements through this procedure, qualified employees shall be assigned to the remaining available schedules by reverse seniority and ability within their respective classifications within each department and store. Nothing herein shall be construed to require pay for time not worked.

ARTICLE 17
VACATIONS

Section 49. All regular full-time employees, and all part-time employees, who were hired on or before March 5, 2005 and who have worked eight hundred and thirty two (832) or more hours in their anniversary year, covered by this agreement, shall receive one (1) week's paid vacation after one (1) year's service, two (2) weeks' paid vacation after two (2) years' service, three (3) weeks' paid vacation after five (5) years' continuous service, four (4) weeks' paid vacation after twelve (12) years' continuous service and five (5) weeks' paid vacation after twenty (20) years continuous service.

All regular full-time employees, and all part-time employees, who were hired on or after March 6, 2005 and who have worked one thousand forty (1,040) or more hours in their anniversary year, covered by this agreement, shall receive one (1) week's paid vacation after one (1) year's service, two (2) weeks' paid vacation after three (3) years' service and three (3) weeks' paid vacation after eight (8) years' continuous service.

Such vacation shall be paid at straight-time rates. The number of hours for which such employees shall be paid for a vacation week shall be the average number of weekly hours worked during the twelve (12) months immediately preceding the employee's anniversary date of employment, not to exceed 40 hours pay for each week of vacation. Hours paid for vacations, holidays and sick leave shall be considered as hours worked for the purpose of computing vacation amounts. No pro-rata vacation will be paid at termination.

Section 50. Effective the first Sunday following execution of this Agreement, the Employer will convert the employees' weekly vacation allotment to a daily vacation allotment by multiplying the number of weeks of vacation due by five (5). The hours paid for each day of vacation will be based on the average weekly hours of vacation, as calculated in Section 49, divided by five (5). Employees may be allowed to take vacation one day at a time, subject to approval by the Employer and based on the following requirements:

1. Daily vacation may not be scheduled through the annual sign-up procedure.

2. Daily vacation must be requested of the store manager in writing by Tuesday prior to the posting of the schedule for the week in which time off is requested.

3. Employees may not receive more than five (5) days vacation pay in any calendar week.

4. Not more than one (1) week (five (5) days) may be taken one (1) day at a time per anniversary year. Any employee with fifteen (15) years or more shall be able to take ten (10) single days of vacation per year.

5. Weekly vacation requests shall take preference over daily vacation requests. Daily vacation requests shall take preference over any other request of a single day off except a personal day, regardless of seniority.

If one of the holidays listed elsewhere herein falls during an employee's vacation, the employee shall receive an extra day of vacation pay because of it. In the event a regular full-time employee covered by this Agreement, who has been employed for two (2) years or longer, voluntarily quits or is discharged for reasons other than dishonesty or drunkenness or being under the influence of illegal narcotics, such employee shall be paid pro rata vacation pay earned up to the time the employment relationship is severed.

Section 51. The Employer shall pay the employee the vacation pay accrued during the employee's anniversary year prior to the taking of the vacation (if requested in writing at least two (2) weeks in advance of vacation).

Section 52. Vacation Scheduling. The employer retains the right to determine the number of employees who may be on vacation at any given time, but the Employer will not block out any week(s) during the year and the Employer agrees that it will permit the maximum number of employee vacations each week, consistent with the staffing levels in the vacation relief/floater pool and business volume. If a dispute develops between employees as to vacation preference, seniority shall govern within the department, the classification and store. Any vacation weeks that become available after the posting of such roster shall be offered by seniority within the classification and store.

The Employer will post a notice December 1 of the prior calendar year, and the employees will sign the roster as to their choice of vacation. This list will remain posted for selection until January 31 of each calendar year.

Any employee who fails to sign such roster prior to January 31 will be permitted to take vacation at a time that will not interfere with the other employees' established vacation period(s).

When the vacation dates have been established, they will not be changed unless mutually agreeable between the employee and Employer.

Notwithstanding the above, employees who voluntarily transfer to another store or department after their vacation has been selected are subject to having their vacation rescheduled.

On a basis agreeable to both the Employer and employee, employees shall be allowed to schedule vacations from mid-week to mid-week. For purposes of this provision, mid-week shall be defined as a vacation starting and stopping Tuesday, Wednesday or Thursday. An employee shall be considered to have met the minimum scheduling requirements of this Article if the total of the hours worked and paid for vacation (and unworked holiday if applicable) for the two workweeks involved is equal to eighty (80) for a full-time employee, forty (40) or more for a part-time employee.

ARTICLE 18

SCHEDULING POSTING

Section 53. The Head Meat Cutter will post the work schedule in ink for the following week in each market not later than 9:00 a.m. on Friday. This schedule shall include the employee's first initial and last name. This work schedule will not be changed by Management

for that particular workweek except where the change is predicted on circumstances beyond the control of Management such as, but not limited to, sickness, injury, wide fluctuations in volume, Acts of God. Such up-to-date work schedules are to be posted weekly. This clause shall not be construed as preventing Management from calling in employees for extra work outside of the posted schedule, from requiring overtime work outside of the posted schedule or from bringing in additional employees where it appears advisable in the opinion of Management.

Any changes in the work schedule will be reflected on the posted schedule at the time the change is made.

The Employer shall designate the starting time for employees. The employee shall be dressed and ready to go to work at this starting time.

Regular full-time employees called in on their scheduled day off shall not have the balance of their scheduled workweek altered as a result of such call-in.

ARTICLE 19

REPORTING PAY/MINIMUM DAILY SCHEDULE

Section 54. An employee called in or scheduled for work shall be guaranteed four (4) hours of pay at the applicable rate, with the understanding that an employee may be called in or scheduled for less than four (4) hours if he is unavailable for the full four (4) hours.

ARTICLE 20

MINIMUM WEEKLY SCHEDULE

Section 55. No regular employee shall be scheduled for less than twenty (20) hours in a workweek, if the employee is available.

ARTICLE 21

TIMEKEEPING

Section 56. Each employee is required to record his own time, using the system provided by the Employer, prior to starting work and upon completion of work and before and after lunch periods. No employee shall have the right to record any other employee's time. Any employee violating these provisions, working off the clock or giving free time may be discharged.

Section 57. Employees shall receive their pay each week. In case of discharge from employment of any employee, upon request, the final paycheck will be made available within seventy-two (72) hours after the discharge.

ARTICLE 22

SPLIT SHIFTS

Section 58. There shall be no daily split shifts.

ARTICLE 23

STORE MEETINGS

Section 59. All time spent by an employee actually attending any store meeting where his attendance is required by the Employer shall be counted as time worked with a minimum of two (2) hours at the applicable rate of pay when an employee is called back for such a meeting. In the event the employee is required to attend more than two (2) meetings per calendar year, the call-in provisions of Article 19, Section 54 shall apply.

ARTICLE 24

LUNCH BREAKS

Section 60. Lunch Periods. Each employee who is scheduled to work in excess of five (5) hours in a day shall receive, on his own time, a one (1) hour lunch period, or, upon mutual agreement between the employee and the Employer, a one-half (1/2) hour lunch period at approximately the middle of his workday.

Individual employee's change of lunch period from one (1) hour to one-half (½) hour, or vice versa, shall occur only at the beginning of a new work schedule.

Employee's scheduled lunch periods will be set forth on the schedule, but the parties recognize it may be necessary to alter the lunch period schedule due to the needs of the business.

ARTICLE 25

RELIEF PERIODS

Section 61. The Employer will give employees a break period of fifteen (15) minutes in their shift before the meal period and in their shift after the meal period.

ARTICLE 26

PROBATIONARY PERIOD

Section 62. New employees shall be on probation for a period of thirty (30) calendar days, during which time they may be discharged by the Employer for any reason whatsoever, and during this probationary period, they shall not acquire any seniority status. If an employee is retained in the employ of the Employer after said thirty (30) calendar days, his seniority shall then date back to the first (1st) day of said thirty (30) calendar day probationary period. This

probationary period may be extended an additional thirty (30) calendar days by mutual agreement between the Employer and the Union.

ARTICLE 27

SENIORITY

Section 63. Length of continuous service in the employ of the Employer shall govern in layoffs and rehires within a particular classification in the bargaining unit as described in Article 1, Section 1, whenever the ability of the employees involved is substantially equal.

Section 64. Termination of Seniority. Seniority shall terminate for any of the following reasons:

a. Voluntary quitting.
b. Overstaying a granted leave of absence or vacation.
c. Failure to report for work upon recall after a layoff within five (5) days after mailing of recall notice sent by registered letter to the last address furnished in writing to the Employer by the employee.
d. Discharge for just cause.
e. Continuous layoff for a period in excess of twelve (12) months.

Section 65. Seniority Lists. Bargaining unit seniority lists shall be provided to the Union on no more than two (2) occasions during the calendar year, upon request by the Union.

Section 66. Seniority of Transferred Employees. Employees transferring into the bargaining unit shall have no seniority rights during the thirty (30) calendar-day period immediately following such transfer. Upon completion of such calendar thirty (30) day period, all seniority acquired since the most recent hire date of the employee while in the employ of the Company, shall be fully restored to the employee to be used for whatever purpose of rights he or she is otherwise entitled.

Section 67. Definition of Full-Time Employee. A regular full-time employee is defined as an employee who has been hired as such or works forty (40) or more hours per week for at least four (4) consecutive weeks, in his home store, except for assignment to a forty (40) hour per week schedule as a result of the employee receiving any hours caused by other employees' absence for any reason. Scheduled hours of work voluntarily vacated by an employee (such as trading of hours) shall not be used for purpose of advancing an employee to full-time status. An employee who fails to maintain full-time status as a result of working less than forty (40) hours per week for reasons other than absence due to an approved leave of absence, or a reduced schedule resulting from an on-the-job injury for twelve (12) consecutive weeks shall be designated as a part-time employee.

BARGAINING NOTE: It is understood that for purposes of this provision, the definition of "absence" shall include such things as absence from work due to vacation, holiday, vacated shift, unexcused absence, funeral leave, jury duty, leave of absence and illness.

Section 68. Voluntary Reduction to Part-Time. A Full-Time employee who has requested and has been assigned a Part-Time schedule shall immediately be classified as Part-Time.

Section 69. Promotions. The Employer agrees to make promotions to non-management jobs to the most senior qualified employee. The employee shall make such desire known to the Employer in writing and shall state the stores to which the employee would be willing to be promoted. Seniority shall prevail throughout the entire number of stores of the Employer in the area covered by this Agreement.

Nothing herein shall be construed to prohibit the Employer from hiring into a Journeyman or top rate position should the Employer deem it necessary.

1. A promotion is an assignment to a classification which has a higher top rate than the classification being vacated.

2. If the promotion list is exhausted for the opening in question, the Employer will post a notice of the opening within the store where the opening exists for seventy-two (72) hours and will offer the promotion to the senior qualified employee of the store in the bargaining unit who signs the notice, before hiring off the street.

Section 70. Probationary Period for Promotions. When any employee is promoted to a higher classification, he shall be on probation for a period of thirty (30) days. An employee disqualified during the probationary period shall be returned to his old classification.

Section 71. Demotions for Just Cause. Except under the layoff provisions, no employee shall be demoted from a higher classification within the bargaining unit without just cause, which includes business need.

Whenever a member of the bargaining unit is demoted, whether voluntary or involuntary, such employee may be returned to the classification and status (i.e., full-time/part-time) held when he/she accepted the current classification being vacated, or the employee may exercise his/her seniority to claim a position in accordance with the current Full-Time or Promotion Request lists.

ARTICLE 28

AVAILABLE HOURS

Section 72. The scheduling of part-time employees or full-time employees working reduced hours shall be by seniority within their department and store schedules up to eight (8) hours per day or forty (40) hours per week. The Employer shall maximize the straight-time daily and weekly work schedules (including Sunday) of each employee based on the hours as determined and scheduled by management, so long as such schedules would not reduce any employee's schedule below the daily or weekly minimum, except to zero. If an employee is zeroed out, he shall have the right to exercise lay off options; however, any bump to another store shall be delayed for one (1) week. The only exception to this would be when a more senior part-time employee has requested to work less hours than their seniority entitles them. This request must be submitted to the department manager in writing. The average of all meat department part-time employees by store and classification shall not be less than twenty (20) scheduled work hours per week (including paid holidays, sick pay, jury pay and funeral pay) exclusive of part-time employees whose availability temporarily limits them to less than the

minimum hours as provided above. It is understood that the twenty (20) hours average shall apply only to markets employing two (2) or more part-time employees in any classification.

Section 73. Full-time scheduled vacancies shall be filled as defined elsewhere in this Agreement.

Section 74. The Employer agrees not to schedule two (2) part-time employees in the same classification back to back each day in their weekly schedules within an individual market or delicatessen where it is possible to combine their total posted weekly schedules so that one (1) full-time employee can be used.

Section 75. Employees who have requested additional hours or full-time status, in writing, as set forth above, shall have until noon on the Saturday following posting of the schedule to take issue with that schedule or his right to take issue shall be waived. Should he raise such issue in timely fashion and should it not be resolved, it shall be subject to the grievance procedure set forth elsewhere in this Agreement. It shall be the responsibility of each employee to make himself aware of the schedule and any changes made therein.

Section 76. In the event of errors in the making of schedules, scheduling of additional hours or reductions in hours, the employee must call the error to the attention of management by noon Saturday following the posting of the schedule. Failure by the employee to point out the violation by noon Saturday will limit the remedy to scheduling the affected employee, on the next week's schedule, the number of hours lost. These hours shall not have any effect on the normal schedule for that week.

FLOATERS: See Letter of Understanding

Section 77. Additional Hours. Additional hours are those created by increased schedules, terminations or transfers within the classification which the Employer deems necessary to fill.

When it is necessary to work additional hours, the additional hours shall be assigned to employees in the same classification in the store who are scheduled for less than forty (40) hours in the week, in the order of seniority, provided the employee possesses the ability and skill to perform the work required and provided the employee is available to work the necessary hours and has notified the Department Head in writing of his desire for additional hours. Such written notification shall be furnished to the Department Head no later than the close of business on Wednesday to be implemented on the following week's schedule. Nothing herein shall be construed to require the scheduling of additional hours for any employee which will provide him more than forty (40) hours in a week, or five (5) days of work.

The employee being assigned the additional hours shall not have the right to accept such hours in part, but shall be obliged to accept the entire weekly schedule as written. It is understood, however, each employee who has made written request for additional hours may revoke such request by written notice to the Department Head no later than the close of business on Wednesday of the week preceding the week involved.

Written requests shall remain in effect until forty (40) hours is achieved or such request is revoked. Written requests are not transferable from store to store.

It is understood and agreed the Employer retains the right to require hours of work even though an employee has not requested additional hours.

Section 78. The Employer will send the Union a copy of the "full-time request" list, no later than March 1st and September 1st of each calendar year.

Section 79. Assignment to Full-time Status. When a full-time vacancy, other than a four (4) week at forty (40) hour opening defined in Section 69, occurs and the Employer determines that such vacancy shall be filled by a full-time employee, the job vacancy for non-management positions shall be filled by the assignment of the most senior qualified employee of the classification who has signed the current full-time request list as provided for in this Agreement. Should management be unable to fill such vacancy from the list, then such vacancy shall be posted within the affected store for seventy-two (72) hours and management shall offer the full-time assignment to the senior qualified employee of the store and classification who signed the posting before hiring off-the-street.

Four (4) week at forty (40) hour openings shall be filled by the most senior employee within the store and affected classification who has signed the full-time request list as set forth in this Agreement. Should management be unable to fill such vacancy from the list, then such vacancy shall be posted within the affected store for seventy-two (72) hours and management shall offer the full-time assignment to the senior qualified employee of the store and classification who signed the posting before hiring off-the-street.

Notwithstanding the above, the Employer may transfer a full-time employee from another store to fill a vacancy in lieu of advancing an employee to full-time status under this Article.

Employees with three (3) or more years of service may sign the full-time request list during the first fifteen (15) days of January and the first fifteen (15) days of July to be considered for advancement to full-time effective with the first workweek in February and August respectively. Such request shall state the specific store(s) in the bargaining unit the employee desires assignment to. The Employer will send the Union a copy of the new full-time request list.

If an employee is offered assignment to full-time status and accepts or declines the same, his/her request shall be voided.

The Employer shall not make assignments of full-time status to a probationary employee or to an employee on leave of absence.

ARTICLE 29

SCHEDULING OF SHIFTS

Section 80. Each week, the Employer will alternate the schedules within a classification within each store after 6:00 p.m., so that such work may be evenly divided as far as it may be practical. The above shall not apply to employees who, of their own volition, want to work the hours after 6:00 p.m.

Section 81. Sunday Work. Sunday Scheduling shall be on a voluntary basis. Should the Employer be unable to obtain enough volunteers, employees in the reverse order of seniority within the job assignment shall be required to work.

ARTICLE 30

UNSCHEDULED OVERTIME

Section 82, Unscheduled Overtime Hours, Daily overtime not previously scheduled shall be offered in seniority order within the department, the classification, and the store to the employees present when the need for overtime arises. Nothing herein shall be construed to require the scheduling of overtime when another employee's scheduled hours can be extended, or part-time employees may be called in without overtime penalty. Hours unclaimed under this procedure may be assigned in reverse order of seniority among those employees within the department within the classification within the store present when the need for overtime arises.

Overtime assignments of four (4) hours or more may be filled by calling in employees, in seniority order, within the classification and the department on their non-scheduled day without violating this Section.

ARTICLE 31

REDUCTION OF HOURS

Section 83. Full-time employees: Management shall not write a schedule of shifts that would result in a full-time employee being unable to work a forty (40) hour schedule (thirty-two (32) hours in a holiday week) unless the average scheduled hours (including hours scheduled and paid for vacation, unworked holiday, jury, sick, and funeral pay) of all part-time employees within the classification and department is twenty-four (24) hours or less for the involved workweek. A full-time employee who is not scheduled a forty (40) hours schedule, shall in their second consecutive week of such reduced hours, be allowed to exercise his/her seniority to claim the schedule of the least senior full-time employee in the classification within the bargaining unit who is working a forty (40) hour schedule. It is understood that the employee may exercise his/her seniority to bump any time between the second and eleventh week of reduction. The employee whose schedule is claimed under this procedure shall immediately be assigned the schedule of the claiming employee, or be allowed to step-down to part-time status and displace the least senior part-time employee in their store.

The parties agree that no employee assigned as full-time on May 11, 1996, shall have his hours reduced to less than forty (40) hours as the result of this provision, unless all part-time employees in the classification have had their scheduled hours reduced to twenty-four (24) hours or less. Such full-time employee shall have his hours reduced to twenty-four (24) or less before any other full-time employee protected under this paragraph is reduced.

Full-time employees-Competitive openings: During the first sixty (60) days following a competitive opening, management may elect, in lieu of reducing hours as provided above, to layoff full-time employees to maintain the same proportion of full-time employees to part-time employees the store averaged in the month prior to the competitive opening. In the event of a layoff, the displaced employee shall be given the following options:

1. Displace the least senior full-time employee in the bargaining unit, or

2. Step-down to part-time and displace the least senior part-time employee within the classification and store.

Employees displaced by the full-time reduction under this procedure shall be given their layoff options pursuant to the layoff language of this Agreement.

It is understood that the provisions of this section shall apply only to those classifications impacted by a competitive opening.

ARTICLE 32

LAYOFFS

Section 84. Layoff Procedure. When a reduction in the work force is necessary, as opposed to a reduction in hours, the following procedure shall be used:

1. A regular full-time employee being laid off may displace the shortest service regular full-time employee within his classification within the bargaining unit. The regular full-time employee so displaced may displace the shortest service part-time employee in the same classification in the bargaining unit. In the event there is no less senior employee performing work in the same classification, this displaced employee may displace the least senior employee in a lower classification in which he previously performed three (3) months of service in the classification for the Employer.

2. A part-time employee being laid off may displace the shortest service part-time employee within his classification within the bargaining unit.

3. Any employee with displacement rights under the procedures above shall be allowed to take a layoff in lieu of displacing any employee.

4. In lieu of displacing as provided in subparagraph (1) or (2) above, an employee shall also be allowed the option of displacing the least senior employee within the same classification and status (full-time or part-time) within the employee's home store quadrant, if the affected employee is qualified for such position. For the purpose of this provision, the Denver bargaining unit shall be divided into 4 quadrants using Alameda and Broadway as the lines for establishing the quadrants.

5. It is understood that, in any event, only a more senior employee can displace another employee under the procedure.

6. No retail store employee shall displace any employee in the meat plant unless such employee has at least six (6) months experience in that meat plant classification with King Soopers.

7. It is understood that seafood and specialty meat employees subject to the layoff procedures, as set forth in Section(s) one (1) through five (5) above may exercise their seniority rights only within their department, unless such employee is assigned to a

combination department in which event such employee may exercise his seniority over the least senior employee within the butcher block classification.

Laid off employees, and employees who accept a job in a lower classification in lieu of layoff, shall be recalled as needed, in order of seniority, to jobs they are qualified to perform. The Employer shall not hire a new employee or promote an existing employee into a position for which a laid off employee or employee who accepts a job in a lower classification is qualified and available to perform. Journeymen and apprentice meat cutters will be considered one classification for the purpose of layoff.

An employee accepting a layoff rather than accepting a job in a lower classification may inform the Employer in writing at the time of the layoff of his desire to be recalled to a lower classification which was not available at the time of his layoff, and such notification shall be honored when a vacancy occurs. The notice shall specify the lower classification to which the employee desires recall. It is understood that any employee on layoff from the classification where the vacancy occurs shall have preferential rights to such vacancy.

Section 85. Recall Procedure. Laid off employees shall be recalled as needed, in the order of seniority, to jobs in the classification from which they were laid off. The Employer shall not hire a new employee into a classification in which there are laid off employees at that time. The Employer shall offer recall to a job in the classification from which an employee was laid off prior to promoting another employee into that classification.

A full-time employee accepting recall to a part-time position shall immediately be reclassified to part-time status. Similarly, a part-time employee recalled to a full-time position shall be reclassified to full-time status.

ARTICLE 33

TRANSFER FROM STORE TO STORE

Section 86. Transfers from store to store shall not be made or denied for capricious, arbitrary or discriminatory reasons. Full-time employees desiring a transfer to another store within the bargaining unit in order to be nearer their residence may indicate their desire for transfer in writing to the person designated by the Employer. Such transfer requests will be considered at the time an opening occurs within their classification and status.

ARTICLE 34

NEW STORE OPENING

Section 87. In the event of the opening of a new store within the bargaining unit (not a replacement of an existing store) the following procedure shall apply:

1. At least four (4) weeks prior to the opening of a new store, the Employer will post a sheet in each location for interested employees to sign if desirous of a transfer to the new location. The sheet shall remain posted for at least ten (10) days.

2. Job openings either at the new store or created by transferring employees at their former store shall first be filled by employees on layoff in the classification of the vacancy before any new employees are hired or current employees are promoted.

3. Employees who have signed the new store transfer request sheet shall be given consideration based on their qualifications and the requirements of the store. It is understood that the Employer may move employees from its own competitive stores which may be impacted by the new store opening before consideration of other employee desires.

4. In the event the Employer opens new stores within the geographical area of this Agreement, as set forth in Article 1, not less than sixty (60) percent of the initial staffing of the new store shall be made by employees covered by this bargaining agreement, if available.

ARTICLE 35

LEAVES OF ABSENCE

Section 88. Sickness, Injury, or Pregnancy. Leaves of absence shall be granted for up to eighteen (18) months without pay when an employee with three (3) months of continuous service is unable to work because of bona fide sickness, accident, disability, or pregnancy. However, in the event such an employee is unable to return to work at the end of eighteen (18) months of leave, he shall be entitled to an additional leave of six (6) months if he submits satisfactory medical evidence that he will be able to return to duties within his classification within the said additional period.

Section 89. Personal Leaves of Absence. Leaves of absence without pay for reasonable periods not to exceed thirty (30) days may be granted by the Employer to employees who have completed one (1) year of service for other reasons mutually agreed to between the Employer and the employee. The thirty (30) day period may be extended by an additional thirty (30) days by mutual agreement between the Employer and employee.

Section 90. Military Leave. All seniority granted employees under the terms of this Agreement shall be subject to the rights granted by law to the employees volunteering, called or conscripted for active military service under the National Guard Act of 1940 and the Selective Service Act of 1942, and any additions or amendments thereto, or rulings and interpretations thereof by any authorized court or agency.

Section 91. Union Leave. Leaves of absence without pay for Union business not to exceed six (6) months may be granted by the Employer to employees who have completed one (1) year of service. The six (6) months may be extended by an additional six (6) months by mutual agreement between the Employer and employee.

Section 92. Leave of Absence for Care of Newborn or Adopted Child. For employees with one (1) year of continuous service in the bargaining unit, a Leave of Absence for either parent shall be granted without pay for a period of up to twelve (12) months for the purpose of Newborn or Adopted Child Care. The employee shall be guaranteed reinstatement in accordance with their seniority. An employee who wishes to change his or her date of return to work shall notify the Store Manager two (2) weeks in advance and shall be returned to work

as set forth above. The Leave of Absence for either parent must end no later than twelve (12) months from the date of birth or date of adoption. The Employer may require verification of the parent relationship to the newborn or to the adopted child.

Section 93. Leave of Absence for Family Care. A family care leave, without pay, shall be granted, upon request by an employee for a total of up to six (6) consecutive months within a two (2) year period. The employee requesting the leave must have a minimum of one (1) year's continuous service in the bargaining unit at the time of the request. The employee shall be guaranteed reinstatement in accordance with their seniority at the end of their leave. Any employee who wishes to change his or her date to return to work shall notify the Store Manager two (2) weeks in advance of the date they intend to return. The purpose of this leave shall be to care for seriously ill family members. For the purpose of this leave, "family members" shall be:

1. Spouse and parents of the employee.
2. Biological or adopted unmarried children under nineteen (19) years of age and full-time students up to age 23.
3. A child of any age who is incapable of self-support.
4. Any relative residing in the employee's home and dependent upon the employee for care.

The employee shall be required to present satisfactory evidence of serious illness of the family member, the expected duration of the absence and the reason for the employee's involvement.

Section 94. Request for Leave of Absence. All leaves of absence must be requested in writing to the person designated by the Employer, unless the employee is physically disabled to the extent that such advance request is not possible, and shall state: (1) the reasons, (2) date leave is to begin, and (3) expected date of return to work. Leaves of absence shall be granted in writing in advance, and a copy shall be given to the employee.

Section 95. Returning From a Leave of Absence. The employee must be qualified to resume his regular duties upon return to work from an approved leave of absence. A doctor's certificate verifying that the employee is able to resume his normal duties may be required. The employee shall be returned to the job previously held, or to a job comparable with regard to rate of pay no later than on the first weekly schedule made up after the department designated by the Employer has received notice in writing of the employee's availability, provided the Employer received such notice no later than Wednesday immediately prior to the Friday scheduling.

ARTICLE 36

BEREAVEMENT LEAVE

Section 96. Upon request an employee covered by this Agreement shall be granted the necessary time off with pay at his regular straight-time rate of pay in order to make arrangements for and/or attend a funeral, and/or for grieving, occasioned by a death in his

immediate family. Such time off with pay shall in no event exceed three (3) regularly scheduled working days, and the amount of such paid time off actually granted shall normally depend upon the distance involved. The immediate family is defined as the employee's father, mother, spouse, children, step-child, father-in-law, mother-in-law, brother, sister, step-parents, grandparents or grandchildren. Payments shall not be made hereunder where the relative's death occurs while the employee is on vacation or on a leave of absence.

Additional time, without pay, shall be granted as is needed by the employee up to 7 days.

If an employee is notified of the death of his spouse, parent, child or grandchild while at work, he shall be granted the remainder of the day off and paid for scheduled work hours that day. This shall not be counted as part of the above three (3) days. Employees must attend the funeral in order to qualify for pay, and the Employer may require satisfactory evidence confirming the relationship to the deceased person.

No schedule shall be changed for the express purpose of making the employee's day off replace a day that otherwise would have been paid for under these provisions.

ARTICLE 37

JURY DUTY

Section 97. Whenever any employee covered by this Agreement is required to serve on a petit jury during his regular working hours, the Employer agrees to pay such employee the difference between what he is paid for serving on the jury and what he would have received from the Employer in straight-time pay had said jury duty not prevented him from being at work. On any scheduled work day, the employee shall promptly report to complete any remaining hours of his scheduled work day; provided, no employee shall be required to so report for work on any day on which he has served and been compensated by the Court for at least eight (8) hours' jury duty, nor shall any employee who reports back to work under this Section be required to work more than ten (10) hours, less the number of hours for which served and was compensated for jury duty by the Court on that day.

When the Employer requests an employee to appear in Court, he shall be compensated at his regular straight-time hourly rate of pay for such time.

The Employer may require a statement from the Court Clerk certifying attendance.

ARTICLE 38

SICK LEAVE

Section 98.

A. Full-time employees covered by this Agreement who, in their first anniversary year, work two thousand (2,000) hours or more (including vacation and holiday) and who have been continuously employed by their Employer for a period of one (1) year, shall be credited with forty-eight (48) hours of sick leave pay. Employees who in their first (1st) anniversary year work one thousand two hundred and forty-eight (1,248) hours or more

(but less than two thousand (2,000) hours) and who have been continuously employed by their Employer for a period of one (1) year, shall be credited with hours of sick leave with pay on the basis of the total hours worked in their anniversary year divided by two thousand eighty (2,080) hours times forty-eight (48) hours. It is understood that employees shall not be credited with more than forty-eight (48) hours of sick leave credit per anniversary year. Hours worked includes vacation hours.

B. Unused sick leave shall be cumulative, and after the first (1st) year of continuous employment, full-time employees shall accumulate unused sick leave at the rate of four (4) hours for each month of continuous employment in which they work one hundred sixty (160) hours in a four (4) week month and two hundred (200) hours in a five (5) week month. Employees who work at least one hundred four (104) hours (but less than one hundred sixty (160) hours in a four (4) week month and less than two hundred (200) hours in a five (5) week month) shall accumulate unused sick leave for each month of continuous employment on the basis of total hours worked during the preceding month divided by one hundred sixty (160) hours in a four (4) week month and two hundred (200) hours in a five (5) week month times four (4). Said monthly credit shall not exceed four (4) hours for each month. Unused sick leave shall not exceed a maximum accumulation of six hundred (600) hours. Hours worked includes vacation hours.

C. A doctor's certificate or other authoritative verification of illness may be required by the Employer. Upon request from the employee, said sick leave is to commence with the second (2nd) day of absence due to sickness or injury (except in the case of occupational injury in which event sick leave shall commence on the first (1st) day following injury which the employee would have worked had the injury not occurred) and shall be paid at the rate of one (1) day of pay until such sick benefit allowance is used up. An employee who has accumulated two hundred and forty (240) hours of unused sick leave shall also be entitled to sick leave on the first day of absence due to sickness or injury.

D. For the purpose of this Article one (1) day of pay shall mean eight (8) hours of pay at the employee's regular classification rate for those days which the employee would have worked had the disability not occurred, calculated at straight-time. No employee shall receive pay, under any combination of sick leave and Worker's Compensation or Weekly Indemnity which exceeds the lesser of his regular pay or eight (8) hours per day or forty (40) hours per week at his straight-time hourly rate of pay. The waiting period herein provided before sick pay commences, shall apply for each illness or injury in case the sick benefit allowance has not been used up in previous illnesses.

E. Sick leave accrued shall be paid to part-time employees based on hours lost, less waiting days (as set forth in paragraph C) from the most recent work schedule in effect when the absence commenced.

F. Sick leave benefits are not convertible to cash.

Section 99, Employees hired on or after March 6, 2005. Employees hired on or after March 6, 2005 who have completed (3) consecutive years of employment shall accumulate sick leave credit of up to (2) hours for each month that such employee works at least (112) hours in a four week month or (140) hours in a five-week month. Such credit shall be determined by dividing the actual hours worked for such month by (160) hours (in a four week month) or (200)

hours in a five week month times (2). Unused sick leave shall not exceed a maximum accumulation of (60) hours. Sick leave shall be paid as provided in the preceding section, except leave shall not commence until the third (3rd) full workday's absence. There shall be no first (1st) or second (2nd) day sick leave for these employees.

ARTICLE 39

INJURY ON THE JOB

Section 100. When an employee is injured on the job, there shall be no deduction from the employee's pay for the day in which the employee was injured and reported for medical care. In no case shall the Employer's obligation exceed eight (8) hours, and there shall be no payment for any overtime hours missed because of the injury.

ARTICLE 40

HEALTH BENEFITS PLAN

Section 101. Trust Fund. The Rocky Mountain UFCW Unions and Employers Health Benefit Trust ("Health Benefit Trust") is a trust fund jointly administered by an equal number of Trustees representing the Employer and the Union. All contributions provided for in this Article will be paid into the Health Benefit Trust. The Trust Fund is to be jointly administered by an equal number of Trustees representing the Employer and the Union. There shall be three (3) Plans of benefits, Plan A, Plan B and Plan C with contributions as provided herein. As a condition of receiving the contributions provided above, the Trustees of the plan will:

1. Establish Plan(s) of benefits, which can be supported by the contributions provided in the Agreement, and

2. Maintain the Trust in a fully funded status as provided herein and in the Trust Agreement

The Trustees shall establish a separate accounting of income and expenses for participants of the Fund who agree in their collective bargaining Agreements to a fixed contribution rate. The Trustees are expressively prohibited from using the contributions of the Employer's contributing on fixed contribution rate basis to pay benefits for participants of other employer's who have not adopted these fixed contributions.

Employer Contributions and Benefit Levels. The Employer agrees to contribute the following amounts per month for each eligible employee.

Employees hired on or before March 5, 2005

	PLAN A	PLAN B
Effective June 1, 2009 (May hours)	$379.02	$303.21
Effective June 1, 2010 (May hours)	$447.63	$358.10
Effective June 1, 2011 (May hours)	$602.71	$482.17
Effective January 1, 2012 (December hours)	$807.14	$645.70

Employees hired on or after March 6, 2005

	PLAN A	PLAN B	PLAN C
Effective June 1, 2009 (May hours)	$326.04	$260.84	$164.32
Effective June 1, 2010 (May hours)	$385.07	$308.06	$194.07
Effective June 1, 2011 (May hours)	$518.48	$414.79	$261.30
Effective January 1, 2012 (December hours)	$694.33	$555.47	$349.93

Employee Co-Premiums. Employees who are eligible to participate and enroll in the Health Plan shall as a condition of such participation make a monthly co-premium payment equal to $5.00 per week if enrolled in employee only coverage $10.00 per week if enrolled as employee plus spouse or employee plus children and $15.00 per week if enrolled in family coverage. **Effective January 1, 2013, the required weekly co-premium amounts for all active employees enrolled in the Plan shall become: $7.50/week for employee only, $15/week for employee and children or employee and spouse and $23/week for employee, spouse and children/family.** Such co-premiums shall be made by payroll deduction and forwarded to the Trust Fund on a monthly basis by the Employer.

Enrollment and Eligibility. Effective at the earliest possible date but not later than June 1, 2005, the Plan shall conduct an annual enrollment. To remain enrolled as a participant eligible for plan coverage, each employee who is currently enrolled, or who initially enrolls during the term of the collective bargaining agreement, must re-enroll prior to the start of each succeeding plan year. Employees must make a positive election to enroll in the Plan. Enrollment is for the entire plan of benefits for the Plan and an employee's failure to make a positive enrollment into the Plan shall result in such employee being ineligible for all benefits of the Plan for the remainder of the calendar year or until there has been a qualifying life event, as defined herein, whichever occurs first. During the first enrollment, the Plan will allow a 30-day grace period to allow an employee to enroll who missed the deadline for enrollment.

Effective calendar year enrollment period beginning January 1, 2010, the Plan shall conduct an annual enrollment in accordance with the following procedure.

General Rule

- Currently Enrolled
  - If enrolled for 2009 and no changes desired - need not do anything – terms of enrollment for 2009 remain in effect until coverage under the Plan terminates or until a change is desired.
  - If enrolled and a change is desired - need to timely complete new enrollment form on same basis as in prior years.
  - If not enrolled for 2009, but want to enroll for 2010 or for a subsequent year, need to timely complete enrollment form on same basis as in prior years.

- Newly eligible employee must initially make a positive election to enroll in the Plan. Terms of initial enrollment will remain in effect until coverage under the Plan terminates or until a change is desired.

Special Rules

- Newly eligible employees – must enroll within 90 days.
- Current special enrollment event rules that remain in effect
- Newly acquired dependent – must enroll within 30 days. The effective date of coverage will be:
- Marriage – the date of marriage.
- Birth of a dependent – the date of birth.
- Adoption or Placement for Adoption of Dependent – date of adoption or placement for adoption.
  - Employee or dependent lose coverage under another plan – must enroll within 30 days (Exception: If loss of coverage is under this Plan, individual has 60 days to enroll under Plan). The effective date of coverage will be the first day of the month following the termination of coverage.
  - Special disenrollment rules that remain in effect:
    - Dependent spouse becomes covered under spouse's employer's plan or employment status so that the spouse is no longer eligible to participate in a health plan sponsored or maintained by his/her employer - Plan must be notified within 60 days of spouse's coverage to discontinue payment of working spouse fee. The cessation of the working spouse fee is prospective only.
    - Disenrollment – if dependent loses status as eligible dependent or an employee or dependent becomes covered under another plan – must disenroll within 60 days of event causing loss of coverage or effective date of coverage under another plan. The reduction in the weekly payroll deduction is prospective only.
  - New procedures/rules.
    - Administration office will need to do semi-annual verification of continuation of student status of known students plus any child who attains age 19 in the spring and fall of each calendar year.

- For first claim filed by spouse each calendar year, administration office will need to verify working status of spouse and if working, determine if covered by employer's plan.

- Continuation of Rule Regarding Special Enrollment Events

- Employees currently enrolled in the Plan shall continue to be enrolled in the Plan unless they made a positive election to discontinue their enrollment or change their coverage. A discontinuation in coverage may be made within sixty (60) days of a special enrollment event as defined by the Plan. Administrative office will need to do semi-annual verification.

Employees must initially make a positive election to enroll in the Plan. Enrollment is for the entire plan of benefits for the Plan and an employee's failure to make an initial positive enrollment into the Plan shall result in such employee being ineligible for all benefits of the Plan for the remainder of the calendar year or until there has been a special enrollment event as provided in the Plan's Rules and Regulations, whichever occurs first.

The administrator of the fund will use the enrollment data in order to establish the eligibility of employees and their dependents for participation in plan coverage. None other than those employees contained on the enrollment report shall receive benefits from the Trust without the express authorization of the Trustees. The administrator will promptly notify the Trustees in writing of any instances where coverage has been provided to persons who are not included in the enrollment data, or where a claim for payment has been submitted by or on behalf of such person.

The Fund will audit its enrollment and claims records as least once within each 24 month period to ensure that no employees of the Employer, or the dependents of such employees, are participating in plan coverage for which they are not eligible and to ascertain that claims and other plan expenses are being paid in accordance with the Plan's provisions.

Initial Eligibility – Part-time employees hired before March 6, 2005 who on March 5, 2005 have met the initial eligibility requirement for benefits under the Trust will continue to be eligible for coverage provided the employee enrolls in the Plan beginning in 2005, and further provided the employee has made the required employee co-premium payment. Such employees shall continue to be eligible for Plan A if such employee was eligible for Plan A on March 5, 2005. Employee's who were eligible for and were participating in Plan B on March 5, 2005, shall participate in Plan B until such employee has been covered under such Plan B for 24 months. Thereafter, such employee may advance to Plan A provided they continue to enroll and meet the eligibility requirements of the Plan. Employees hired on or before March 5, 2005, who are not eligible for coverage as of March 5, 2005 shall be required to meet initial eligibility for Plan B, and subsequent eligibility to begin participation in Plan A, as provided in the predecessor agreement which terminated in 2004.

All part-time employees (excluding Courtesy Clerks) and their eligible dependents hired on or after March 6, 2005 shall, beginning the first of the month following 12 calendar months of employment (but not before January 1, 2010 with regard to their eligible dependents), be eligible to enroll and participate in the Health Plan, under the Health Plan C. Upon completion of the first (36) months of eligibility under Plan C, such employee and their eligible dependents may enroll in Plan B for the next (36) months of eligibility under Plan B. Thereafter, provided

the employee continues to maintain eligibility, such employee and their eligible dependents may enroll and participate in Plan A.

Full-time employees shall on the first of the month following 3 months of employment, be eligible to enroll with their eligible dependents in Plan B, and after (36) months of eligibility under Plan B, shall be allowed to enroll with their eligible dependents in Plan A.

On-going Eligibility – After satisfying initial eligibility requirement provisions and enrollment in the Health Plan, the employee must continue to meet the monthly on-going eligibility requirements as a condition of continued participation in the Health Plan. Enrolled employees who work (80) hours in a (4) week month or (100) hours in a (5) week month shall be eligible for coverage on a lag month basis. For the purposes of this Article, hours worked shall include hours paid directly by the Company for holiday, vacation, jury duty, funeral leave and sick pay.

Employees shall continue to be eligible for benefits provided they enroll for coverage in accordance with this Article. In any event, all employees must continue to meet all eligibility requirements of the Plan as a condition of continued eligibility.

Trust Plan Changes – The Trustees at the earliest possible date but not later than June 1, 2005 shall revise the plan of benefits to include:

1. The Plan's current coordination of benefits provision and credit balance system shall be replaced with a coordination of benefit provision that limits payment to the maximum payable under the Plan.
2. The Plan shall adopt a fee of $100 per month for a spouse of a covered employee who is eligible to enroll in health coverage at their employer, but fails to do so, as a condition of enrollment in this Plan.
3. Adopt the long term funding policy contained herein.
4. The Parties agree to adopt true managed care approaches to providing mental/nervous and physical benefits under the Plan. The Plan Administrator should not perform such managed care.
5. The Parties will adopt cost control measures that will aid the Fund in managing costs within the contributions provided by the Employers and Participants to this Plan.

Effective January 1, 2010, the Trustees of the Plan shall be directed to adopt the following modifications to the active plan(s) of benefits:

Health and Care Management

Direct Trustees to Implement Integrated Health and Care Management Programs. The programs shall be designed to progress over the term of the Agreement to "best-in-class" levels with respect to the key characteristics listed below:

- Quality education campaign for all participants
- Superior participant communications, including robust web tools
- Superior participant information tools

- Analytics measuring participation, compliance, and results
- Very strong comprehensiveness of programs
- High levels of integration
- Strong physician behavior change mechanisms
- Significant levels of medical and drug trend reduction

1. Establish a health risk assessment questionnaire to be completed annually. If employee and spouse complete annually, such employee's co-premium to the Plan shall be reduced $5 per month for each employee and spouse (max $10) for that enrollment's calendar year. An HRQ must be completed each year during enrollment to be eligible to receive the HRQ incentive for each year. During the term of this Agreement, the Trustees may, by mutual agreement, reallocate the HRQ incentive amounts provided above.

2. Establish 24-hour nurse call-in line and/or medical decision support.

3. Develop a medical management program that targets high-risk participants with chronic diseases such as diabetes, obesity, asthma and cardiovascular disease. In order to encourage participant engagement in such programs and to enhance the goal of improving health status a series of incentives must be developed.

   There is recognition that incentives may take various forms and will likely evolve and change over time based on program experience with a goal of maximizing program effectiveness and reducing health costs and medical trend. The initial focus will be a thorough educational campaign in connection with program roll out.

4. Establish free and/or reduced cost educational programs such as:

   a. Weight management
   b. Smoking cessation
   c. High Cholesterol

5. Reduce prescription drug co-pays as shown below for participants taking maintenance drugs (and related supplies which require a prescription) for certain disease states which would include categories of drugs such as:

   a. Hypertension
   b. High cholesterol
   c. Diabetes control drugs
   d. Asthma
   e. Glaucoma
   f. Osteoporosis

Drug Class	Co-Pay
Generic	$2.50
Formulary Brand	$10
Nonformulary Brand	$20

It is understood that the Plan's consultants will continue to evaluate the effectiveness of including these scheduled drug categories on Plan costs and based on their recommendations the Trustees may remove drugs from this list and/or add other categories of drugs consistent with the objective of increasing compliance with prescribed drug therapies which will lower plan costs and trend.

6. Complex/Catastrophic Care Management to provide case management of the entire health care and treatment for participants with high-risk health conditions.

7. Preventive health care at medically appropriate times (see below)

Service	PPO coverage (In-network)
Mammography	Plan pays 100%
Routine Annual Physical Exam	Plan pays 100%
Well-baby care	Plan pays 100%
Childhood Immunizations	Plan pays 100%
Papanicolaou (Pap) smear and pelvic examination	Plan pays 100%
Prostate specific antigen (PSA) testing	Plan pays 100%
Colonoscopy	Plan pays 100%

Utilize nationally recognized guidelines as a basis for coverage.

Long Term Funding Policy

1. The parties recommend to the trustees that a Minimum Reserve Requirement be established equal to IBNR reserves plus a lag month reserve. The Fund consultants shall calculate the IBNR and lag month reserve requirement at least once every twelve months beginning on (date) and report these amounts to the Trustees at their next regularly scheduled meeting. Any withdrawing employer shall reimburse the Fund for their participants claims run off.

2. If the market value of the assets at any twelve-month review point is ever below the calculated minimum reserve requirement level as calculated by the Fund consultants, then the Fund consultants shall prepare recommendations for benefit plan redesign and/or employee co-premium contributions such that the dollar amount of any such deficiency will be fully recovered by the end of the 12-month period beginning after the trustee meeting in which the deficiency is first projected.

3. No changes are permitted that would violate any contractual agreement between the Fund and any third party vendor.

4. If the Fund consultants cannot agree on a recommended plan of benefit redesign and/or employee co-premium contributions, and the Trustees cannot agree to a corrective action plan, by virtue of deadlock motions, then the trustees must act to adopt the recommended corrective action plan that has the least adverse impact on plan participants, however, one set of Trustees may exercise the Fund's dispute resolution procedure on an expedited basis to determine if other corrective actions must be taken.

5. The minimum reserve target defined above is solely meant to be a "floor". It is not also a "ceiling". That is, no Trustee action is required or expected in the event that reserve levels are above the minimum reserve target.

6. **The Long-Term Funding Policy provisions of this Article are suspended for the period of May 11, 2012 through and including September 12, 2015.**

Extended Benefits. An employee who has been eligible for benefits for six (6) months or more immediately prior to becoming physically disabled and thereby unable to work, shall continue to be eligible for benefits during his continuing period of disability, up to a maximum of six (6) months.

Retiree's Benefits. The Employer will contribute eighteen dollars and thirty-four cents ($18.34) per month per eligible active bargaining unit employee, covered under this Agreement, in the Health Plan to subsidize the self pay costs of providing Health and Welfare benefits to eligible retirees under the Rocky Mountain UFCW Unions and Employers Health Benefit Plan (the "Retiree's Health Plan").

Effective for employees who retire on or after October 1, 1996, the eligibility requirements for participation in Retiree's Health Plan shall be:

> Employees retiring on or after October 1, 1996, must have a combined total of 15 years of service and have attained age 50, or be totally disabled, at the time of his termination of employment.

ARTICLE 41

NON-DUPLICATION OF BENEFITS

Section 102. In the event any law or governmental regulation requires any payment from the Employer for benefits which would replace, supplement or modify the Medical, Surgical and Hospital Service, Dental Plan, Pension Plan, Prescription Plan, Vision Plan or other benefit provided under this Agreement, the amount of such payments shall be deducted from the contributions for such benefits required under the terms and conditions of this Agreement.

ARTICLE 42

PENSION FUND

Section 103. Employer Contributions. For all employees hired before March 6, 2005, covered by this Agreement, the Employer shall pay one dollar and thirty six cents ($1.36) per hour for straight time hours worked (including paid holidays and vacations) into a Employer-Union pension fund which shall be jointly administered by the Union and the Employer as set forth in the trust agreement establishing such Pension Fund.

For all employees hired after March 5, 2005, contributions shall be at a rate of forty-eight cents ($0.48) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid).

The Trustees agree to re-bid the Fund Administrator. In the event the Trustees deadlock over a replacement Administrator, the Trustees agree to submit such dispute to expedited arbitration within 60 days following the deadlock. Such arbitrator will be limited to giving a bench decision in the case.

Effective January 1, 2010 (December hours) for all employees covered by this Agreement, the Employer shall pay eighty nine cents ($0.89) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid) into the Denver Area Meatcutters UFCW Unions and Employers Pension Plan, which shall be jointly administered by the Union and the Employer by an equal number of trustees as provided in an agreement establishing such Pension Fund.

In the event the New Hire Benefit goes into effect as provided herein, then effective with hours worked after the adoption of such Benefit, the Employer shall pay an additional ten cents ($0.10) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid) to fund the benefit.

Funding Policy. Long-Term Funding Policy.

1. The trustees shall, no later than April 1, 2005, adopt the following Long Term Funding Policy. Such Long Term Funding Policy shall be applicable for plan year 2005 and subsequent plan years. Effective with the January 2005 contribution payment, the employers will increase the hourly contribution by $0.15 per hour from $1.36 to $1.51 for employees hired before ratification.

   This $0.15 per hour increase in contribution is a "supplemental" contribution dedicated solely to improving the funding of the pension plan, will not be used to increase benefits and will be discontinued at the times set forth in paragraph 2.

2. This supplemental contribution shall continue to be made until the earlier of such time the Plan reaches a financial state whereby either: (i) the funding ratio of the Plant (actuarial value of assets over actuarial liability) is at least 100%; or any contribution of the employers would not be deductible for federal income tax purposes in the year in which it is required to be made. However, unless changes are needed to support contribution deductibility, no changes shall be made when the Plan has withdrawal liability.

   Effective January 1, 2010 (December hours) the supplemental contribution provided above in subsections 1 and 2 shall no longer apply and shall be replaced by any supplemental contribution that may be provided in the Pension Protection Act section of this agreement.

3. If as of any valuation date commencing with the 01/01/06 valuation, a funding deficiency is projected to occur in less than 5 years, the Trustees will reduce benefits such that a projected funding deficiency will not occur within any of the 8 years following the valuation date. The parties agree to apply for section 412(e) relief if available before the benefit reductions are enacted. It is understood that application for section 412(e) requires the parties to reduce benefits as a condition of the application. Such section 412(e) application, if approved, must cure the funding deficiency as prescribed above.

   If the section 412(e) application is not approved, or not acted on, within 18 months of the valuation date (for example 01/01/06 valuation), then the Trustees

will immediately enact benefit reductions to cure the funding deficiency as prescribed above.

4. In no event will benefit reductions be delayed to or beyond a time that would expose the employers to liability beyond the supplemental contribution including but not limited to liability for the payment of excise taxes or additional contributions. Any deadlocked issue over the enactment of benefit reductions and/or the application of this policy shall be submitted to expedited arbitration ahead of any other matter pending arbitration. Such expedited arbitration shall occur within 60 days of the request for arbitration and the arbitrator shall render his decision within 60 days following the close of the hearing in the matter.

5. The parties authorize and direct the Trustees of the Plan to develop Maintenance of Equity Policy for employers that do not adopt this agreement upon renewal of the collective bargaining agreement (or for new agreements).

6. If the Plan experiences a minimum funding deficiency, any excise tax that is levied against the employers will be allocated amongst such employers in a way that first makes all employers not contributing the full amount of the supplemental contribution responsible for fully paying any accumulated missed supplemental contributions with interest. Thereafter, the balance of any excise tax remaining will be allocated to all employers in proportion to their non-supplemental contribution rate. Finally, for any employer not adopting this agreement, future benefits will be based on the assumption that $0.15 of the current rate being contributed is deemed to be supplemental.

7. The parties recognize there is a possibility of merger of the Denver Area Meatcutters Pension Fund with the Rocky Mountain UFCW Union and Employers Pension Plan and give full authority to effectuate such merger to the Board of Trustees of the two pension plans without further approval of the parties of this Agreement.

New Hire Benefit:

If the Trustees adopt the Alternate Schedule described above, and such Schedule becomes fully effective, the Trustees are authorized to amend the Plan (if they believe it is appropriate to do so) in order to provide the following Benefit for those participants whose employers have adopted the Alternate Schedule above. Newly hired employees hired on or after March 6, 2005 shall be eligible to receive an accrual rate per month for each year of credited service earned by such employees, commencing on January 1, 2010 (i.e., for service on or after January 1, 2010) subject to the following terms, conditions and limitations:

- Funding through an employer supplemental contribution of ten cents ($0.10) per hour;
- Normal retirement age of 65;
- The accrual rate shall be ten dollars ($10) per month for each year of credited service earned between January 1, 2010 and December 31, 2012.
- The accrual rate shall be fifteen dollars ($15) per month for each year of credited service earned on or after January 1, 2013.

- Any adjustable benefits otherwise provided by the Plan, including but not limited to Rule of 80 Pension, are inapplicable to this "new hire" benefit; and,

- Agreement by the plan's co-actuaries that the "new hire" benefit can be funded by the ten cents ($0.10) per hour employer contribution, otherwise the benefit shall be in the amount, up to $10 or $15 per month per year of credited service as specified above, the co-actuaries agree can be provided by said funding.

Section 104. Said Pension Fund shall be used to provide benefit pensions for eligible employees of the Employer as provided in a Pension Plan, the terms and provisions of which are to be agreed upon by the parties hereto; said Pension Plan shall, among other things, provide that all benefits under the Plan and costs, charges and expenses of administering the Plan and all taxes levied or assessed upon or in respect of said Plan or Trust or any income there from shall be paid out of the Pension Fund.

Section 105. Said Pension Plan and the Trust Agreement establishing the Pension Fund have been submitted to the United States Treasury Department and the United States Department of Labor for the approval and rulings satisfactory to the Employer, that said Plan is qualified under I.R.C. Section 401, et seq. and that no part of such payments shall be included in the regular rate of pay of any employee.

Section 106. If for any reason, the United States Treasury Department and the United States Department of Labor withholds approval and rulings satisfactory to the Employer, the parties to this Agreement hereto agree to negotiate other fringe benefits or wage increases in the amount equal to the cents per hour provided for in this Article for all hours worked at straight-time in lieu of payments into the Pension Fund.

Section 107. The Employer shall be represented by its employees, or some other representative on the Board of Trustees administering such Pension Plan. A copy of the Trust Agreement and any amendments thereto shall be made a part hereto as if herein at length set forth, when adopted.

Section 108. Pension Protection Act

The bargaining parties agree and understand that the Employer may be obligated to make pension contributions in addition to the base contribution rate specified in the Employer Contributions Section. The amount of any such supplemental contribution shall be determined as follows:

i. **Alternate Schedule Contribution Rate:** In the event the Trustees of the Plan adopt the Rehabilitation Plan Alternate Schedule attached hereto as Appendix C, the Employer shall pay the contribution rate required in the Alternate Schedule (modified only as provided herein) of one dollar and fifty one cents ($1.51) per hour effective January 1, 2010 (on December hours) which includes the rate of eighty nine cents ($0.89) per hour described in the Employer Contribution section above and a supplemental contribution of sixty two cents ($0.62) per hour. In the event the New Hire Benefit goes into effect as provided herein, then effective with hours worked after the adoption of such Benefit, the Employer shall

pay a total contribution rate of one dollar and sixty one cents ($1.61) per hour, which reflects the sum of the contribution rate required in the Employer Contribution section, the supplemental contribution rate of this section and the new hire benefit contribution rate provided herein.

ii. **Default Schedule Contribution Rate:** In the event the Trustees of the Plan do not adopt the Rehabilitation Plan Alternate Schedule, but instead adopt a legally valid "Default Schedule" within the meaning of the PPA, the Employer shall pay the contribution rate required under the Default Schedule effective January 1, 2010 (on December hours); provided that in no event shall such contribution rate be payable prior to the effective date of all of the benefit adjustments required under the Default Schedule. For example, if the Default Schedule benefit adjustments do not become effective until the start of the Rehabilitation Period under the PPA, the Employer shall not be required to pay the Default Schedule contribution rates until that time.

If any required Default Schedule contribution rate exceeds the rate provided for under subsection (i) above, then each annual increase in the top pay rate provided for in this contract shall be permanently reduced by fifteen cents ($0.15) per hour, and ten cents ($0.10) per hour in the case of Courtesy Clerks, effective with the next scheduled pay rate increase following the implementation of the Default Schedule contribution rate. The permanent reductions provided for herein shall continue year after year. It is understood that each annual top rate increase will be reduced until either sufficient reductions have occurred so as to equal the amount of the increase to the supplemental contribution rate of subsection (i) caused by the implementation of the default schedule or until the date on which the employer implements contribution rates which are reduced to, or below, the contribution rates under subsection (i) above and in accordance with subsection (vii) below, whichever occurs first, but in no event shall any such wage reductions made be restored.

iii. **Long-Term Funding Policy Contribution Rates**: In the event the Alternate Schedule in subsection (i) above and the Default Schedule in subsection (ii) above are not applicable during the term of this agreement, but the Long-Term Funding Policy is implemented, the Employer shall not be obligated to pay a supplemental contribution under any other provision of this Agreement, but shall continue to pay the base contribution specified in the Employer Contribution Section plus a supplemental contribution under this subsection (iii) that shall not exceed sixty-two cents ($0.62) per hour. This supplemental contribution shall be a contribution amount which has the same proportionate value relative to the value of the benefit adjustments under the Long Term Funding Policy as the value of the supplemental contribution of sixty-two cents ($0.62) per hour under subsection (i) has to the value of the benefit adjustments under the Alternate Schedule. This approach shall be accomplished by utilizing the following formula: a) the present value of benefit adjustments under the Long Term Funding Policy, divided by b) the present value of benefit adjustments under the Alternative Schedule, multiplied by c) the supplemental contribution of sixty-two cents ($0.62) per hour under subsection (i). These calculations shall be made by the employer consultants, and shall be final and binding on all parties.

For example: If $5M is the present value of benefit adjustments under the Long

Term Funding Policy and if $10M is the present value of benefit adjustments under the Alternative Schedule and sixty-two cents ($0.62) per hour is the supplemental contribution under subsection (i), then the supplemental contribution under this subsection (iii) is sixty-two cents ($0.62) times $5M divided by $10M, or thirty-one cents ($0.31) per hour.

iv. It is understood and agreed that the Employer may reduce the amount of any of the above supplemental contributions due the Trust (but not below zero) by the amount of any surcharge, deficiency or excise tax required to be paid by the Employer any time after entering Critical Status. The supplemental contribution provided for herein shall be dedicated solely to improving the funding of the Plan, and shall not be used to increase or improve benefits, and will be reduced or discontinued upon determination by the Plan's Trustees, based on projections provided by the Plan's actuaries, that such supplemental contribution are no longer needed to support the level of benefits provided for under the Plan in accordance with the provisions of subsection (vii) below.

v. As a result of the Plans having been certified as being in critical status for the Plan Year beginning January 1, 2009, the Trustees are authorized to adopt the Rehabilitation Plan Alternate Schedule attached as Appendix C hereto (if they believe it is appropriate to do so). If the Alternate Schedule is adopted by the Trustees, it is hereby deemed approved by the bargaining parties and automatically incorporated into this Agreement.

vi. In no event shall any contribution increases be required during the term of this Agreement as a result of any annual updates or other changes to the Rehabilitation Plan Alternate Schedule or, if applicable, to any Default Schedule.

vii. In the event the Trustees determine, based on projections provided by the actuaries for the Plan, that, at any time during the term of this Agreement, an Alternate Schedule or Default Schedule with lesser contribution rates and/or benefit reductions would be sufficient to reasonably enable the Plan to emerge from critical status by the end of the Rehabilitation Period, the Trustees may amend the Alternate Schedule or Default Schedule in a manner that, to the extent possible, would restore reduced benefits and would reduce the Employer's supplemental contribution in an equal manner and amount, based on actuarial equivalence, provided that such modifications to the Alternate Schedule or Default Schedule would still allow the Plan to emerge from critical status by the end of the Rehabilitation Period, taking into account to the extent legally permitted any relief available under IRC Section 431(d). In the event the Trustees amend the Alternate Schedule or Default Schedule as provided in this subsection (vii), then the parties agree to adjust the supplemental contribution rates provided above to reflect the lower rates in the amended Alternate Schedule or Default Schedule. Notwithstanding the foregoing, if, prior to the effective date of any benefit cuts specified in the Alternate Schedule or the Default Schedule, the Trustees determine that (a) such benefit cuts are no longer required to avoid critical status or to have a valid Rehabilitation Plan, and (b) the supplemental contribution could be reduced or eliminated, then the Employer supplemental contribution shall be reduced or eliminated accordingly, and the Employer shall be further entitled to recoup the value of any supplemental contribution paid prior to the effective date of the benefit reductions

set forth in the Alternate Schedule or Default Schedule. This provision shall apply regardless of the reason for the Trustees' determination, including a change in the law (e.g., a further extension of the Plan's green status) and/or improved investment returns. The value of the contributions shall be recouped via a suspension of contributions in an amount equal to the amount of the supplemental contribution paid.

viii. The Board of Trustees is authorized to take all reasonable measures to cooperate and assist in achieving the objectives set forth in this Section.

APPENDIX C

Denver Area Meatcutters UFCW Unions and Employers Pension Fund
Schedule of Contributions and Benefits

REHABILITATION PLAN – 2009 PLAN YEAR ALTERNATE SCHEDULE
Contribution and Benefit Adjustments
• Total contribution rate of one dollar and fifty one cents ($1.51) per hour on January 1, 2010 (December hours). All contributions are deemed to be inclusive of any surcharges, deficiency, and/or excise tax any time after entering Critical Status. • In the event the Board of Trustees adopts New Hire Benefits, the total contribution rate will increase to one dollar and sixty one cents ($1.61) per hour effective with the adoption of such benefit.
• Elimination of 100% of the value of all adjustable benefits on all accrued benefits and future benefit accruals to the maximum permitted by law, except as noted below. Adjustable benefits to be eliminated include the following: — Rule of 85 Pension; — Subsidized Early Retirement Reduction Factors; — Age 60 Supplement; — Post-Retirement Death Benefits in Excess of QJSA (including Three Year Certain & Life benefit and the Five Year Certain & Life benefit); — Pre-retirement Death Benefits in Excess of QPSA (including the $2,000 lump sum return of contributions death benefit); — Payment options other than Single Life Annuity and QJSA; and — All other adjustable benefits within the meaning of Code section 432(e)(8)(A)(iv) (other than Disability Pension and modified Rule of 80 Pension as described below). • The following adjustable benefits shall be retained: — Disability Pension; and — Rule of 80 Pension, except that this benefit will be modified to require that a Participant must have attained age 55 at his Termination date in order to be eligible. • Reduction of future benefit accruals to $30 per month of credited service for credited service on or after January 1, 2010. • Benefit reductions effective January 1, 2010
Rehabilitation Period
January 1, 2010 through December 31, 2022.
Plan to Emerge from the Red Zone and Annual Benchmarks to Assess Progress Toward Emergence
The Plan's actuaries certify that the Contribution and Benefit Adjustments shown above are sufficient for the Plan to emerge from the Red Zone at the end of the Rehabilitation Period based on the funded status of the Plan as of January 1, 2009 before the addition of any New Hire benefits. In the event that the New Hire benefits are implemented, the Plan's actuaries certify that with the

additional contributions specifically designated to fund the New Hire benefits, the plan is still reasonably expected to emerge from Critical Status after such benefit increases, as shown in the annual benchmarks including the New Hire benefits. These schedules will be updated as needed throughout the Rehabilitation Period. Progress toward emergence from the Red Zone will be measured by the Plan's Funding Standard Account Credit (Deficiency) Balance being greater than (less than) the amounts in the following projections. These projections have been made in accordance with the provisions of the Pension Protection Act of 2006 including:

- Contribution rates in accordance with the Collective Bargaining Agreement effective for hours worked in December 2009 payable in January 2010.
- An assumption of the same number of contributable hours as reported for the actuarial valuation as of 1/1/2008. The reasonableness of this assumption has been verified by the Trustees.
- No market related investment gains or losses from 9/30/2009 forward and no other actuarial gains or losses from 1/1/2009 forward.

APPENDIX C

Denver Area Meatcutters UFCW Unions & Employers Pension Plan
Annual Benchmarks for Emergence from the Red Zone

As of	Funding Standard Account Credit (Deficiency) Balance	Funding Standard Account Credit (Deficiency) Balance With New Hire Benefits
12/31/2010	$ 20,082,000	$ 20,219,000
12/31/2011	22,099,000	22,345,000
12/31/2012	21,184,000	21,514,000
12/31/2013	17,344,000	17,735,000
12/31/2014	12,909,000	13,340,000
12/31/2015	6,771,000	7,222,000
12/31/2016	1,174,000	1,624,000
12/31/2017	(2,294,000)	(1,865,000)
12/31/2018	(3,510,000)	(3,122,000)
12/31/2019	(2,483,000)	(2,157,000)
12/31/2020	(1,808,000)	(1,565,000)
12/31/2021	(1,329,000)	(1,190,000)
12/31/2022	51,000	65,000
12/31/2023	783,000	648,000
12/31/2024	5,395,000	5,090,000
12/31/2025	7,826,000	7,549,000
12/31/2026	12,275,000	12,019,000

ARTICLE 43

HEALTH AND WELFARE OR PENSION DELINQUENCIES

Section 109. If the Employer fails to make monthly health and welfare or pension contributions, as set forth herein, he shall be notified by Certified or Registered Mail of his delinquency, either by the Health and Welfare Administrator or the Pension Plan Administrator, and if said remittance is not paid within ten (10) days, notwithstanding any provision of this Agreement, the Union, without the necessity of giving any other or further notice shall have the right to strike or to take such action as it shall deem necessary until such delinquent payments are made. The Employer hereby waives the requirement of any other notice or notices being given by the Health and Welfare Administrator or the Pension Plan Administrator or by the Union to him or to anyone else other than such notice or notices expressly provided for in this Article.

ARTICLE 44

NO DISCRIMINATION

Section 110. No employee shall be discharged without just and sufficient cause.

Section 111. No employee shall be discharged or threatened for refusing to cross or work behind any primary picket line established by any labor organization at the Employer's premises, nor shall the Union be deemed to be in violation of this Agreement if its members choose to honor any such picket line.

The Employer and the Union agree that each will fully comply with applicable laws and regulations regarding discrimination against any employee, or applicant for employment, because of such person's race, religion, color, national origin, sex or age.

The Employer hereby agrees not to discriminate against any employee or discharge him because of membership in the Union and/or for upholding Union principles.

No employee who because of his religion has conscientious objections to working on his Sabbath will be required to work his Sabbath as a condition of employment. If the rights of the employees under this paragraph operate in conflict with the seniority provisions contained elsewhere in this Agreement, the right of seniority shall prevail.

Section 112. Wherever the masculine gender is used in this Agreement, it shall be deemed to include the feminine gender.

Section 113. It is recognized that the Employer may sponsor donations to worthy charitable organizations of a non-political nature. However, no employee shall be required to make contributions, nor shall any employee be told a specific amount he must contribute. There shall be no compulsion with regard to contribution.

ARTICLE 45

UNION REPRESENTATIVE VISITATION

Section 114. The Chief Executive Officer of the Union, the Deputy Secretary, or the Business Representative, thereof shall have the right of entering the premises of the Employer for the purpose of interviewing employees in such a way as to not interfere with the service of the Employer. The said representatives shall make their presence known to the supervisory person in charge upon entering the premises. The Employer shall, upon the request of an authorized Union representative, furnish satisfactory evidence to ascertain whether employees are being paid in accordance with the terms of this Agreement. The Chief Executive Officer, or his Deputy, may inspect the dues books of employees during working hours.

ARTICLE 46

JOINT LABOR MANAGEMENT COMMITTEES

Section 115. There shall be established in each store a joint Labor Management Committee whose purpose shall be to investigate, study and discuss mutual solutions to problems affecting Labor-Management relations in the store in a sincere attempt to improve the parties' basic relationship. The Committee in each store shall be made up of an equal number of Union and Employer representatives and shall develop its own guidelines as determined by the participants in the store and as approved by the Union and the Employer. The Committee shall not have the authority to modify this Agreement.

ARTICLE 47

UNION STEWARD

Section 116. The Union shall have the right to designate one (1) Steward per store who shall perform their Steward duties in such a way as not to interfere with the service of the Employer. Such stewards shall have top seniority for the purpose of layoff within their classification in that store. The designated representative of the Employer must be advised in writing by the Union of the name of the steward in the store before the employee will be recognized as a steward.

The Employer agrees to allow the Stewards to be scheduled off two (2) days, without pay, to attend the Steward's Conference, which will be unscheduled days of work. It is expressly understood and agreed that the Stewards will be scheduled their normal hours during such week.

Where store operations are not adversely affected, the appointed Steward will not be scheduled to work later than 6:00 p.m. on the night (not more than one (1) per month) of the regular Local Union meeting. The Steward must notify his Store Manager in writing by Wednesday prior to the posting of the schedule for the week in which the meeting occurs.

Section 117. Employees Rights to Union Representation. When an employee is involved in a disciplinary interview where the probable result of such interview will be the imposition of disciplinary action, the Employer shall have Union Representation of the employee's choice if present.

ARTICLE 48

GRIEVANCE AND ARBITRATION PROCEDURE

Section 118. Should any dispute or complaint arise over the interpretation or application of this Agreement, there shall be an earnest effort on the part of the parties to settle such promptly through the following steps, and failure to follow the procedures set forth below shall result in forfeiture of the grievance.

Step 1. By conference during scheduled working hours between the Steward, if requested by the employee, the Employer, and/or the Union's Business Representative and/or the aggrieved employee and the designated Employer representative.

Step 2. If the grievance cannot be satisfactorily resolved under Step 1 above, the grievance shall be reduced to writing and submitted to the representative designated by the Employer to handle such matters. Such submission shall be made within twenty (20) days of the date of the occurrence of the event which gives rise to the grievance and shall clearly set forth the issues and contentions of the aggrieved party or parties and must reasonably allege a specific violation of an express provision of this Agreement. (In the case of a discharge the time limits shall be fourteen (14) days.) The Employer designee and the Union Business Representative shall meet within ten (10) days after receipt of written notice of the grievance and attempt to resolve the grievance. In the event the Employer designee assigned to handle grievance does not have an office in the area where the grievance arises, this meeting may be discussed by phone; furthermore, the time limits on this meeting may be postponed by mutual agreement of the parties.

In an instance where an employee feels he has not been paid in accordance with the wage progression scales set forth herein, such employee shall have an obligation to bring this to the attention of the Store Manager as soon as the employee first has knowledge of such alleged error. In the event the employee has been improperly paid, said payment error shall be corrected on a retroactive basis but not beyond ninety (90) days prior to the date on which the grievance is presented in writing.

Step 3A. If the grievance is not satisfactorily adjusted in Step 2, either party may, with reasonable promptness, but in no event later than thirty (30) days from the date of the Step 2 meeting, in writing, request arbitration and the other party shall be obliged to proceed with arbitration in the manner hereinafter provided. The parties shall forthwith attempt to agree upon an impartial arbitrator.

Step 3B. In the event the parties are unable to reach agreement upon the selection of an arbitrator within fifteen (15) days of the written request for arbitration, the party requesting arbitration may, with reasonable promptness, request a panel of five (5) arbitrators from the Federal Mediation and Conciliation Service. From this panel of five (5) names, each party shall alternately strike two (2) names, the moving party striking first. The remaining arbitrator from the list shall be the impartial arbitrator. A finding or award of the arbitrator shall be final and conclusive upon the parties hereto.

Step 3C. The arbitrator shall have all the rights, power and duties herein given, granted and imposed upon him; but his award shall not change, alter or modify any of the terms and conditions set forth in this Agreement. The expenses of the impartial arbitrator shall be shared equally by the parties. The arbitrator will issue his decision within thirty (30) calendar days after the close of the proceedings. This thirty (30) day calendar time limit may be extended by mutual agreement between both parties.

Step 3D. In the event either party refuses to arbitrate on demand of the other party and an order compelling arbitration is obtained in Federal Court on the basis contended by the moving party, the refusing party will pay to the moving party reasonable legal fees incurred, up to two hundred dollars ($200.00). Similarly, if the moving party fails to prevail in such an issue, the moving party will pay reasonable legal fees incurred up to two hundred dollars ($200.00) to the refusing party.

Section 119. Remedies for Errors. If an error is made by management in the application of the provisions of this Agreement resulting in a lost work opportunity for the aggrieved employee such as vendor stocking, scheduling and assignment of hours disputes, classification issues, and work jurisdiction matters and the affected employee immediately files a grievance, the employee shall be made whole by being permitted to work the number of hours lost. Such hours shall be above and beyond the posted schedule. The employee shall advise management anytime after the next schedule is finalized for the workweek of their desire to exercise their right to work the hours due during the workweek on the date and time determined by the employee. An aggrieved employee may not demand such remedy on an overtime or premium-pay basis if the alleged violation occurred on what would have been a straight-time day for such employee. The employee must exercise this right to work within four (4) weeks of the settlement of error with the employee or such right shall be forfeited and no further remedy shall be required.

ARTICLE 49

NO STRIKE - NO LOCKOUT

Section 120. During the life of this Agreement, there shall be no lockout, strike, picketing, boycotting, stoppage of work, anti-company publicity or other economic action of whatsoever nature, against the company.

It is understood that it shall be a violation of this Agreement for the Union or its agents to require its members to observe picket lines set up by any labor organization at the premises of the Employer.

ARTICLE 50

STORE OR PLANT CLOSING

Section 121. In the event the Employer closes or sells a store or plant and employees are terminated as a result thereof, such employees are entitled to pay equal to one (1) week's pay for each year of continuous service commencing with the third (3rd) year of continuous service up to, but not to exceed eight (8) weeks' pay at their regular rate. However, those employees who have an incomplete year of continuous service as an employee will receive pro rata severance pay for that year as follows:

0-3 months equals twenty-five percent (25%) of a week's pay.
3-6 months equals fifty percent (50%) of a week's pay.
6-9 months equal seventy-five percent (75%) of a week's pay.
Over 9 months equal one week's pay.

Severance pay shall be computed on the average hours worked per week for the fifty-two (52) weeks preceding a voluntary layoff or termination.

The Employer shall continue contributions to the Pension and Health and Welfare Trust Funds for three (3) full months following termination on an hourly basis in direct relationship to the severance pay received for those employees who secure employment with a contributing Employer in the Pension and Health and Welfare Trust Funds.

All monies due employees, including severance pay, shall be paid in a lump sum upon termination.

An employee who is terminated and who is eligible for severance pay, and accepts severance pay, forfeits his seniority and has no recall rights. However, an employee may elect to accept a voluntary layoff not to exceed ninety (90) days. At the end of the ninety (90) day period, if he has not been recalled, he will be paid severance pay and forfeit his seniority. Any extensions of this ninety (90) day period must be agreed upon in writing and signed by the employee, a representative of the Union and the Employer. In no case will such extension exceed a total of six (6) months from the date the employee accepted the layoff.

If an employee is offered a transfer to other employment with the Employer within forty (40) miles of the store or plant in which he was last working and he refuses to accept the transfer or other employment with the Employer he forfeits his rights to severance pay and Pension and Health and Welfare contributions.

If a store or plant is sold and the successor Employer offers employment to an employee who is otherwise eligible for severance pay under the terms of this Article and the new job is comparable, then no provisions of this Article shall apply.

The Employer agrees to give to the employees and the Union four (4) weeks' notice in advance of a store or plant closing or sale. When such notice is given, an employee shall remain with the Employer until the plant or store closes, or forfeit his rights under this Article, unless mutually agreed to by the employee, Employer and Union.

No benefits shall accrue under the terms of this Article unless the Employer makes a business decision to close or sell a store or plant. If a store or plant closing is caused by fire, flood, storm, land condemnation or remodeling, then this Article shall not apply.

In the event of a store or plant closing, employees shall be allowed to exercise their seniority under their respective layoff procedures. Employees may exercise their seniority rights to bump the least senior employee in their classification in the bargaining unit closest to their home, provided all stores in the effected bargaining unit have closed; however, if they exercise such seniority rights, the provisions of this Article shall be null, void and not applicable.

ARTICLE 51

BULLETIN BOARD

Section 122. The Employer agrees to furnish a bulletin board for the use of the Union within each store. Material placed upon the bulletin board shall be restricted to the following types of notices:

a. Notices of Union recreational and social affairs.

b. Notices of Union elections, Union appointments, and the results of Union elections.

c. Notice of Union meetings.

The bulletin board is not to be used by the Union or its members for disseminating propaganda of any kind whatsoever, and among other things, it shall not be used for the posting of material of a political or controversial nature or for advertising purposes. Any document placed on the bulletin board must be signed by an officer or official representative of the Union.

ARTICLE 52

UNION STORE CARD

Section 123. The Union Shop Card is the property of the United Food and Commercial Workers, International Union, AFL-CIO, and is loaned to the Employers for display who sign and abide by this Agreement. The Shop Card may be removed from any market by the Chief Executive Officer of Local No. 7 or his deputy for any violation of this Agreement.

ARTICLE 53

UNIFORMS/EQUIPMENT

Section 124. The Employer agrees to furnish all linens or uniforms required by the Employer for use in the markets and delicatessen and to launder same, except for drip dry garments. It is further provided that all hand saw frames and hand saw blades shall be furnished by the Employer. The Employer will also furnish an oil stone in each market for the use of employees in sharpening all hand tools.

Notwithstanding the above, the employee shall be required to meet the dress requirements, at the employee's expense unless otherwise specified, as detailed in the Letter of Understanding, "Dress Requirements," attached to this Agreement.

All Sanitation Chemicals - Employer shall provide proper training in use of chemicals and shall provide proper equipment for use of chemicals as provided by manufacturer. All equipment provided shall be provided to each bargaining unit employee as needed. Copies of MSDS Chemical books shall be in all departments effected.

ARTICLE 54

SAVINGS CLAUSE

Section 125. If, during the term of this Agreement, or during any renewal or extension of the same, any Federal or State Law is enacted, or any rule or regulation is issued under any Federal or State Law, which would make compliance by the Union, the Employer, employees, or any of them, with the terms provisions or conditions of this Agreement a violation of any said laws, rules or regulations, then such terms, provisions or conditions shall become inoperative

and of no effect from the effective date of any such law, regulation or rule. The remainder of this Agreement not in conflict with any of said laws, rules or regulations shall continue in full force and effect.

In the event of any such terms, provisions or conditions becoming inoperative and of no effect, either party to this Agreement may open the same for bargaining only as to substitute provisions, if any, for those provisions made inoperative upon a thirty (30) day written notice to the other party.

It is specifically understood that the no-strike and no-lock out provision set forth elsewhere in this Agreement shall remain in effect throughout the term of this Agreement.

ARTICLE 55

MASTER SAFETY COMMITTEE

Section 126. The Employer and the Union will jointly set up a Master Safety Committee to discuss and work towards resolving safety issues in the workplace. The Master Safety Committee shall include at least two (2) Employer officials and at least two (2) Union officials as well as up to five (5) employee participants.

The Employer and the Union agree to seek information relative to ergonomic stresses common in the workplace. The Master Safety Committee will meet periodically to review the information obtained. The parties will discuss and work toward resolving ergonomic safety issues found to be prevalent in the workplace.

The Employer shall pay employee participants their regular hourly rate of pay for all time so spent and mileage for Company authorized joint meetings.

ARTICLE 56

TERM OF AGREEMENT

Section 127. The parties acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Union, for the life of this Agreement each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement.

THIS AGREEMENT shall be in full force and effect from May 13, 2012, and shall remain in full force and effect until midnight September 12, 2015, and shall automatically be renewed from year to year thereafter unless either party desires change or termination at the expiration

of said Agreement. In such event the party desiring such change or termination shall notify the other party in writing sixty (60) days prior to the expiration date.

IN WITNESS WHEREOF, the parties above-named have signed their names and/or affixed the signatures of their authorized representatives this 21st day of June, 2012.

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL #7

BY: _____
Kim C. Cordova
President

DATE: 7-2-12

KING SOOPERS, INC.

BY: _____
Stephen J. DiCroce
Sr. Director – Labor Relations

DATE: 6/21/12

COST OF LIVING

Section 128. Effective May 4, 1986, there shall be a cost of living allowance based on the increase in the revised Consumer Price Index for Urban Wage Earners and Clerical workers, published by the Bureau of Labor Statistics, U.S. Department of Labor (1967 = 100) between March, 1985 and March, 1986. For hourly rated employees covered by this Agreement, there shall be a one cent (1¢) per hour adjustment for every full .4 point increase in that index which exceeds an increase of 5.5% in the Index during the period between March, 1985 and March, 1986. It is understood that if the rates of pay for the classification are less than the Journeyman Meat Cutter rate, such classification shall receive the same percentage increase in the cost of living as the Journeyman Meat Cutter.

APPENDIX "A"

ALL KING SOOPERS MEAT BARGAINING UNITS

The minimum hourly rate of pay for the indicated classifications shall be as set forth below on the dates indicated. The Employer may hire any employee at any rate in the progression schedule at its sole discretion.

Rate determination

Employees hired before March 6, 2005 who remain in their classification after commencement of this Agreement shall be paid in accordance with the "hired and assigned in the bargaining unit prior to March 6, 2005" wage schedule while they remain in that classification.

Demotions, Step Downs and layoffs: An employee who is demoted, steps down, or who is laid off in accordance with this Agreement, shall be placed back into the same wage schedule in which the employee was working immediately prior to their assignment into management or promotion into the classification from which they are being demoted, stepping down or laid off. In determining the proper progression level for an employee demoted, stepping down, or laid off from a classification with a higher "thereafter" hourly rate to a classification with a lower "thereafter" hourly rate, such affected employee shall be placed in the appropriate progression level in the rate schedule referenced in this paragraph based on their experience in the newly assigned classification, regardless of whether such assigned rate results in a reduction in hourly rate. In determining prior experience hereunder, the Employer will give recognition to the verified number of hours of actual work experience in the same classification which said employee may have performed for the Employer and the verified number of hours actual work experience on a comparable job which said employee may have performed within the previous five (5) years for any other employer in a similar retail grocery operation.

Rate Determination – Promotions, new hires and new entrants into the bargaining unit: Employees hired into, or assigned to, or promoted to a different classification, the bargaining unit on or after March 5, 2005 shall be assigned to the "EMPLOYEES HIRED INTO THE BARGAINING UNIT OR ASSIGNED OR PROMOTED ON OR AFTER MARCH 6, 2005" wage scale. Employees who are promoted to a different classification after March 5, 2005 shall not receive a reduction in their hourly rate of pay if when promoted to such classification they are being paid an hourly rate of pay greater than the minimum, unless they are above the "thereafter" hourly rate in which case they will immediately be paid the "thereafter" hourly rate. When such employee is paid less than the "thereafter" hourly rate, prior to receiving an increase in their hourly rate of pay, they must work 1,040 hours at their current rate before promotion to the hourly rate in the new classification that would give them an increase in their hourly rate of pay.

KING SOOPERS APPENDIX "A" MEAT RATES

EMPLOYEES HIRED AND ASSIGNED IN THE BARGAINING UNIT PRIOR TO MARCH 6, 2005

	Effective 9/11/11	Effective 9/9/12	Effective 9/15/13	Effective 9/14/14
MEAT DEPARTMENT MANAGER	$19.98	$20.23	$20.48	$20.73
ASSISTANT MEAT DEPARTMENT MANAGER	$19.18	$19.43	$19.68	$19.93
BUTCHER BLOCK MANAGER	$19.05	$19.30	$19.55	$19.80
DELI DEPARTMENT MANAGER	$19.05	$19.30	$19.55	$19.80
DELI DEPARTMENT MANAGER (ASSIGNED TO MANAGE A DELI / INTERNATIONAL KITCHEN AS DETERMINED BY MANAGEMENT)	$19.98	$20.23	$20.48	$20.73
ASSISTANT DELI DEPARTMENT MANAGER	$17.46	$17.71	$17.96	$18.21
CATERING CAPTAIN	$14.43	$14.68	$14.93	$15.18
MEAT CUTTERS				
FIRST 1040 HOURS	$11.30	$11.30	$11.30	$11.30
SECOND 1040 HOURS	$12.36	$12.36	$12.36	$12.36
THIRD 1040 HOURS	$13.23	$13.23	$13.23	$13.23
FOURTH 1040 HOURS	$14.12	$14.12	$14.12	$14.12
FIFTH 1040 HOURS	$15.01	$15.01	$15.01	$15.01
SIXTH 1040 HOURS	$15.89	$15.89	$15.89	$15.89
JOURNEYMAN	$19.05	$19.30	$19.55	$19.80
BUTCHER BLOCK CLERK				
FIRST 960 HOURS	$8.39	$8.39	$8.39	$8.39
SECOND 960 HOURS	$8.64	$8.64	$8.64	$8.64
THIRD 960 HOURS	$9.45	$9.45	$9.45	$9.45
FOURTH 960 HOURS	$10.91	$10.91	$10.91	$10.91
FIFTH 960 HOURS	$12.36	$12.36	$12.36	$12.36
THEREAFTER	$15.94	$16.19	$16.44	$16.69
MEAT WRAPPER				
FIRST 1040 HOURS	$8.64	$8.64	$8.64	$8.64
SECOND 1040 HOURS	$9.45	$9.45	$9.45	$9.45
THIRD 1040 HOURS	$10.91	$10.91	$10.91	$10.91
FOURTH 1040 HOURS	$12.36	$12.36	$12.36	$12.36
THEREAFTER	$15.94	$16.19	$16.44	$16.69

	Effective 9/11/11	Effective 9/9/12	Effective 9/15/13	Effective 9/14/14
DELI CLERK				
FIRST 1040 HOURS	$8.09	$8.09	$8.09	$8.09
SECOND 1040 HOURS	$8.62	$8.62	$8.62	$8.62
THIRD 1040 HOURS	$9.96	$9.96	$9.96	$9.96
FOURTH 1040 HOURS	$11.28	$11.28	$11.28	$11.28
THEREAFTER	$14.67	$14.92	$15.17	$15.42
DELI AND RESTAURANT CHEFS	$15.24	$15.49	$15.74	$15.99
SUSHI BAR CHEF	$17.46	$17.71	$17.96	$18.21
SNACK BAR/MEAT CLEAN-UP				
FIRST 520 HOURS OF WORK	$7.28	$7.28	$7.28	$7.28
SECOND 520 HOURS OF WORK	$7.38	$7.38	$7.38	$7.38
THEREAFTER	$9.04	$9.29	$9.54	$9.79
CATERING CLERK				
FIRST 1040 HOURS OF WORK	$7.74	$7.74	$7.74	$7.74
SECOND 1040 HOURS OF WORK	$8.55	$8.55	$8.55	$8.55
THEREAFTER	$10.96	$11.21	$11.46	$11.71

EMPLOYEES HIRED INTO THE BARGAINING UNIT OR ASSIGNED OR PROMOTED ON OR AFTER MARCH 6, 2005

	Effective 9/11/11	Effective 9/9/12	Effective 9/15/13	Effective 9/14/14
MEAT DEPARTMENT MANAGER	$19.98	$20.23	$20.48	$20.73
ASSISTANT MEAT DEPARTMENT MANAGER	$19.18	$19.43	$19.68	$19.93
BUTCHER BLOCK MANAGER	$19.05	$19.30	$19.55	$19.80
DELI DEPARTMENT MANAGER	$19.05	$19.30	$19.55	$19.80
DELI DEPARTMENT MANAGER	$19.98	$20.23	$20.48	$20.73
(ASSIGNED TO MANAGE A DELI / INTERNATIONAL KITCHEN AS DETERMINED BY MANAGEMENT)				
ASSISTANT DELI DEPARTMENT MANAGER	$17.46	$17.71	$17.96	$18.21
CATERING CAPTAIN	$14.43	$14.68	$14.93	$15.18

	Effective 9/11/11	Effective 9/9/12	Effective 9/15/13	Effective 9/14/14
MEAT CUTTERS				
1st 1040 hours worked	$10.65	$10.65	$10.65	$10.65
Next 1040 hours worked	$11.15	$11.15	$11.15	$11.15
Next 1040 hours worked	$11.30	$11.30	$11.30	$11.30
Next 1040 hours worked	$12.36	$12.36	$12.36	$12.36
Next 1040 hours worked	$13.23	$13.23	$13.23	$13.23
Next 1040 hours worked	$14.12	$14.12	$14.12	$14.12
Next 1040 hours worked	$15.01	$15.01	$15.01	$15.01
Next 520 hours worked	$15.89	$15.89	$15.89	$15.89
Thereafter	$19.05	$19.30	$19.55	$19.80
BUTCHER BLOCK CLERK				
1st 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 1040 hours worked	$9.69	$9.69	$9.69	$9.69
Next 1040 hours worked	$10.13	$10.13	$10.13	$10.13
Next 520 hours worked	$12.36	$12.36	$12.36	$12.36
Thereafter	$15.94	$16.19	$16.44	$16.69
MEAT WRAPPER				
1st 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 1040 hours worked	$9.69	$9.69	$9.69	$9.69
Next 1040 hours worked	$10.13	$10.13	$10.13	$10.13
Next 520 hours worked	$12.36	$12.36	$12.36	$12.36
Thereafter	$15.94	$16.19	$16.44	$16.69
DELI CLERK				
1st 1040 hours worked	$8.09	$8.09	$8.09	$8.09
Next 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.69	$9.69	$9.69	$9.69
Next 1040 hours worked	$10.13	$10.13	$10.13	$10.13
Next 520 hours worked	$11.28	$11.28	$11.28	$11.28
Thereafter	$14.67	$14.92	$15.17	$15.42
DELI AND RESTAURANT CHEFS	$15.24	$15.49	$15.74	$15.99

	Effective 9/11/11	Effective 9/9/12	Effective 9/15/13	Effective 9/14/14
CHEESE STEWARD	$17.46	$17.71	$17.96	$18.21
SUSHI BAR CHEF	$17.46	$17.71	$17.96	$18.21
SNACK BAR/MEAT CLEAN-UP				
FIRST 520 HOUR OF WORK	$7.28	$7.28	$7.28	$7.28
SECOND 520 HOURS OF WORK	$7.38	$7.38	$7.38	$7.38
THEREAFTER	$9.04	$9.29	$9.54	$9.79
CATERING CLERK				
FIRST 1040 HOURS OF WORK	$7.74	$7.74	$7.74	$7.74
SECOND 1040 HOURS OF WORK	$8.55	$8.55	$8.55	$8.55
THEREAFTER	$10.96	$11.21	$11.46	$11.71

LETTERS OF AGREEMENT

The Letters of Understanding, which are carried over into the new 5-year Agreement, are as follows; all others are deemed null and void.

1. Discovery In Customer Complaints. Dated 5/4/84.
2. Posting Official Union Notice Arbitration. Dated 5/14/84
3. Deli Clerk Doing Butcher Block Work. Dated 7/15/86.
4. Sick Pay. Dated 12/22/87.
5. Sick Pay Accumulation. Dated 1/6/88.
6. Grievances Resolved At Store Level By Stewards. Dated 1/6/88.
7. Grievance Of Ivan Saindon. Dated 7/14/89.
8. Retail Meat Floater Pool. Dated 8/9/90.
9. Assistant Deli Manager/Deli Manager/Deli Chef. Dated 8/9/90.
10. Catering Purchases and Production. Dated 10/10/90.
11. Personal Beepers/Pagers; Union Case No.858-91. Dated 2/17/92.
12. Catering Supplement. Delete Appendix A and Incentive Plan. Dated October 1990
13. King Soopers Store #8 – Boulder Floater Pool. Dated 2/8/94.
14. Assignment of Overtime to Meat Cutters. Dated 11/17/94.
15. Amend Letter of Understanding on Seafood/Sushi Bar. Delete second sentence of (1). Replace with "The Employer may carry pre-processed and packaged sushi." Dated 9/14/94.
16. Meat Wrapper Floater Pool. Dated 11/2/95.
17. King Soopers #8 Meat Department Utilization of Northern Denver Meat Floater Pool. Dated 1/27/94.
18. Retail Meat Contract, Store #42 in Longmont. Dated 11/19/93.
19. King Soopers and UFCW Local 7 Letter Regarding Layoffs, Reduction in Hours, and Seniority. Dated 6/22/95.

20. The Restaurant Letter of Agreement contained within the Collective Bargaining Agreement except delete the third paragraph. Dated **07/12/10**

21. Dress Requirements. Dated 4/1/97

22. Deli Scheduling Procedures. Dated July 1996

23. Meat Wrapper Rates. Dated 8/6/01

24. Amend Seafood/Sushi Bar. Dated 8/18/05

25. Culinary Head Clerk Classification. Dated 10/6/05

26. Operation of Coffee Shop. Dated 10/6/05

27. Verbal or Written Warnings. Dated 1/26/06

28. Employee Buyout. Dated 1/31/06

29. **Health and Welfare Trust Fund. Dated 4/28/11**

30. **Sushi Chef Scheduling. Dated 12/20/10**

31. **Murray's Cheese Shops. Dated 6/3/11**

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL #7

BY: _____
Kim C. Cordova
President

DATE: 7-2-12

KING SOOPERS, INC.

BY: _____
Stephen J. DiCroce
Sr. Director – Labor Relations

DATE: 8/26/12

LETTER OF AGREEMENT

#1

DISCOVERY IN CUSTOMER COMPLAINTS. DATED 5/4/84

between
King Soopers, Inc.
and
United Food and Commercial Workers, Local Union No. 7

King Soopers, Inc. (hereinafter the "Employer") and United Food and Commercial Workers, Local Union No. 7 (hereinafter the "Union"), hereby agree to settle the allegations set forth in the Charge Against Employer in Case No. 27-CA-8665 on the following basis:

1. The Union hereby releases, remises and forever discharges the Employer from all matters asserted in the Charge Against Employer or Complaint and Notice of Hearing in Case No. 27-CA-8665 now pending before the National Labor Relations Board, which charge the Union agrees to withdraw with prejudice and the Union agrees to take all procedural steps necessary to accomplish the dismissal of the Complaint therein.

2. The Employer denies that it has engaged in any unfair labor practices and the Employer's concurrence in this agreement shall not constitute an admission of any unfair labor practice.

3. If an employee is disciplined or discharged as a result of a customer alleging misconduct and a grievance is filed protesting the discipline or discharge which is presented to arbitration, upon request, the attorney representing to Union will be provided the name and telephone number of the complaining customer. The attorney will contact the customer by telephone, if contact is desired. If the customer agrees to a meeting in person during the telephone conversation, the Employer will provide the Union with the customer's address. If the customer does not have a telephone at home or at work, the Employer will provide the attorney representing the Union with the customer's address.

4. The Union's attorney shall keep the customer's name telephone number and/or address confidential to himself or herself, except in the case of the Union's law firm the name, telephone number, and/or address may be provided to a law clerk.

5. The Union's attorney shall not intimidate, threaten or otherwise harass the customer, but shall conduct themselves in a professional manner.

The original document was signed by Steven Niven and Charles Mercer on 5/4/84 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#2

POSTING OFFICIAL UNION NOTICE ARBITRATION. DATED 5/14/84

May 14, 1984

Michael G. Severns, Esq.
Mountain States Employers Council
1790 Logan Street
Box 539
Denver, Colorado 80201

Re: UFCW - 7 v. King Soopers (Posting Official Union Notice Arbitration)

Dear Mike:

This letter will confirm that we have orally reached an agreement to settle this case on Thursday, May 10. Enclosed with this letter is a draft of the language which we have discussed over the telephone which is part of the settlement.

Outside of the settlement, we have made some other agreements or exchanged ideas. First, it is agreed that the August 29, 1983 notice which caused this grievance to be filed, would be considered proper under the attached language. Second, with respect to management reviewing the notice, we have agreed that such a review cannot unreasonably interfere with the timing of the notice i.e., if it is important that the notice be posted immediately because its content needs to be known before a date arising in the immediate future, it would not be proper for Kings to unreasonably insist that a particular individual review the notice who is not then available. If, however, there is no particular time crunch involved, there is a fair amount of flexibility in terms of who reviews the notice and when.

Finally, with respect to the word inflammatory which is included in the settlement, we discussed two different sets of circumstances, one of which we would agree is inflammatory and one of which we would agree is not inflammatory. We recognize that there may be a fine line between the two and hope that all parties will act reasonably in interpreting the language in the facts of each case. With respect to what is inflammatory, it would be improper for the union in a notice to encourage members to file numerous and multiple grievances in an effort to harass King Soopers. It would not be inflammatory for the union to explain rights and to inform the employees that if they have problems or beliefs that these rights are being violated to discuss the matter with their steward or business agent.

I believe that this settlement is fair and reasonable for all sides and that the problem probably arose because of the heat of the moment. To my knowledge, there had never been any problems in the past with posting of notices and it is my firm hope that there will be none in the future. I appreciate your cooperation in helping reach a prompt and reasonable resolution to this matter. If you have any questions about the language, please feel free to call.

The original document was signed by Thomas Buescher on 5/14/84 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#3

DELI CLERKS DOING BUTCHER BLOCK WORK. DATED 7/15/86

GRIEVANCES OF DELI CLERKS DOING BUTCHER BLOCK WORK INVOLVING CHARLIE AMES #43, CASE # 154-86, AND VIC JENSON #61, CASE # 113-86

King Soopers, Inc. and UFCW Local No. 7 hereby agree to resolve the above-referenced grievances as follows:

1. For those stores that do not have a separate specialty meat department, that the preparation, display, handling and sale of case ready items normally offered for sale in the specialty meat/seafood department may be done by deli clerks. For those stores with a separate specialty meat department, then the preparation of such items will be performed by butcher block clerks, but the items may be displayed, handled and sold in the deli by deli clerks.

2. Nothing in this agreement precludes the Company from selling the final product in other areas of the meat department.

3. The Company agrees to pay to Vic Jensen, KS #61, $75.00, and to Charlie Ames, KS #43, $75.00.

The original document was signed by Steve DiCroce and Gary Hakes on 7/15/86 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#4

SICK PAY. DATED 12/22/87

The United Food & Commercial Workers' Local No. 7 (hereinafter "the Union") and King Soopers, Inc. (hereinafter "the Employer") hereby agree to resolve the grievance in Case No. 52-84 as follows:

1. The Employer may require employees to complete its sick pay request forms in accordance with the following:

   a. Part I of the form must be completed for all absences for which the employee is requesting sick pay.

   b. Part IV of the form may be required to be completed for absences of three or more scheduled work days.

   c. Completion of Part IV of the form may be requested prior to three scheduled work days if there are suspicious circumstance indicating malingering by the involved employee. Additionally, the Employer may require completion of Part IV where the employee's absenteeism record is excessive. Under the above circumstances, the employee will be notified by a Company representative, while still absent, that the employee will be required to have Part IV completed.

   d. In lieu of completing Part IV, where necessary, the employee may submit the following, which shall constitute "other authoritative verification", only if date of disability and diagnosis are indicated.

      (1) Hospital bills

      (2) Worker Compensation Information

      (3) Health and Welfare trust fund information

2. The Employer will make every reasonable effort to insure that payments will be received in a timely manner.

3. The Employer will not refuse to allow employees returning from sick leave to report for work because the employee has not completed the sick pay request form or provided other verification of illness. The only exception would be where the employee does not appear physically capable of performing the work or where the illness could remain contagious and therefore dangerous to either product, customers or employees. Where the request for sick leave is denied, the Union may grieve and pursue the same.

4. For absences of one calendar week or more, employees will be required to request a leave of absence in writing.

5. Completion of the sick pay request form will not be required by employees who are not eligible for, or are not requesting sick pay.

The original document was signed by Ed Behlke on 11/17/87 and Charles Mercer on 12/22/87 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#5

SICK PAY ACCUMULATION, DATED 1/6/88

between

KING SOOPERS, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

RE: Sick Pay Accumulation

Whereas, during the negotiations for the current contract, the parties agreed that part-time employees would accrue sick pay on a pro-rata basis;

Whereas, a dispute has arisen as to how full time employees would continue to accrue sick pay;

Whereas, resolution of such an issue was not contemplated nor discussed during said negotiations;

Therefore, in order to resolve the dispute, the parties named above hereby agree as follows:

Employees classified as full time shall continue to receive 4 hours sick pay credit per month, provided said employee works the minimum hours set forth in the Meat and Clerk Agreement.

This agreement shall apply to all collective bargaining agreements between the parties, which have the above-described language and shall be in effect during the terms of said Agreements.

The original document was signed by Steve DiCroce and Gary Hakes on 1/6/88 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#6

GRIEVANCES RESOLVED AT STORE LEVEL BY STEWARDS. DATED 1/6/88

between

KING SOOPERS, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

RE: Grievances Resolved at Store Level by Stewards

To encourage prompt and equitable resolution of grievances, the parties set forth above agree to the following:

All grievances resolved at the store level between Management and the Union appointed Shop Steward shall be entered into on a non-precedent setting basis.

The original document was signed by Steve DiCroce and Gary Hakes on 1/6/88 and is on file at the King Soopers Labor Relation Department.

LETTER OF AGREEMENT

#7

GRIEVANCE OF IVAN SAINDON. DATED 7/14/89

July 14, 1989

Mr. Dwayne Adkins
Secretary-Treasurer
UFCW Local No. 7
7760 West 38th Avenue, Suite 400
Wheat Ridge, Colorado 80033

RE: GRIEVANCE OF IVAN SAINDON #569-89

Dear Dwayne:

In response to our most recent discussion of the above referenced grievance, the Company will accept the Union's offer to resolve the grievance on the following basis:

That during the first two weeks of employment for any employee of the meat plant, the company shall retain the right to restrict the employee from exercising his seniority to move to another job, or prohibit another employee from bumping the newly hired employee out of his position. It is further understood, that during this two week period senior employees may be forced to take work assignments in another area of the plant as a result of this agreement.

As we discussed, in the event that at the end of the probationary period management desires to extend an employee's probationary period that such extension will be considered by the union as provided in the collective bargaining agreement.

If this resolution reflects our understanding, please execute both copies of this letter and return one to me.

The original document was signed by Steve DiCroce and Dwayne Adkins on 7/14/89 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#8

RETAIL MEAT FLOATER POOL. DATED 8/9/90

between

King Soopers, Inc.

and

United Food and Commercial Workers Union, Local No. 7

Re: Retail Meat Floater Pool

WHEREAS, during the negotiations for the current meat contract, the parties agreed to language establishing a floater pool for the retail meat department; and

WHEREAS, several matters have arisen which were not contemplated or discussed during said negotiations;

NOW, THEREFORE, in order to resolve these disputes, the parties named above agree as follows:

1. When a full-time, "based" meatcutter is affected by a reduction of hours, as set forth in Article 31, Section 83, the affected employee shall displace the least senior, full-time, "based" meatcutter in the district. The employee being displaced shall than be placed in the district's floater pool and scheduled in accordance with said letter of agreement.

2. In consideration of safety, job knowledge and to assure that first-year apprentices receive adequate training, a first-year apprentice shall be "based" in a store, regardless of seniority. However, they shall be scheduled hours in accordance with their seniority as if they were within the floater pool.

3. If a full-time opening becomes available as set forth in Article 27, Section 67, or Article 28, Section 79, and the most senior, eligible employee is an apprentice, and if such appointment would violate the ratio required under Article 7, Section 15, then the eligible apprentice would be transferred and bump the least senior, full-time meatcutter in the district who would then be placed into the original full-time opening.

The original document was signed by Steve DiCroce on 8/9/90 and Gary Hakes on 8/8/90 and is on file at the King Soopers Labor Relations Department. Section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#9

ASSISTANT DELI MANAGER/DELI MANAGER/DELI CHEF. DATED 8/9/90

between

KING SOOPERS, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

Re: Assistant Deli Manager/Deli Manager/Deli Chef

The Parties named above agree to the following:

1. Assistant Delicatessen Managers - Assistant deli managers may be designated at the discretion of management and is not a required classification. However, not more than one employee per store, per deli, may be designated as an assistant deli manager and shall not be scheduled similar shifts unless in training. Further, the assistant deli manager may continue to perform all duties within the deli as they have in the past.

2. The employer agrees to delete all reference in App. "A" relating to "Deli Manager employed as a Delicatessen Manager after 5/20/77, and directing five (5) or less employees." Whereas all deli managers would receive $12.80 an hour effective 8/12/90, $13.05 an hour effective 5/5/91 and $13.30 an hour effective 5/3/92 for Denver, Boulder and Broomfield; $12.80 an hour effective 8/12/90, $13.05 an hour effective 7/7/91 and $13.30 an hour effective 7/5/92 for Colorado Springs, Fort Collins and Greeley; $12.80 an hour effective 8/12/90, $13.05 an hour effective 6/16/91 and $13.30 an hour effective 6/21/91 for Longmont and Loveland; and $12.80 an hour effective 8/12/90, $13.05 an hour effective 8/11/91 and $13.30 an hour effective 8/9/92 for Pueblo.

3. In accordance with Article 7, Section 25, NEW CLASSIFICATIONS, the parties have met and agreed as follows:

   Deli Chef - Deli Chefs may be designated at the discretion of management and is not a required classification. However, not more than one employee per store, per deli, may be designated as a deli chef These employees will receive the same rate of pay as an assistant deli manager and will be considered a separate classification for the purposes of seniority-related issues, such as scheduling, promotions, layoffs, reduction of hours, vacations, etc.

The original document was signed by Steve DiCroce on 8/9/90 and Gary Hakes on 8/8/90 and is on file at the King Soopers Labor Relations Department. Section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#10

CATERING PURCHASES AND PRODUCTION. DATED 10/10/90

King Soopers, Inc. and the UFCW hereby agree to the following understanding relative to the addition of catering as it impacts the meat collective bargaining agreements.

In exchange *for* the company's agreement to allow the work of catering clerks and captains to be accreted to the Denver Meat Bargaining unit, the Union understands and agrees that food products produced for consumption at a catered event may be produced and prepared by the meat bargaining unit personnel in addition to food produced or prepared in an outside facility by another manufacturer. For purposes of this agreement a catered event shall be considered any event for which food and related products are ordered and delivered to the customer that has been arranged through the consultation with the customer by a member of the catering sales or management staff.

It is further understood, that during the initial period of this program that the employer may employ "Deli Production" personnel and assign such personnel to a store or stores for the purpose of preparing product to be sold at a catered event. Where such employees are employed the following understanding shall apply:

1) The Production employees shall fall under the terms and conditions of the Denver Meat agreement and shall be paid the production rates in effect for the Deli Kitchen.

2) The work performed by such employees may be transferred to an outside vendor.

3) Such Production employees may perform work in the deli that is incidental to their production tasks.

The original document was signed by Steve DiCroce on 10/8/90 and Dwayne Adkins on 10/10/90 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#11

PERSONAL BEEPERS/PAGERS; UNION CASE NO. 858-91. DATED 2/17/92

February 17, 1992

Ms. Susan Meader
Labor Relations Department
King Soopers, Inc.
P.O. Box 5567
Denver, Colorado. 80217
-and-
Mr. John Bowen
Associate General Counsel
UFCW, Local #7
7760 West 38th Avenue
Wheat Ridge, Colorado 80033

RE: Personal Beepers/Pagers; Union Case No. 858-91

Dear Ms. Meader and Mr. Bowen:

This letter sets forth the terms of the settlement which was agreed to between the parties in relation to the above referenced grievance during the Med/Arb session conducted on February 13, 1992, at Mountain States Employers Council.

The parties agree that bargaining unit employees may carry beepers/pagers on their persons on Company premises during working hours, but only if all of the following conditions are met:

1. The employee notifies the Store Manager in writing that they have a personal beeper/pager and that they may be carrying it with them on Company premises during working hours.

2. The beeper/pager must be set so that it does not emit any audible signal. In other words, it must not "beep". It may be set so that is signals the owner of an incoming call by vibrating.

3. The beeper/pager must remain hidden from the view of customers at all times. In other words, it should be kept in a pocket out of sight or worn under a smock or other covering garment whenever an employee is in an area where any customers are.

4. Service to customers is not to be interrupted. The employee may not look at the beeper/pager at any time while they are on the sales floor and they may only return calls while they are on authorized break periods.

The parties also agree that any violation of the above conditions by any employee may result in progressive discipline up to and including possible discharge in appropriate cases.

Finally, it is expressly understood that the Company may apply different rules in the case of any employee that it wants to wear a beeper/pager during working hours for its own business reasons. In other words, the four conditions set forth above apply only to bargaining unit employees who carry beepers/pagers for their own personal reasons.

As usual, it was a pleasure to work with the parties on this case and, if I can be of any further assistance in the future, please feel free to give me a call.

The original document was ordered by arbitrator John F. Sass on 2/17/92 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#12

CATERING SUPPLEMENT, DATED OCTOBER 1990

KING SOOPERS, INC.
CATERING
SUPPLEMENTAL AGREEMENT

KING SOOPERS, INC. (Denver, Colorado) A division of Dillon Company, Inc. hereinafter referred to as the "Employer" and the UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL #7, hereinafter referred to as the "Union" are parties to a Labor Agreement having as its term June 30, 1996 to July 10, 1999. Said agreement, hereinafter referred to as the "Principal Agreement" covers the Meat and Deli operations of the Employer's stores and Plants in the metropolitan Denver Area.

This Supplemental Agreement which has as its term one year from date of execution amends, modifies or changes certain identified portions of the Principal Agreement as set forth below. Where there is no reference to an Article or Section then such Article or Section shall be deemed to not have been included in this Supplemental Agreement. Thirty days prior to the expiration of this Agreement the parties shall meet and discuss any concerns experienced through the operation of the catering department and negotiate resolution of the same. Failure by either party to re-open this agreement as described above shall automatically continue this agreement through July 10, 1999.

ARTICLE 1
RECOGNITION AND EXCLUSIONS

Section 1. Amend language of this Principal Agreement as follows: Additions: Catering Clerks, Catering Captains and On-Call employees. Exclusion Additions: Non-bargaining unit employees and contractors.

ARTICLE 2
SERVICE IN MEAT-DELICATESSEN DEPARTMENTS, PLANTS

Section 2. Re-write language of the Principal Agreement as follows:

All work and services performed in the bargaining unit connected with catering to the public shall be performed by bargaining unit members except as provided below. Supervisors, bargaining unit and non-bargaining unit employees, bar tenders and contract laborers may perform work covered under this Supplemental Agreement.

ARTICLE 3
UNION SECURITY AND CONDITIONS

All Sections. Same as Principal Agreement.

ARTICLE 4
CHECK-OFF

All Sections. Same as Principal Agreement.

ARTICLE 5
NEW EMPLOYEES, TRANSFERRED EMPLOYEES, PROMOTED OR DEMOTED

All Sections. Same as Principal Agreement.

ARTICLE 6
RIGHTS OF MANAGEMENT

Section 13. Add 2nd paragraph to Principal Agreement:

Nothing in this agreement requires the employment of full-time or regular part-time employees in the catering operation. It is further understood that the employer may employ on-call employees to work on a sporadic, as needed basis. The Employer will endeavor to create as many regular full-time and part-time jobs as is feasible. Notwithstanding the above, the Employer reserves the right to utilize any of its employees in the capacity of Catering Clerks and Catering Captains.

ARTICLE 7
DEFINITIONS OF CLASSIFICATIONS

New Section 20 (a). Add to the new Section 20 (a) the following definitions:

1) Catering Clerks. A catering clerk is an employee whose job consists of assisting in the preparation of food to be served at the catered event, pick up and delivery of the food and other essential items to the catered event, the set-up, service and clean-up at the catered event and other related duties as may be necessary.

2) Catering Captain. A catering captain is an employee who has been assigned by management the responsibility to coordinate, assist and supervise the work of catering clerks and to manage service at the catered event. This section shall not be construed as requiring the Employer to have a catering captain. It is understood that the Employer's supervisors may perform work in this capacity without violating the collective bargaining agreement.

3) On-Call Employees. On-Call employees are hired and scheduled to work on an on-call basis and may perform any of the work covered under 20 (a) (1) above. Such employees shall not be subject to the minimum daily and weekly shift guarantees of this agreement.

4) Contract Laborers. If a catered event cannot be staffed from within the bargaining unit, the employer may subcontract and fill the additional needs to include special services (ice sculpting, etc.). Contract laborers may perform any duties of Section 20 (a) (1).

5) Bar Tenders. Are contract employees involved in the handling and selling of beverages at a catered event.

6) Supervisors. Supervisors may perform the duties of a Catering Clerk or Captain. It is agreed that absent special service requirements for a particular event that no more than four such supervisors will work at any event.

ARTICLE 8
RATES OF PAY

All Sections. Same as Principal Agreement.

ARTICLE 9
TEMPORARY ASSIGNMENTS

Section 29. Re-write second paragraph of Principal Agreement to read:

In lieu of hiring catering clerks or to provide additional help for the catering department, the Employer may offer other employees of the bargaining unit, or employees of the clerks bargaining unit, the opportunity to work a catered event. In this event, the Employer shall have sole discretion in the selection and scheduling of such employees.

ARTICLE 10
NO REDUCTION IN PAY

Section 32. Same as Principal Agreement.

ARTICLE 11
WORK WEEK

All Sections. Same as Principal Agreement.

ARTICLE 12
OVERTIME

All Sections. Same as Principal Agreement.

ARTICLE 13
SUNDAY PREMIUM

All Sections. Same as Principal Agreement.

ARTICLE 14
TRAVEL PAY

All Sections. Same as Principal Agreement, except add the following new paragraph:

Any employee whose driving record shows a pattern of continuous and repetitive disregard for traffic laws, public safety and the employers interest, may be subject to progressive discipline.

ARTICLE 15
NIGHTPREMIUM

All Sections. Same as Principal Agreement.

ARTICLE 16
HOLIDAYS

All Sections. Same as Principal Agreement, except that on-call employees shall not be entitled to worked or unworked holiday pay unless such employee is scheduled for sixteen (16) or more hours in the workweek preceding the holiday and the holiday workweek.

ARTICLE 17
VACATIONS

All Sections. Same as Principal Agreement.

ARTICLE 18
SCHEDULE POSTING

All Sections. Same as Principal Agreement.

ARTICLE 19
REPORTING PAY/MINIMUM DAILY SCHEDULE

All Sections. Same as Principal Agreement.

ARTICLE 20
MINIMUM WEEKLY SCHEDULE

All Sections. Same as Principal Agreement.

ARTICLE 21
TIMEKEEPING

All Sections. Same as Principal Agreement.

ARTICLE 22
SPLIT SHIFTS

All Sections. Same as Principal Agreement.

ARTICLE 23
STORE MEETINGS

All Sections. Same as Principal Agreement.

ARTICLE 24
LUNCH BREAKS

All Sections. Same as Principal Agreement.

ARTICLE 25
RELIEF PERIODS

All Sections. Same as Principal Agreement.

ARTICLE 26
PROBATIONARY PERIOD

All Sections. Same as Principal Agreement.

ARTICLE 27
SENIORITY

Section 63. Add new paragraph to the Principal Agreement to read as follows:

Catering Clerks and Catering Captains shall have separate seniority for all applications of the collective bargaining agreement.

Section 64-68. Same as Principal Agreement.

Section 74. Add to language of Principal Agreement:

3. Notwithstanding the above, an employee classified as a Catering Clerk shall be eligible for promotion to a higher classification provided the employee has worked a minimum of two (2) years in the catering clerk classification.

4. It is understood and agreed that the position of Catering Clerk is not subject to bid under the provisions of Section 72.

5. The Employer retains the right to hire Catering Clerks and Captains directly off-the-street. It is further understood that the Employer retains the right to select current employees at its discretion for Catering Clerk and Captain positions.

Sections 70-71. Same as Principal Agreement.

ARTICLE 28
AVAILABLE HOURS

Sections 76-79. Same as Principal Agreement.

ARTICLE 30
UNSCHEDULED OVERTIME

All Sections. Same as Principal Agreement.

ARTICLE 31
REDUCTION IN HOURS

All Sections. Same as Principal Agreement.

ARTICLE 32
LAYOFFS

Section 84. Add new last paragraph to current language to read:

It is understood and agreed that higher classified employees of the bargaining unit shall not have the right to displace Catering Clerks and Captains in the event of a layoff.

Section 85. Same as Principal Agreement.

ARTICLE 33
TRANSFER FROM STORE TO STORE

All Sections. Same as Principal Agreement.

ARTICLE 34
NEW STORE OPENING

All Sections. Same as Principal Agreement.

ARTICLE 35
LEAVES OF ABSENCE

All Sections. Same as Principal Agreement.

ARTICLE 36
BEREAVEMENT LEAVE

All Sections. Same as Principal Agreement.

ARTICLE 37
JURY DUTY

All Sections. Same as Principal Agreement.

ARTICLE 38
SICK LEAVE

All Sections. Same as Principal Agreement.

ARTICLE 39
INJURY ON JOB

All Sections. Same as Principal Agreement.

ARTICLE 40
HEALTH BENEFIT PLAN

All Sections. Same as Principal Agreement.

ARTICLE 41
NON-DUPLICATION OF BENEFITS

All Sections. Same as Principal Agreement.

ARTICLE 42
PENSION FUND

All Sections. Same as Principal Agreement.

ARTICLE 43
HEALTH AND WELFARE OR PENSION DELINQUENCIES

All Sections. Same as Principal Agreement.

ARTICLE 44
NO DISCRIMINATION

All Sections. Same as Principal Agreement.

ARTICLE 45
UNION REPRESENTATION VISITATION

All Sections. Same as Principal Agreement.

ARTICLE 46
JOINT LABOR MANAGEMENT COMMITTEES

All Sections. Same as Principal Agreement.

ARTICLE 47
UNION STEWARDS

All Sections. Same as Principal Agreement.

ARTICLE 48
GRIEVANCE AND ARBITRATION PROCEDURE

All Sections. Same as Principal Agreement.

ARTICLE 49
NO STRIKE OR LOCKOUT

All Sections. Same as Principal Agreement.

ARTICLE 50
STORE ORPLANT CLOSING

All Sections. Same as Principal Agreement.

ARTICLE 51
BULLETIN BOARD

All Sections. Same as Principal Agreement.

ARTICLE 52
UNION STORE CARDS

All Sections. Same as Principal Agreement.

ARTICLE 53
UNIFORMS/EQUIPMENT

All Sections. Same as Principal Agreement.

ARTICLE 54
SAVINGS CLAUSE

All Sections. Same as Principal Agreement.

ARTICLE 56
TERM OF AGREEMENT

All Sections. Modify dates as agreed in the Principal Agreement.

COST OF LIVING ALLOWANCE/ LETTERS OF UNDERSTANDING

Same as Principal Agreement as is applicable.

APPENDIX A

DENVER-KING SOOPERS CLERKS AGREEMENT

Classification	Job Code	Effective 06/30/96	Effective 07/06/97	Effective 07/05/98
Catering Clerk				
1st 1040hours	CTO1	$6.81	$6.94	$7.08
2nd 1040 hours	CTO2	7.53	7.67	7.82
Thereafter	CTO9	8.42	8.59	8.75
Catering Captains				
Thereafter	CT1O	$11.48	$11.70	$11.92

On-call employees shall receive the same pay rate as Catering Clerks.

INCENTIVE PLAN

Effective the 4th Quarter of 1990, Catering Clerks and Captains shall begin to participate in the Incentive Plan contained in the Principal Agreement. Concurrent with such participation, such employees shall cease to participate in any other Incentive Plan.

Article titles and section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#13

KING SOOPERS #8 - BOULDER FLOATER POOL, DATED 2/8/94

1) Meat market at King Soopers #8 will be allowed to schedule for emergency situations out of the Boulder Bargaining Unit Floater Pool by seniority.

2) Floaters can only be scheduled at two (2) week intervals King Soopers #8.

3) Hours of work assigned to floaters shall be those of Meat Cutter's hours in King Soopers #8 which cannot be covered by Meat Cutters in King Soopers #8.

4) Overtime hours shall continue to be assigned as directed by the Broomfield Collective Bargaining Agreement.

The original document was signed by Susan Meader on 2/8/94 and Alfonso Pacheco on 2/11/94 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#14

ASSIGNMENT OF OVERTIME TO MEAT CUTTERS. DATED 11/17/94

WHEREAS, the above parties entered into a Letter of Agreement Floater Pool in the contract negotiations of 1990 and agreed to continue this letter into the contract which has its term May 9, 1993 to May 11, 1996;

WHEREAS, there have been grievances filed and there is a dispute over the manner in which overtime hours as determined by management in excess of four (4) hours has been assigned;

THEREFORE, it is understood that the below listed procedure will be used in assignment of overtime as determined by management in excess of four (4) hours. Notwithstanding this agreement the Employer reserves the right to assign hours of work to Meat Cutters able to work at straight time before this procedure applies.

1. Overtime in excess of four (4) hours shall be first offered to employees in the Meat Cutter classification who are scheduled forty (40) hours in the location the overtime is needed the week in which the overtime is needed;

2. If no meat cutter in the store accepts such hours any employee classified as a "Meat Cutter" within the district who signs the overtime request list, shall be called in seniority order by the District scheduler or other designated employer representative to fill the needed hours. The district scheduler or other designated employer representative shall have the store schedules to determine which Meat Cutters are available for overtime. Bargaining units that do not have districts, shall be considered as one district for the purpose of this agreement.

   If no Meat Cutters on the district overtime request list accept the overtime assignment, the district scheduler or other designated employer representative will fill the overtime assignment pursuant to Article 30, section 87 of the collective bargaining agreement.

   In the event the district scheduler or designated employer representative reaches a telephone recording device he/she is to leave a message that he/she was calling to offer overtime to the person, the time of the call and that he/she will: 1) continue calling until an employee willing to work the overtime is found, or 2) wait for a specified period of time before he/she continues calling the list.

3. The overtime request list shall contain the Meat Cutter's name, home telephone number, regularly scheduled store location and telephone number and locations where the meat cutter is willing to work within the assigned district. Meat Cutters are responsible for updating the information on the overtime request list, in writing, whenever there is a change in the information.

4. A meat cutter may sign or remove his/her name from the overtime request list during the following time periods or under the following circumstances:

a. During the first fifteen (15) days of January or the first fifteen (15) days of July (to become effective during the first workweek of February and August, respectively);

b. Within fifteen (15) days after the Meat Cutter is transferred (whether voluntary or involuntarily) between districts or bargaining units;

c. Within fifteen (15) days after the Meat Cutter is called back from a lay off or called back to a Meat Cutter's position from a lower classification.

The Meat Cutter's request shall be submitted in writing to the Meat Manager of the Store he/she is based or the District Scheduler. The request shall remain in effect until the Meat Cutter voluntarily removes his/her name from the overtime request list.

5. The above understanding resolves the issue of "Assignment of Overtime to Meat Cutters" and settles the language issues of grievances #831-91 and 832-91. The parties agree to submit the "Back-pay" issue of the grievances to arbitration. It is understood that both parties reserve their right to the arguments and positions held throughout the grievance procedure, settlement meetings, and any other discussions or agreements on this issue in the matter of the "Back Pay" arbitration.

6. Either party may cancel this agreement, except for the provisions of #5 above, with 30 days advance written notice, anytime after May 1, 1995.

The original document was signed by Susan Meader on 11/17/94 and Alfonso Pacheco on 11/29/94 and is on file at the King Soopers Labor Relations Department. Section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#15

AMEND SEAFOOD/SUSHI BAR. DATED 9/14/94

King Soopers and UFCW Local No. 7 hereby agree to the following understanding regarding the operation of Sushi Bar operations.

1) The Employer may open Sushi Bar operations which shall be a part of the Seafood Department. The Employer may carry pre-processed and packaged sushi.

2) The Employer may employ a maximum of three (3) Sushi Bar chefs in each combined Seafood/Sushi Bar Department. Fully qualified Sushi chefs shall be paid the following rate(s):

Effective 9/11/94:	$13.50
Effective 5/7/95:	$13.86

In the event the Employer elects to advance, and qualify, a Butcher Block clerk to the position of Sushi Chef, such clerk shall continue to remain in the Butcher Block rates until such time the clerk becomes a fully qualified Sushi chef .

3) Sushi Bar Chefs will be considered as a separate group for the purpose of applying the seniority provisions of Articles 27, 28, 30, 31, 32, 33, and 46, except that in operation, Sushi chefs shall be allowed to exercise their seniority, upon layoff, to bump into the Butcher Block classification.

4) The Employer may utilize, for a period not to exceed three (3) weeks from the date of opening a Sushi Bar, a trainer to assist in the training and development of Sushi Bar Chefs and Butcher Block clerks. Such trainer shall be able to perform any work in the Sushi Bar during such training period.

5) In executing this agreement, neither party waives any right or position it has relative to the grievances filed and pending regarding seniority applications between classifications in the meat bargaining unit.

The original document was signed by Steve DiCroce and Alfonso Pacheco on 9/14/94 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#16

MEAT WRAPPER FLOATER POOL. DATED 11/2/95

Effective the second Sunday following execution of this Agreement, the parties agree to add a Meat Wrapper Floater Pool in all bargaining units on the same basis as such pools operate under the Meat Cutter Floater Pool Letter of Understanding (Colorado Springs, Pueblo, & Denver).

The original document was signed by Susan Meader and Gary Hakes on 11/2/95 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#17

KING SOOPERS #8 MEAT DEPARTMENT UTILIZATION OF NORTHERN DENVER MEAT FLOATER POOL. DATED 1/27/94

It is mutually agreed between United Food and Commercial Workers Local No. 7 and King Soopers that King Soopers' store #8 Meat Department will be able to utilize the North Denver Meat Floater Pool for two weeks starting January 30, 1994 and ending February 12, 1994. This is temporary agreement pending the signing of a letter of understanding.

The original document was signed by Gordon Mann and Al Pacheco on 1/27/94 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#18

RETAIL MEAT CONTRACT STORE #42 IN LONGMONT. DATED 11/19/93

It is understood and agreed by the parties referenced above that notwithstanding the work that can be performed by non-bargaining unit personnel under the Principal Agreement that further use of non-bargaining unit employees in the delicatessen department is allowed under the following conditions:

1. All Delicatessen Department employees have had their hours maximized.
2. Work to be performed by non-bargaining unit members is of this nature:
   a) For major or extensive cleaning of the department or department equipment or facilities.
   b) For decoration of department for holidays or Employer promotions, including the hanging of signs, with our without prices.
   c) For use in the Employer's marketing promotions of the delicatessen's products or services.
   d) Extra-ordinary or emergency situations which are unplanned and failure to provide such assistance would result in an unsafe or compromising situation for either a King Soopers Guest or employee.

The original document was signed by Susan Meader on 11/18/93 and Alfonso Pacheco on 11/19/93 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#19

KING SOOPERS AND UFCW LOCAL NO. 7 LETTER REGARDING LAYOFFS, REDUCTION IN HOURS, AND SENIORITY. DATED 6/22/95

Effective the first Sunday after ratification in all meat bargaining, King Soopers and the UFCW Local No. 7 hereby agree as follows:

The parties agree to modify the principal agreement (s) of each bargaining unit as follows:

1) Article 32 - Layoffs shall be amended as follows:

   5. The Employer shall prepare a combined seniority roster of all meat cutters and wrappers employed in all retail meat bargaining units. In the event a retail cutter or wrapper, is laid off and there is no less senior cutter or wrapper, at retail, within their current bargaining unit to displace, such cutter or wrapper, shall be allowed to displace the least senior employee in their same classification and status on the combined seniority roster. It is understood that it shall not be a violation of any of the meat agreements for employees of other meat bargaining units to exercise their right to bump into another bargaining unit.

   6. In the event a retail cutter or wrapper is laid off and there is no less senior cutter or wrapper, at retail, within their current bargaining unit to displace, such cutter or wrapper, shall be allowed to displace the least senior employee in their same classification at the Meat Plant. It is understood that it shall not be a violation of the Denver Agreement for employees of other meat bargaining units to exercise their right to bump into the Meat Plant.

2) It is understood that recall from layoff shall be limited to vacancies within the bargaining unit the employee is employed.

3) Article 31 - Reduction in hours add the following paragraph to the end of Article 31:

   Full-Time employees who have been reduced to part-time and who are the least senior full-time employee in their bargaining unit shall, in their fifth *(5th)* consecutive week of such reduced hours, be allowed to exercise their seniority to claim the schedule of the least senior full-time employee on the combined all meat bargaining unit seniority list within the Retail Meat classification or of the least senior employee of the meat plant in their classification whose work they are qualified to perform. Such requests must be made to the store manager prior to the posting of the following week's schedule. It is understood that the employee may exercise this right between the fifth *(5th)* and eleventh (11th) week of reduction. The employee's 78 schedule claimed under this paragraph shall immediately be re-classified to part-time at that store or laid-off. It is understood that it shall not be a violation of the Denver Agreement for employees of other meat bargaining units to exercise their right to displace into the Meat Plant.

II. The parties agree to modify the meat plant supplement as follows:

1) Article 27 - Seniority: add to the list of departments:

8. Retail Cut Line

2) Article 27 - Seniority: re-write the second paragraph to read:

An employee thus displaced from his classification in the Plant shall have the option of displacing the least senior person in the same classification in the stores in the Denver bargaining unit, or displacing the least senior employee in a lower classification in the plant whose job he is qualified to perform, provided any displaced employee has lesser seniority. In the event a plant cutter or wrapper is laid off and there is no less senior full-time cutter or wrapper, at retail in the Denver bargaining unit, such full-time cutter or wrapper, shall be allowed to displace the least senior employee in their same classification and status on the combined all meat bargaining unit seniority roster.

III. The Union agrees to withdraw without prejudice grievance number (s): 1102-93, 1103-93, 159-93, 1160-93, 1292-93, 1301-93, 1368-93, 1369-93, 1370-93, 1371-93, 1372-93, 1373-93, 1374-93, 1375-93, 1377-93, 1378-93, 0071-94, 0093-94, 0249-94, 0261-94, 0262-94.

The original document was signed by Steve DiCroce and Gary Hakes on 6/22/95 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#20

RESTAURANT AGREEMENT, DATED 7/12/10

The Employer may open Restaurants which shall be a part of the Delicatessen Department. For purposes of this Agreement a restaurant shall be defined as an area that is set-up and maintained as a traditional and/or fast food styled restaurant, a delicatessen department with an expanded hot bar (a delicatessen with an expanded selection of chef prepared items, soups, etc. than found in a typical delicatessen) or a delicatessen designated as a bistro. The Company reserves the right to designate those delicatessens that are to be covered under this Agreement. The Delicatessen Manager assigned to manage a delicatessen designated as a restaurant under this Agreement shall be paid the International Kitchen Deli Manager rate. The Employer agrees that it will not demote a Deli Manager receiving the International Kitchen Deli Manager rate to the Deli Manager rate as a result of the transfer of such Deli Manager to a non-restaurant designated delicatessen or as result of the withdrawal of restaurant designation by the Employer of such Deli Manager's delicatessen unless the Deli Manager voluntary requests transfer to a delicatessen not designated as a restaurant pursuant to this Agreement. All work performed within the restaurant shall be performed by Delicatessen Department employees, which may include a maximum of two (2) restaurant Chefs per Restaurant. Chefs shall only perform work in the Restaurant connected with the cleaning of the Restaurant and preparation and selling of food prepared and sold in the Deli Department. The Employer retains the right to select Restaurants Chefs and to assign them shifts and days off. Nothing herein shall prevent Restaurant Chefs from using equipment or tools in the Deli Department necessary to the Restaurant operation. Restaurant Chefs will be considered as separate groups for the purpose of applying the seniority provisions of Articles 27, 28, 30, 32, 33, and 46.

The Employer may employ Restaurant Cooks in each Restaurant. Restaurant Cooks shall assist the Restaurant Chefs in the performance of their duties. The Employer retains the right to select five (5) such cooks at its discretion. It is understood that all openings for cook positions in excess of five (5) shall be posted within the store and deli where the opening occurs. The Employer agrees to promote the senior qualified Deli Clerk to these cook position (s) and train if necessary. It is understood that in the event any of the original five (5) cooks leave their position, the Employer retains the right to replace such employees at its discretion. Nothing herein shall prevent Restaurant Cooks from using equipment or tools in the Deli Department necessary to the Restaurant operation. Except for incidental service needs, cooks shall not be scheduled to wait on the counter, or be allowed to cover the counter for breaks and lunches. Restaurant Cook will be considered as separate groups for the purpose of applying the seniority provisions of Articles 27, 28, 30, 32, 33 and 46.

No Restaurant employee shall be allowed to prepare fresh "case ready" meat as the term is used in the collective bargaining agreement.

It is understood and agreed that in Deli departments which operate a Restaurant, the Employer shall be allowed to employ one additional Assistant Deli Manager in the Deli Department for every 18 non-management employees employed in the Deli/Restaurant. Such Assistant Managers shall not be scheduled to work similar work shifts as the Deli Manager unless in training. (Overlap of shifts between the Assistant and Manager is recognized as long as they are not essentially working the same shift) No Deli is required to have an Assistant Manager.

Restaurant Chefs shall be paid at the Assistant Deli Manager rate of pay. Restaurant Cooks shall be paid at the third, fourth and Thereafter rate progressions of the Deli Clerk classification.

The Company agrees that when a Deli Clerk is assigned by the Employer to assume the duties and responsibilities of the Deli Chef for a continuous period of one (1) week or more, such employee shall be paid the Deli Chef rate of pay for all hours worked while so assigned. The Employer retains its right not to employ a Deli Chef in any of its stores. Dishes shall be considered equipment for the purpose of the agreement.

The original document was signed by Steve DiCroce on 7/7/10 and Kevin Schneider on 7/12/10 and is on file at the King Soopers Labor Relations Department.

LETTER OF UNDERSTANDING

#21

KING SOOPERS, INC. AND UFCW LOCAL NO. 7 LETTER REGARDING DRESS REQUIREMENTS. DATED 4/1/97

Effective October 1, 1996, in addition to published grooming requirements, employees shall be expected to report to work as follows: White oxford (long or short sleeved) shirt. Sweatshirts are not permitted (except King Soopers employees may wear King Soopers Logo sweatshirts), but black or navy cardigan style sweaters are permitted, as are cardigan vests. Undershirts with printing, logos or designs that show through are *not* permitted. The Company provided name badge must be worn while on duty. Black (and/or Khaki at King Soopers) dress type pants of dress wool, cotton, knit, or black non-faded denim material in good condition and repair, which shall be provided by the employee. "Dockers" type pants are acceptable, sweats, stirrup pants, stretch pants, spandex, etc. are prohibited. Shoes must be black or white, clean and in good condition. Open toe or open heel shoes are not permitted. Laces must be black. Socks or nylon hose must be worn with the shoes. Courtesy Clerks may wear shorts between May 1 through September 30 provided they are *of the* same material allowed above. The Company will provide one (1) necktie and two (2) aprons, which will be replaced by the Company if worn out or damaged as a consequence of normal wear and tear. Employees will be required to replace at their cost lost ties and aprons. Meat cutters and wrappers shall be provided smocks/coats in lieu of aprons or vests.

The original document was signed by Steve DiCroce on 4/1/97 and Gary Hakes on 4/17/97 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#22

DELI SCHEDULING PROCEDURES. DATED JULY 1996

King Soopers and UFCW Local No. 7 hereby agree to the following Letter of Understanding for Meat Bargaining Units in the State of Colorado. This letter shall remain in full force and effect unless the parties mutually agree to suspend its provisions and return to the current Agreement.

1) This letter is limited to employees of the Delicatessen Department. The following provisions shall supersede and replace the existing provisions of the Collective Bargaining Agreement as such provisions apply to Delicatessen Department employees.

Delete Article 11 (Section *34*), 16 (Section 48), 18, 19, 20, 28 (Sections 74, 75, 76, and 77) and 29. Re-write Article 28, Sections 72 to read:

Section 72. Work Schedules and hours. Management retains the right to determine the number of hours, and start and stop time of each shift, to be worked within each department and store. Daily scheduled shifts shall not be less than four (4) hours or more than eight (8) hours at straight-time. Not later than ten (10) days prior to the start of any workweek, management shall post a list of shifts for each department. Non-Management, employees shall be allowed to select their schedule from the posted list of shifts for which they are qualified to perform, in seniority order, within their department. Full-Time employees shall select first, followed by Part-Time employees. No employee shall be allowed to select a schedule that will result in overtime or other penalty provision, unless expressly authorized by management. The employee's selection shall be recorded on a master work schedule. Employees shall not be permitted to select a portion of a shift. Prior to the start of the selection process, management shall identify approved vacation requests on the schedule. Employees may request, subject to availability, to take not more than one (1) of their personal holidays per calendar year on a specific day to be scheduled prior to the selection of shifts by other employees.

Management may allow employees of one department to select shifts in another department. In this event, the employee must be qualified as defined herein, to perform the work of the other department. In addition, management reserves the right to assign, at its discretion, employees to, and designate the starting time of, any ordering shift.

Employees must immediately make their shift selections at the time directed by management. If an employee fails to promptly select, management shall select on behalf of the employee based on the employee's last written scheduling preference request. In this event, the employee waives all rights to grieve management's scheduling selection.

Unless otherwise approved, or as the result of a reduction in hours, no Full-Time employee shall select less than forty (40) hours and no Part-Time employee shall select less than twenty (20) hours per week. Management may require junior employees to select a specific number of shifts so as to facilitate the selection of all shifts from the list. In the event an employee is left with less than minimum hours, but has not been zeroed out, management may pull shifts in reverse seniority order from senior employees to get such employee to minimum hours, or management may elect to zero such employee out and assign any remaining hours in Seniority order to senior employees

The Master schedule must be completed and posted by 9:00 am on Friday prior to the start *of the* next *workweek. Such schedule* shall not be changed by management for that particular workweek except where such change is predicated on circumstances beyond the control of management such as sickness, injury, leaves of absence, vacations, jury duty, funeral leave, significant fluctuations in sales volume, utility failure or Acts of God. Nothing in this section should be *construed as* preventing management from calling in employees for extra work outside of the posted schedule, from requiring overtime *work* outside of the posted schedule, or from bringing in additional employees where it appears advisable in the opinion of management If the schedule is changed pursuant to this section, and hours are reduced, then the master schedule shall be re-bid downward, from the *point* of the schedule change. *If* hours are added, such hours shall be assigned as provided in the additional hours section of this Agreement.

For purposes of this Article; non- management positions are defined as those below the level of Assistant Deli Manager. Time spent by employees selecting shifts shall not be considered compensable work. Time, but, notwithstanding, management may permit employees to select shifts on Company time. To be considered qualified, the employee must have been previously classified as, trained for and have worked the job assignment for a minimum of six (6) months within the last two (2) years. Training hours, as designated by management, shall not be subject to selection by employees.

Additional Hours: Management shall post a weekly additional hours request list. Employees interested in working additional hours must sign and designate the days they are interested in working additional hours on such list by midnight of the Saturday prior to the start of the applicable workweek. When additional hours become available, management shall contact, in seniority order, employees who have requested to work on the day indicated on the request list and offer them the hours. If the hours cannot be assigned to the employees requesting them, then management may fill the hours at its discretion. Nothing in this section shall be construed to require management to assign hours at overtime or to employees who have not made a request to work additional hours.

Section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#23

MEAT WRAPPER RATES. DATED 8/6/01

August 6, 2001

Mr. Ernest L. Duran, Jr.
UFCW, Local 7
7760 W. 38th Avenue, Suite 400
Wheat Ridge, CO 80033

Re: Meat Wrapper Rates

Dear Mr. Duran:

I had previously discussed with John Mathewson and Ilene Wolfe about moving the entry rate up for meat wrapper. If you are in agreement, new hire wrappers, and anyone currently in the 1st and 2nd progression rates, will be paid at the 3rd progression level.

We reserve the right to resume hiring at the first progression rate upon written notice to the Union.

If you are in agreement please sign this letter and return a copy to me.

The original document was signed by Steve DiCroce on 8/6/01 and Ernest L. Duran on 8/7/01 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

24

AMEND SEAFOOD/SUSHI BAR. DATED 8/18/05

King Soopers and UFCW Local No. 7 hereby agree to the following understanding regarding the operation of Sushi Bar operations.

1) The Employer may open Sushi Bar operations which shall be a part of the Seafood Department. The Employer may carry pre-processed and packaged sushi.

2) The Employer may employ a maximum of three (3) Sushi Bar chefs in each combined Seafood/Sushi Bar Department. Fully qualified Sushi chefs shall be paid the following rate (s):

   Effective 8/21/05: $16.04

   In the event the Employer elects to advance, and qualify, a Deli, Butcher Block Clerk or Meat Wrapper to the position of Sushi Chef, such clerk shall continue to remain at their current rates until such time the clerk becomes a fully qualified Sushi chef.

3) Sushi Bar Chefs will be considered as a separate group for the purpose of applying the seniority provisions of Articles 27, 28, 30, 31, 32, 33, and 46, except that in operation, Sushi chefs shall be allowed to exercise their seniority, upon layoff, to bump into any lower classified position within the department in which they are assigned and working.

4) The Employer may utilize, for a period not to exceed three (3) weeks from the date of opening a Sushi Bar, a trainer to assist in the training and development of Sushi Bar Chefs and other department employees. Such trainer shall be able to perform any work in the Sushi Bar during such training period.

The original document was signed by Stephanie Bouknight and Kevin R. Schneider on 08/18/05 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#25

CULINARY HEAD CLERK CLASSIFICATION. DATED 10/6/05

Between
King Soopers
And
UFCW Local 7

King Soopers and UFCW Local 7 in accordance with Article 7, Section 25, New Classification, of the Meat Agreement, agree to add the Classification of Culinary Head Clerk as follows:

CULINARY HEAD CLERK - Culinary Head Clerks may be designated at the discretion of management and is not a required classification. However, not more than one employee per store, per Deli, may be designated as a Culinary Head Clerk.

A Culinary Head Clerk is an employee who has been assigned to oversee the chef program management of the specialty cheese program and assist in the management and training of the Deli department

These Employees will receive the same rate of pay as an assistant deli manager and will be considered a separate classification for the purposes of seniority related issues, such as scheduling promotions, layoffs, reduction of hours, vacation, etc.

The original document was signed by Stephanie Bouknight and Kevin R. Schneider on 10/06/05 and is on file at the King Soopers Labor Relations Department. Section numbers referenced above have been modified over the years to currently note the proper sections.

LETTER OF AGREEMENT

#26

COFFEE SHOPS, DATED 10/6/05

Between
King Soopers
And
UFCW Local 7

King Soopers and UFCW Local 7 hereby agree to the following understanding regarding the operation of Coffee Shops.

1) The parties agree to the establishment of a new classification of Coffee Clerk that shall be part of current King Soopers, and UFCW Local 7 retail Meat Agreement.

2) All duties associated with the preparation and serving of coffee beverages sold in the Coffee Shop shall be performed exclusively by employees designated as Coffee Clerks. Other merchandise, to include Coffee Brand products and merchandise, and pastries sold in the Coffee Shop will be handled by Coffee Clerks.

3) Coffee Clerks shall be subject to all the terms and conditions of the Meat Agreement except that the Company may fill this position at its discretion and such employees in the Coffee Clerks classification cannot be bumped or otherwise displaced by employees in any other classification.

4) The rates of pay for a Coffee Clerk shall be the same as the Deli Clerk classification.

5) One Coffee Lead Person per store may be designated by the Employer at its discretion and will not be prohibited from performing any duties in the Coffee Shop. The rate of pay will be $16.06 per hour.

6) It is understood and agreed that management retains the right to determine the number of hours and start times of each shift to be worked within the Coffee Shop. Hours worked in the Coffee classification cannot be claimed by employees in other classifications.

7) Employees in the Coffee Department will be required to wear a Coffee uniform.

8) In the event of a layoff, employees will have the right to, 1) displace the least senior Coffee clerk or Lead in the bargaining unit, 2) bump the least senior Deli Clerk in the bargaining unit if they, have six (6) months of Deli experience with King Soopers.

The original document was signed by Stephanie Bouknight and Kevin R. Schneider on 10/6/05 and is on file at the King Soopers Labor Relations Department. Language was changed from "Starbucks" to "Coffee" in May 2010.

LETTER OF AGREEMENT

#27

VERBAL OR WRITTEN WARNINGS, DATED 1/26/06

The United Food and Commercial Workers Union, Local No.7 (hereinafter the "Union"), and King Soopers (hereinafter the "Employer"), hereby agree to resolve all pending and future grievances protesting the issuance of verbal and written warnings (not related to sexual harassment) as follows:

A. If the issuance of a verbal or written warning is grieved, the Union will notify the Employer of the same.

B. If the grievant is disciplined further, or otherwise adversely affected, and the verbal or written warning is relied upon by the Employer in doing so, the Union shall have the right to submit the grievance protesting the warning to arbitration together with the grievance contesting the disciplinary or adverse action. It is expressly agreed that all such grievances will be consolidated.

C. It is further agreed that said grieved verbal or written warnings shall be removed from all files after a period of two (2) years if not relied upon for further discipline.

The original document was signed by Stephanie Bouknight and Kevin Schneider on 1/26/06 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT
#28

EMPLOYEE BUYOUT. DATED 01/31/06

The Employer, at its discretion, may establish a buyout program as follows:

1. Employees with ten (10) or more years of service who elect his buyout by a date determined by the Employer and who work through their release date.
   - $500 per year of service – Part-time employees
   - $1,000 per year of service – Full-time employees
2. Employer retains the right upon notification to the Union to:
   - establish offer dates and release dates
   - terminate or extend the program
   - require employees to sign a waiver and release
   - limit the maximum payout under this program to any employee to 20 years of service
3. The employer may limit, by bargaining unit, the number of employees who can take this buyout at each store or facility. If more employees elect than permitted – Go by seniority.
4. Program not subject to Grievance and Arbitration Procedure

The original document was signed by Kevin Schneider on 1/31/06 and Steve DiCroce on 11/9/05.

LETTER OF AGREEMENT

#29

HEALTH AND WELFARE TRUST FUND. DATED 4/28/11

King Soopers and UFCW Local No. 7 are parties to a number of collective bargaining agreements covering meat and clerk employees that provide health coverage for active employees and certain retiree employees under the Rocky Mountain UFCW Employers and Unions Health and Welfare Plan. Consistent with the parties understanding of January 22, 2010 regarding their agreement to direct the Trustees of the Plan to transfer surplus funds from the active account to the retiree account, the parties hereby agree to clarify their understanding with respect to the potential reallocation of funds in January 2012 as follows:

1. Should the Trustees of the Plan make the determination to reallocate all or part of the remaining $4,000,000 from the active plan to the retiree plan in accordance with the parties understanding of January 22, 2010, then the Employer agrees to temporarily reduce each of the contribution rates to the active plan ("Active Rates") as determined below and to temporarily increase the contribution rate to the retiree plan ("Retiree Rate") by the same amount for the same period of time to effectuate this allocation:

    a. The Trustees shall determine the amount to be reallocated between the active and the retiree plans in 2012 which reallocation may not exceed $4,000,000.

    b. The Co-Consultants to the Plan shall then compute over a 12 month period how much the Active Rates would have to temporarily be reduced for each employer participating in the Plan to effectuate the reallocation. Such amount shall be communicated to each employer along with the time period for making such reduced contribution rates.

    c. The Employer shall then remit to the Plan for a 12-month period the Active Rates decreased by such reduction amount and shall increase the Retiree Rate by the same amount for the same 12-month period.

2. It is understood and agreed that this transfer shall be on a cost neutral basis with respect to each employer.

3. This agreement shall only be applicable upon certification by the Chairman and Secretary of the Plan's Board of Trustees that all Employers participating in the Plan have entered into a similar agreement.

The original document was signed by Stephen DiCroce and Kim Cordova on 4/28/11 and is on file at the King Soopers Labor Relations Department.

LETTER OF UNDERSTANDING
#30
SUSHI CHEF SCHEDULING. DATED 12/20/10

After the Employer determines the daily and weekly hours available in a bargaining unit for the Sushi Chefs, the scheduling of Sushi Chefs shall be by seniority within the bargaining unit up to eight (8) hours per day or forty (40) hours per week. The Employer shall maximize the straight-time daily and weekly work schedules (including Sunday), first of any full-time Sushi Chefs, and second of part-time Sushi Chefs. By mutual agreement between the Company and the Sushi Chef the Company will schedule a Sushi Chef in more than one store in his "District" per week to maximize his schedule. Districts will be defined as the geographical areas covered by each of the Employer's District Managers. The seniority of Sushi Chef shall be honored in the weekly scheduling of Sushi Chefs to the fewest number of stores as practical. The Employer will not be required to schedule a Sushi Chef in more than one store per day to maximize his schedule. The employee being assigned hours shall not have the right to accept such hours in part, but shall be obligated to accept the entire schedule as written. The parties recognize that under this scheduling procedure a less senior part-time Sushi Chef in one District could be scheduled more hours than a more senior part-time Sushi Chef in another District.

The original document was signed by Kevin R. Schneider on 12/13/10 and Stephanie Bouknight on 12/20/10.

LETTER OF AGREEMENT

#31

MURRAY'S CHEESE SHOPS. DATED 6/13/11

King Soopers and UFCW Local 7 hereby agree to the following understanding regarding the operation of Murray's Cheese Shops.

1) The parties agree to the establishment of a new classification of Cheese Shop Clerk that shall be part of current King Soopers, and UFCW Local 7 retail Meat Agreement.

2) All duties covered under the collective bargaining agreement that are associated with the handling and selling of items sold within an established Murray's Cheese shop shall be performed by employees designated as Cheese Shop Clerks, Cheese Shop Leads and/or a Cheese Steward assigned to a Murray's Cheese Shop.

3) Cheese Shop Clerks and Cheese Shop Leads shall be subject to all the terms and conditions of the Meat Agreement except that the Company may fill this position at its discretion and such employees in the Cheese Shop Clerk or Cheese Shop Lead classifications cannot be bumped or otherwise displaced by employees in any other classification.

4) The rates of pay for a Cheese Shop Clerk shall be the same as the Deli Clerk classification. The Company agrees it will start Cheese Shop Clerks at the same starting progression level of $9.14 per hour as it does Deli Clerks with the same understanding that it reserves the right to hire future Cheese Shop Clerks at the first progression rate if the Company makes the determination to resume hiring Deli Clerks at that rate.

5) One Cheese Shop Lead Person per Murray's Cheese Shop may be designated by the Employer at its discretion and will not be prohibited from performing any duties in a Murray's Cheese Shop. The rate of pay will be the same as a Deli Head Clerk.

6) It is understood and agreed that management retains the right to determine the number of hours and start times of each shift to be worked within the Cheese Shop. Hours worked in the Cheese Shop classification cannot be claimed by employees in other classifications.

7) Employees in a Murray's Cheese shop may be required to wear a uniform identifying them with the Murray's Cheese shop brand.

8) In the event of a layoff, employees will have the right to, 1) displace the least senior Cheese Shop clerk or Lead in the bargaining unit, 2) bump the least senior Deli Clerk in the bargaining unit if they, have six (6) months of Deli experience with King Soopers.

The original document was signed by Steve DiCroce on 6/3/11 and Kim Cordova on 6/13/11 and is on file at the King Soopers Labor Relations Department.

AGREEMENT

Between

KING SOOPERS INC.,
A DIVISION OF DILLON COMPANIES, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7,
DENVER, COLORADO
Chartered by the
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO

Denver, Colorado (Clerks)

TERM: May 13, 2012 through September 12, 2015

DRAFT

JOINT EX. 2

27-CA-129598

Respondent 0110

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EXHIBIT NO. J-2 RECEIVED ✓ REJECTED

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AGREEMENT

Between

KING SOOPERS INC.,
A DIVISION OF DILLON COMPANIES, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7,
DENVER, COLORADO
Chartered by the
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO

Denver, Colorado (Clerks)
TERM: May 13, 2012 through September 12, 2015

THIS AGREEMENT is made and entered into by and between KING SOOPERS INC., a Division of Dillon Companies, Inc., hereinafter referred to as the "Employer" and UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7, Denver, Colorado, chartered by the United Food and Commercial Workers International Union, AFL-CIO, hereinafter referred to as the "Union".

ARTICLE 1

RECOGNITION AND EXCLUSIONS

Section 1. The Employer recognizes the Union as the sole collective bargaining representative for all employees actively engaged in the handling and selling of merchandise, including part-time workers who work regularly one (1) day or more a week, employed by the Employer in the grocery store or stores owned or operated by the Employer within the metropolitan area of Denver, Colorado (such jurisdiction to apply to current stores represented by this Union and future stores only of the Employer), but excluding all store managers, first assistant managers, associate managers, office and clerical employees, meat department employees, delicatessen department employees, demonstrators, watchmen, guards, professional employees and supervisors as defined in the National Labor Relations Act as amended.

Within the geographical jurisdiction of this Agreement, any new stores opened by the Employer shall be accreted and shall be covered by the terms of this Agreement.

ARTICLE 2

BARGAINING UNIT WORK JURISDICTION

Section 2. All work and services performed in the bargaining unit connected with the handling or selling of merchandise to the public shall be performed exclusively by bargaining unit members except as provided below. Store Managers, Assistant Managers, Field Merchandisers can perform all duties in the store.

AUTHORIZED WORK FOR VENDORS

Section 3. Vendor Work: Direct store vendors who deliver the product categories of beverages (including juice sold in produce/deli departments), cookies and crackers, bakery, pizza, ice cream, chips, specialty/gourmet/natural foods, greeting cards (and related products such as bows, wraps, candles, balloons, ribbons), newspapers, magazines, books and related products shall be allowed to perform all work in connection with the sale of their products directly delivered to the store. For purpose of this provision, the product categories as used herein shall be interpreted to include all products delivered by such vendor. Additionally, all vendors shall be allowed to stock and otherwise maintain any J-Hook or Clip strip program. Additionally, all vendors may perform: any work in connection with promotional and seasonal displays; facing in connection with the service of product; rotation of product; cleaning of product, shelves and racks; affixing coupons and other promotional materials to products; vendors shall be permitted to perform three (3) major resets per store per section per calendar year. Additionally, vendors may perform work, as necessary to accommodate the introduction of new items, or removal of discontinued items, from the set; checking of code dates and removal of out-dated product; and any work in connection with the opening of a new store and the two (2) week period thereafter, or during the two (2) weeks before and after a store remodel.

Section 4. Work Jurisdiction. Except for sanitation and floor maintenance, the Employer agrees not to subcontract operations existing within the stores. The Employer agrees that no employee classified as a Sanitation Clerk or Sanitation Manager on May 11, 1996 shall be laid-off or reduced in hours as a result of the subcontracting of floor care or expansion of Courtesy Clerk duties. However, the Employer reserves the right to promote Sanitation Clerks and/or Managers to All Purpose Clerk vacancies in order to provide for the use of outside contractors for floor maintenance and sanitation work. It is understood that before a full-time Sanitation Clerk is advanced to a full-time All Purpose Clerk position, such employee must have more seniority than the most senior employee on the All Purpose Clerk full-time list for the vacancy. It is understood that Sanitation Clerks protected herein may be assigned hours in lower classifications, at their sanitation rate, for purpose of meeting the job security provision of this section.

Subcontracting is defined as a contractual relationship with another employer whereby employees of that employer perform the work of bargaining unit employees. A purchase order is not a subcontracting agreement.

ARTICLE 3

UNION SECURITY AND CONDITIONS

Section 5. Union Membership. It shall be a condition of employment that all employees covered by this Agreement who are members of the Union on the effective date of this Agreement shall remain members, and those who are not members on the effective date of this Agreement shall, on the thirty-first (31st) day following the effective date of this Agreement, become and remain members in the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its effective date shall, on the thirty-first (31st) day following the beginning of such employment, become and remain members in the Union.

Section 6. For the purpose of Section 5 above, the execution date of this Agreement shall be considered as its effective date.

Section 7. Delinquent Members. Whenever the Union requires the Employer to discharge any employee for failure to join or maintain his membership in the Union in accord with the terms of this Article, the Union agrees to furnish the Employer an itemized copy of the delinquent's account with the Union together with a written request for discharge. The Employer will discharge any employee who falls within the bargaining unit as described in Section 1 hereof within ten (10) days after the receipt of said written request for discharge, unless, within said ten (10) day period, the delinquent employee pays or tenders his delinquent initiation fee (or uniform reinstatement fee, where applicable) and/or delinquent union dues to an authorized agent of the Union.

ARTICLE 4

CHECK-OFF

Section 8. The Employer agrees to deduct the weekly union dues (including initiation fees for new employees) and uniform assessments, from the net amount due each employee in the bargaining unit as described in Section 1 hereof who has furnished the Employer (either directly or through the Union) with an individual written authorization for making such deductions on a form mutually agreed upon between the Employer and the Union. It is understood that the check-off authorization is to be entirely voluntary upon the part of each such individual employee and that any such employee may revoke his individual check-off authorization upon giving thirty (30) days' written notice to the Employer and the Union.

Section 9. The Employer agrees to remit all such deductions to the President of the Local Union within ten (10) days after the last pay period of each month.

Section 10. ABC Checkoff. The Employer agrees to deduct amounts designated by employees for the Active Ballot Club when the Employer has been furnished an individual written authorization for making such deductions on a form mutually agreed upon between the Employer and the Union. It is agreed that the ABC authorization is to be entirely voluntary upon the part of each such individual employee and that any such employee may revoke his ABC checkoff authorization upon giving thirty (30) days written notice to the Employer and the Union.

ARTICLE 5

NEW EMPLOYEES, TRANSFERRED EMPLOYEES, PROMOTED OR DEMOTED

Section 11. When an employee is hired for a job or transferred or promoted or demoted into a bargaining unit job as described in Section 1 hereof, the Employer agrees within three (3) days to fill out a mutually agreeable form in triplicate, which advises the employee of his obligation to join the Union. One (1) copy of this form will be given to the employee and one (1) copy will be mailed to the Union in a stamped, addressed envelope provided by the Union.

Section 12. Completion of Forms For Benefit Programs. At the time of hiring, the Employer will advise each such employee of the fact that he must become a member of the Union within thirty-one (31) days and must remain a member of the Union as a condition of employment during the life of this Agreement. The Employer will likewise furnish each such employee with the address of the Union office and name of the Union representative. Completion of any necessary applications, forms and papers for qualification under the Health and Welfare Article or any other benefit programs provided by this Agreement, shall be completed on the first (1st) day of employment, but not later than the eligibility date of participation in the various plans.

Section 13. Off-Premise Training. Any employee who has completed his probationary period and who is sent to an off-premise training program shall not have his rate of pay reduced, and, if subsequently reclassified, shall receive the appropriate rate for the new classification. The rate of pay for attendance at the Employer's off-premise training school shall be no less than the minimum hourly rate set forth in the labor Agreement.

ARTICLE 6

RIGHTS OF MANAGEMENT

Section 14. The Employer retains the right to manage the store or stores, to direct the working forces, and to make necessary reasonable rules and regulations for the conduct of business, providing that said rules and regulations are not in conflict with

the terms of this Agreement in any way, and to establish reasonable standards of dress.

Section 15. Nothing in this Agreement shall be construed to prevent the Employer from placing cash registers in the Deli Department of the store and from assigning the employees of such department to operate the register.

ARTICLE 7

DEFINITIONS OF CLASSIFICATIONS

Section 16. For the purposes of this Agreement, the terms set forth below shall have the following meanings:

a. DEMONSTRATORS. The duties of demonstrators shall not include work normally done by employees covered by this Agreement.

b. ASSISTANT STORE MANAGER. An Assistant Store Manager and/or Associate Store Manager is an employee who serves in the capacity of the manager in the absence of the regular manager. Store Managers and Assistant Managers can perform all duties in the store.

c. HEAD CLERK. A Head Clerk is an employee who has been assigned by the Employer to direct or supervise the work of others. The mere fact that two (2) persons work together does not mean that one is a Head Clerk. The intent of the Head Clerk classification shall not be used to circumvent this Agreement.

d. PRODUCE DEPARTMENT MANAGER. A Produce Department Manager is defined as the one employee in a store who manages the operation of the Produce Department under the supervision of the Store Manager.

e. BAKERY DEPARTMENT MANAGER. The Bakery Department Manager is the employee in each store who is directly responsible to the Employer for the operation of the Bakery Department. This shall not be construed as meaning that the Employer is required to designate a Bakery Department Manager for the Bakery Department in each store which has a Bakery Department, inasmuch as the Employer may not choose to assign the managerial responsibilities to any employee within the Department, depending on the set-up in the particular store, the size of the Department, etc.

f. NON-FOODS OR GENERAL MERCHANDISE CLERK. A non-foods or general merchandise clerk's duties shall not include operating a checkstand where food items are handled (except that non-food clerks may be assigned to work at a checkstand handling food items, providing

they do not handle the merchandise where their primary duty involves the financial transactions only) or stocking or price marking food or bakery merchandise, but shall include pricing, handling, displaying, selling and stocking those items generally considered as non-food, general merchandise or drug merchandise. Notwithstanding, in a fuel center, GM/Non-Food Clerks shall be permitted to perform all work in conjunction with the operation of the fuel center without restriction including, but not limited to, the stocking, handling and checking of food items. It is further agreed that seasonal employees working in the classifications listed above shall be excluded from the terms of this Agreement.

A Non-Foods Clerk's duties shall include operation of the currency booth and customer service counter. The Letter of Agreement concerning eighty-four (84) hours requirement shall be null and void and shall only apply to those persons currently performing work in the booth or at the customer service counter. As those persons leave those positions through attrition, the hours made available may be filled by a Non-Foods Clerk.

g. NUTRITION CLERKS. A Nutrition Clerk is a clerk with special skills and education qualifying them to engage in sales and marketing related to the area of nutritional food products.

It is understood that the Nutrition Clerk will only be assigned in a store having a separate "Nutrition Department" and will only handle merchandise offered for sale in the Nutrition Department.

h. SALAD BAR CLERKS.

1. Employees promoted to the Salad Bar Classification must remain at that classification for six (6) months before moving to a higher classification.

2. No employee in the Salad Bar Classification shall be allowed to perform work in any other classification.

3. Any higher-rated employee in either the Retail Clerks or Meat Cutters Agreements may perform work in this Salad Bar Classification.

4. The Employer will notify the Union when salad bar operations are opened, and also advise the Union regarding the names of employees assigned in the Salad Bar Classification.

5. Employees on the payroll prior to ratification, shall receive the current rate of pay, plus the same amount of increases on the

same effective dates as the newly negotiated rates for Salad Bar employees hired after ratification.

6. It is understood the new lower pay progression and new classification as set forth herein shall be effective the Sunday following ratification.

i. MANAGER TRAINEES. Manager Trainees are defined as employees identified and selected by Management to be trained for store management responsibilities. Said Trainees shall be permitted the necessary flexibility to adequately prepare for store management. This will necessitate their access to all retail and meat departments existent in the store.

Hours worked by Management Trainees shall not affect hours worked by permanent bargaining unit employees. Hours allocated to Manager Trainees shall not be included in hours chargeable to store operations as relates to allocated store hours.

j. COURTESY CLERK DUTIES. The duties of a Courtesy Clerk are limited to facing of shelves, checking of code dates, sorting, bagging, and packing of sold merchandise, carrying and loading of sold merchandise, floor maintenance anywhere in the store, cleaning of parking lot and other adjacent areas outside the store, cleaning all areas in the store, collecting and disposing of trash and rubbish, repair and maintenance work, collecting shopping carts, the hanging and removal of signs and decorations (it is understood that Courtesy Clerks may hang signs from the ceiling containing prices), washing windows, returning unsold merchandise to shelves or point of disposal (including salvage, reclamation, shop back and abandoned merchandise), removing merchandise from the shelf which is damaged or abandoned, removing merchandise from the shelf and replacing merchandise to the shelf in the case of equipment breakdown or housekeeping, performing price checks, handling of recycling, sorting, counting and stacking of empty containers and the placement of such containers in areas designated by the Employer and the issuing of customer refund slips related to such returns, all work connected with the selection of customer purchases from the sales floor (including the storage and retrieval thereof), the delivery of merchandise (in such instance, the employee shall receive the delivery driver rate of pay), and the filling of supply items throughout the store.

The Employer may temporarily assign any employee within the bargaining unit, including Courtesy Clerks, without regard to seniority, to assist with seasonal demands in the Floral Department. Such employee shall receive hours not claimed by regular Floral department employees in the

store. Such employees shall not be assigned more than thirty (30) days from their most recent assignment date.

Section 17. Work Between Classification: It is understood that employees may perform incidental work in another classification without violating this Agreement. It is further agreed that where registers are placed within a department (including departments not covered under this Agreement and including employees of the customer service center) that the employees of such department shall be allowed to operate and handle sales of merchandise presented by customers at such register. Notwithstanding, any employee of a higher classification can be assigned work in a lower classification without restriction. Production Bakers and Cake Decorators (including non-Retail Clerks bargaining unit Production Bakers and Cake Decorators) may perform Bakery Clerk work, provided that such employees do not replace a scheduled Bakery Clerk shift.

Section 18. New Classifications. When a new job is created by the Employer, the Union shall be notified immediately, and a new wage rate of such job shall be determined by the Employer and the Union.

ARTICLE 8

RATES OF PAY

Section 19. The minimum wages for the indicated classifications shall be as set forth in Appendix "A" attached hereto, and by this reference made a part hereof.

Section 20. Part-Time employment shall be computed in accord with the appropriate hourly rates set forth in Appendix "A" attached hereto, and by this reference made a part hereof.

Section 21. Employees must actually work the hours set forth in Appendix "A" before progressing to the next wage bracket, except as otherwise provided in this Agreement.

ARTICLE 9

PRIOR EXPERIENCE

Section 22. In applying Sections, 19 and 20 of Article 8 of this Agreement to any newly-hired employee, the Employer will give recognition to the verified number of hours of actual work experience on a comparable job which said newly-hired employee may have performed within the previous five (5) years for any other employer in a similar retail grocery operation.

Any grievance over recognition given an employee for comparable work experience at the time of his employment must be filed pursuant to the terms and

conditions of the grievance procedure of this Agreement (excluding the employee's trial period).

Any employee shall receive upon request to his employer or former employer, the following information: Date of hire, date of termination, total hours worked in retail store unless such hours worked shall exceed six thousand five hundred (6,500) and then such fact shall be stated. The employee must show evidence of employment in the grocery industry before making such request.

ARTICLE 10

SCHEDULING AND ASSIGNMENT OF HOURS

Section 23. Work Schedules and Hours. Management retains the right to determine the number of hours, and start times of each shift, to be worked within each department and store. Daily scheduled shifts shall not be less than four (4) hours or more than eight (8) hours, at straight-time.

Not later than ten (10) days prior to the start of any workweek, management shall post a list of shifts for each department. Non-management, employees shall be allowed to select their schedule from the posted list of shifts for which they are qualified to perform, in seniority order, within their department. Full-time employees shall select first, followed by part-time employees. No employee shall be allowed to select a schedule that will result in overtime or other penalty provisions, unless expressly authorized by management. The Employee's selection shall be recorded on a master work schedule. Employees shall not be permitted to select a portion of a shift. Prior to the start of the selection process, management shall identify approved vacation requests on the schedule.

Management may allow employees of one department to select shifts in another department. In this event, the employee must be qualified as defined herein, to perform the work of the other department. In addition, management reserves the right to assign, at its discretion, employees to, and designate the starting times of, any ordering shift.

Employees must immediately make their shift selections at the time directed by management. If an employee fails to promptly select, management shall select on behalf of the employee based on the employee's last written scheduling preference request. In this event, the employee waives all rights to grieve management's scheduling selection.

Unless otherwise approved, or as the result of a reduction in hours, no full-time employee shall select less than forty (40) hours and no part-time employee shall select less than twenty (20) hours per week.

Management may require junior employees to select a specific number of shifts so as to facilitate the selection of all shifts from the list. In the event an employee is left with less than minimum hours, but has not been zeroed out, management may pull shifts in reverse seniority order from senior employees to get such employee to minimum hours, or management may elect to zero such employee out and assign any remaining hours in seniority order to senior employees.

The master schedule must be completed and posted by 9:00 AM on Friday prior to the start of the next workweek. Such schedule shall not be changed by management for that workweek except where such change is predicated on circumstances beyond the control of management such as sickness, injury, leaves of absence, vacations, jury duty, funeral leave, significant fluctuations in sales volume, utility failure or Acts of God. Nothing in this section should be construed as preventing management from calling in employees for extra work outside of the posted schedule, from requiring overtime work outside of the posted schedule, or from bringing in additional employees where it appears advisable in the opinion of management. If the schedule is changed pursuant to this section, and hours are reduced, then the master schedule shall be re-bid downward, from the point of the schedule change. If hours are added, such hours shall be assigned as provided in the additional hours section of this Agreement.

Part-Time Courtesy Clerks shall be scheduled for at least minimum hours, if available, at management's discretion.

For purposes of this Article; non-management positions are defined as those below the level of Department Head, Assistant Department Head and Head Clerk. Time spent by employees selecting shifts shall not be considered compensable work time, but, notwithstanding, management may permit employees to select shifts on Company time. To be considered qualified, the employee must have worked in the job assignment for a minimum of six (6) months within the last two (2) years. However, employees shall be qualified grocery/GM stocking or checking position if the employee has worked a minimum of three (3) months as a checker or stocker within the last three (3) years. Training hours, as designated by management, shall not be subject to selection by employees.

Section 24. Department Bidding. The Company shall allow during the first fifteen (15) days of February, to be effective the first workweek in March, and the first fifteen (15) days in August, to be effective the first workweek in September, non-management employees to bid within their classification and store to another department. Management retains the right to determine the number of full-time and part-time positions in each department. If a senior employee from a department bids into another department, the least senior employee in the classification and status affected shall be moved to the department vacated by the bidder. Employees may not bid into a department if such bid will result in the displacement of a booth, dairy, service desk, order, produce or frozen food clerk, unless the bidding employee has been previously classified as, trained for and work, for six (6) months or longer within the last two (2) years, in such position. Produce clerks may not bid out of the produce

department unless an employee with the same status, who is qualified as described herein, has requested bid into the produce department. The Employer agrees to provide training to qualify an employee to bid into another department as a grocery/GM stocker or as a checker.

Section 25. Additional Hours. Management shall post a weekly additional hours request list. Employees interested in working additional hours must sign and designate the days they are interested in working additional hours on such list by midnight of the Saturday prior to the start of the applicable workweek. When additional hours become available, management shall contact, in seniority order, employees who have requested to work on the day indicated on the request list and offer them the hours. If the hours cannot be assigned to the employees requesting them, management may fill the hours at its discretion. Nothing in this section shall be construed to require management to assign hours at overtime or to employees who have not made a request to work additional hours.

Section 26. Temporary Advancement. When an employee is required to perform work in a higher classification, he shall receive the higher rate, based on his experience, but if required to perform work in a lower classification, he shall retain his regular rate, except in the case of actual demotion, when the employee shall receive pay according to his classification and experience.

Section 27. Reduction of Hours. Part-Time Employees: If a part-time employee is zeroed out as a result of the selection of shifts, such employee shall be given layoff rights pursuant to the contract. However, if the average of all part-time employees within the classification and department is twenty-four (24) or more hours (including hours paid for vacation, sick, funeral, unworked holiday and jury duty pay) management may elect to pull hours, in reverse seniority order, from senior employees to maintain the bottom twenty percent (20%) (or three (3) employees whichever is greater) of employees within the classification and department at minimum weekly hours. An employee electing to displace pursuant to the layoff procedure shall assume the selected schedule of the employee he is bumping until he is able to select for the next workweek.

Full-Time Employees: Management shall not write a schedule of shifts that would result in a full-time employee being unable to select a forty (40) hour schedule (thirty-two (32) hours in a holiday week) unless the average scheduled hours (including hours scheduled and paid for vacation, unworked holiday, jury, sick, and funeral pay) of all part-time employees within the classification and department is twenty-four (24) hours or less for the involved workweek. A full-time employee unable to select a forty (40) hour schedule, shall in their second consecutive week of such reduced hours, be allowed to exercise his/her seniority to claim the schedule of the least senior full-time employee in the classification within the bargaining unit who is working a forty (40) hour schedule. It is understood that the employee may exercise his/her seniority to bump any time between the second and eleventh week of reduction. The employee whose schedule is claimed under this procedure shall immediately be assigned the schedule

of the claiming employee, or be allowed to step-down to part-time status and displace the least senior part-time employee in their store.

The parties agree that no employee assigned as full-time on May 11, 1996, shall have his hours reduced to less than forty (40) hours as the result of this provision, unless all part-time employees in the classification have had their scheduled hours reduced to twenty-four (24) hours or less. Such full-time employee shall have his hours reduced to twenty-four (24) or less before any other full-time employee protected under this paragraph is reduced.

Full-Time Employees-Competitive Openings: During the first sixty (60) days following a competitive opening, management may elect, in lieu of reducing hours as provided above, to layoff full-time employees to maintain the same proportion of full-time employees to part-time employees the store averaged in the month prior to the competitive opening. In the event of a layoff, the displaced employee shall be given the following options:

1. Displace the least senior full-time employee in the bargaining unit, or

2. Step-down to part-time and displace the least senior part-time employee within the classification and store.

Employees displaced by the full-time reduction under this procedure shall be given their layoff options pursuant to the layoff language of this Agreement.

It is understood that the provisions of this section shall apply only to those classifications impacted by a competitive opening.

Section 28. Vacation Scheduling. The Employer retains the right to determine the number of employees who may be on vacation at any given time. However, in no event shall it be less than one (1) person per store. If a dispute develops between employees as to vacation preference, seniority shall govern within the department, the classification and store. Any vacation weeks that become available after the posting of such roster shall be offered by seniority within the classification and store.

The Employer will post a notice December 1 of the prior calendar year, and the employees will sign the roster as to their choice of vacation. This list will remain posted for selection until January 31 of each calendar year.

Any employee who fails to sign such roster prior to January 31 will be permitted to take vacation at a time that will not interfere with the other employees' established vacation period(s).

When the vacation dates have been established, they will not be changed unless mutually agreeable between the employee and Employer.

Notwithstanding the above, employees who voluntarily transfer to another store or department after their vacation has been selected are subject to having their vacation rescheduled.

On a basis agreeable to both the Employer and employee, employees shall be allowed to schedule vacations from mid-week to mid-week. For purposes of this provision, mid-week shall be defined as a vacation starting and stopping Tuesday, Wednesday or Thursday. An employee shall be considered to have met the minimum scheduling requirements of this Article if the total of the hours worked and paid for vacation (and unworked holiday if applicable) for the two workweeks involved is equal to eighty (80) for a full-time employee, forty (40) or more for a part-time employee.

ARTICLE 11

NO REDUCTION IN PAY

Section 29. No employee shall suffer any reduction of present hourly pay because of the adoption or through the operation of this Agreement, nor shall be reclassified to defeat the purpose of this Agreement unless otherwise agreed between the parties.

Section 30. The Employer shall not raise or subsequently lower hourly rates of pay for classifications covered by this Agreement without the mutual consent of the Union.

ARTICLE 12

OVERTIME

Section 31. Overtime compensation at the rate of time and one-half (1-1/2x) the employee's base hourly rate of pay shall be paid under the following conditions:

a. For all time worked in excess of eight (8) hours in any one (1) day.

b. For all time worked in excess of forty (40) hours in any one (1) work week as described above.

c. For hours worked prior to an employee's scheduled starting time when less than eight (8) hours has elapsed since his last previously scheduled quitting time. (There will be at least eight (8) hours between each employee's scheduled quitting time and his next scheduled starting time.)

d. For all hours scheduled and worked on the sixth and seventh day in a work week by part-time employees who work less than forty (40) hours in that work week. No employee shall be permitted to claim additional hours or schedules which would provide a six (6) or seven (7) day schedule during a work week.

Section 32. No Pyramiding of Overtime. It is understood and agreed that there shall be no pyramiding of overtime and premium pay for the same hours of work.

ARTICLE 13

SUNDAY PREMIUM

Section 33. The premium rate for work performed on Sunday as such shall be one and one-fourth times (1-1/4x) the employee's regular straight-time rate of pay (exclusive of Courtesy Clerks). The Sunday premium, for hours worked up to eight (8) shall in no instance be offset against any weekly overtime which may be due under subparagraph b of Section 31 because of the fact that the employee worked over forty (40) hours in the particular workweek. The Sunday premium shall not be averaged into the employee's straight-time rate for the purpose of determining the rate upon which daily or weekly overtime is based in any work week under Section 31 hereof. Employees hired on or after March 6, 2005 shall not be eligible for Sunday Premium.

Section 34. An employee whose straight-time scheduled shift begins on Saturday and continues beyond midnight on Saturday shall receive Sunday Premium Pay for those hours worked on Saturday, and such shifts in their entirety shall be the first shift of the new work week.

Section 35. In those situations where an employee's straight-time scheduled shift begins at or after 8:00 PM on Saturday and continues beyond midnight on Saturday, the Employer shall not reschedule or reduce the hours of such employee for the sole purpose of avoiding the payment of such Sunday premium, though it is recognized that changes in the schedule may be necessitated by changes in business operations.

Section 36. Courtesy Clerk Sunday Premium. Courtesy Clerks shall receive a premium of fifty cents ($0.50) per hour for all work performed on Sunday.

ARTICLE 14

TRAVEL BETWEEN STORES

Section 37. When an employee is transferred from one store to another store during his workday, reasonable time spent in traveling between said stores shall be considered as time worked. Assigned travel between stores in the employee's personal vehicle shall be reimbursed in the amount established by the Employer for reimbursement to its non-bargaining unit employees (but not less than the IRS rate), exclusive of travel to and from the employee's home. No employee will be required to use his personal vehicle to conduct Company business.

Before an employee is permitted to use their personal vehicle for company business, the employer shall have the employee sign a statement acknowledging their risk and certification of a valid driver's license and insurance coverage.

ARTICLE 15

NIGHT PREMIUM

Section 38. A premium of fifty cents (50¢) per hour shall be paid for all work performed between the hours of 12:00 midnight and 6:00 am to all employees (excluding Courtesy Clerks). Employees whose shifts are scheduled to end at 12:00 midnight need not be paid any premium under this Section, even where it is necessary for them to remain on the job for a short period in order to complete their work, provided that such additional period does not exceed fifteen (15) minutes.

All Courtesy Clerks shall receive twenty-five cents (25¢) per hour in addition to the hourly rate for all work performed between the hours of 12:00 midnight and 6:00 am.

Night premium shall not apply where the employee is working at overtime or on Sunday or on a holiday.

ARTICLE 16

HOLIDAYS AND HOLIDAY PAY

Section 39. All employees hired on or before March 5, 2005 who have completed their probationary period shall be paid for the following holidays whether or not they fall on what would normally be a workday for the employees involved: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. Such employees shall be entitled to two (2) personal holidays, which must be requested two (2) weeks in advance and approved by the Store Manager.

All employees hired on or after March 6, 2005 who have completed their probationary period shall be paid for the following holidays whether or not they fall on what would normally be a workday for the employees involved: Thanksgiving Day and Christmas Day. After two years of service such employees shall be entitled to one (1) personal holiday, two (2) personal holidays after three (3) years of service and three (3) personal holidays after four years of service, which must be requested two (2) weeks in advance and approved by the Store Manager.

The employer may operate its stores, at its sole discretion, on any of the holidays recognized by this agreement.

Section 40. **Personal Holidays.** To be eligible for personal holidays during each calendar year, an employee must be on the payroll as of January 1 of each year.

Such holidays must be taken during the respective calendar year. An employee whose employment terminates prior to having taken his personal holiday or who fails to take his personal holiday in the calendar year shall not be entitled to holiday pay. In the event an employee fails to schedule his personal holiday by October 1 of the calendar year, the Employer will select a date and schedule such employee for his remaining personal holidays for that year. Further, personal holidays shall be granted by seniority, classification and store.

Section 41. When a holiday falls on Sunday, the following day shall be observed.

Section 42. Holiday Pay for Full-Time. As pay for an unworked holiday, regular full-time employees will be paid at straight-time for the number of hours they would normally have worked on the day in question, but not to exceed eight (8) hours. If the holiday falls on a day which would normally have been such employee's scheduled day off, he shall be paid eight (8) hours at straight-time as pay for the unworked holiday.

Section 43. Holiday Pay for Part-Time. Holiday pay for part-time employees who have completed their probationary period, and who otherwise qualify, shall be based on the number of hours worked in the calendar week immediately prior to the week in which the holiday occurs, divided by five. Provided the employee actually performs work in the calendar week immediately prior to the Holiday week (unless on vacation or receiving sick pay for time not worked during such week or during the first thirty (30) days of an absence for which an employee is receiving Workmen's Compensation), an employee shall not receive less than three (3) hours holiday pay.

Section 44. Qualification for Unworked Holiday Pay. In order to qualify for pay for an unworked holiday, an employee otherwise eligible for such pay under the terms of this Article must work his regularly scheduled day immediately preceding the holiday, the holiday if scheduled, and his regularly scheduled day immediately following the holiday, unless he has been previously excused from such work by the Employer or unless he was prevented from so working due to a bona fide illness. In any event, the employee must perform work during the week in which the holiday occurs, unless on vacation, or receiving sick pay for time not worked during the week in which the holiday occurs, or during the first thirty (30) days of an absence for which an employee is receiving Workmen's Compensation.

Section 45. An unworked holiday, even though paid for under the terms of this Article, shall not be counted as a day worked for the purpose of computing overtime pay in a holiday workweek.

Section 46. Premium Pay for Holiday Work. For employees hired on or before March 5, 2005, when a holiday is worked, the employee shall be paid one and one-half (1½) times his/her normal hourly rate of pay, in addition to the holiday pay provided herein. For employees hired on or after March 6, 2005, when a holiday (as

defined above for such employees) is worked, the employee shall be paid one dollar ($1.00) per hour worked.

ARTICLE 17

VACATIONS

Section 47. All regular full-time employees, and all part-time employees, who were hired on or before March 5, 2005 and who have worked eight hundred and thirty-two (832) or more hours in their anniversary year, covered by this agreement, shall receive one (1) week's paid vacation after one (1) year's service, two (2) week's paid vacation after two (2) years' service, three (3) week's paid vacation after five (5) years' continuous service, four (4) weeks' paid vacation after twelve (12) years' continuous service and five (5) weeks' paid vacation after twenty (20) years continuous service.

All regular full-time employees, and all part-time employees, who were hired on or after March 6, 2005 and who have worked one thousand forty (1,040) or more hours in their anniversary year, covered by this agreement, shall receive one (1) week's paid vacation after one (1) year's service, two (2) weeks' paid vacation after three (3) years' service, three (3) weeks' paid vacation after eight (8) years' continuous service.

Such vacation shall be paid at straight-time rates. The number of hours for which such employees shall be paid for a vacation week shall be the average number of weekly hours worked during the twelve (12) months immediately preceding the employee's anniversary date of employment not to exceed forty (40) hours pay for each week of vacation. Hours paid for vacations, holidays and sick leave shall be considered as hours worked for the purpose of computing vacation amounts.

Section 48. Effective the first Sunday following execution of this Agreement, the Employer will convert the employees' weekly vacation allotment to a daily vacation allotment by multiplying the number of weeks of vacation due by five (5). The hours paid for each day of vacation will be based on the average weekly hours of vacation as calculated in Section 47 divided by 5. Employees may be allowed to take vacation one (1) day at a time subject to approval by the Employer and based on the following requirements:

1. Daily vacation may not be scheduled through the annual sign-up procedure.
2. Daily vacation must be requested of the Store Manager in writing by Tuesday prior to the posting of the schedule for the week in which the time off is requested.
3. Employees may not receive more than five (5) days vacation pay in any calendar week.
4. Not more than one (1) week (five (5) days) may be taken one (1) day at a time per anniversary year.

5. Weekly vacation requests shall take preference over daily vacation requests.

Section 49. Vacation Pay in Advance. An employee who has earned vacation on the basis of having completed an anniversary year shall receive his vacation pay during the workweek immediately preceding the employee's vacation, provided the employee has requested such in writing at least two weeks in advance of his vacation.

Section 50. Holiday During Vacation. If any one of the holidays enumerated in Article 16 hereof falls during an employee's vacation, the employee shall receive an extra day's vacation pay because of it.

Section 51. A vacation may not be waived by an eligible employee and extra pay received for work during that period, unless agreed by the Union and the Employer. Vacations must be taken during each anniversary year.

Section 52. Vacation Upon Lay off or Termination. When an employee is laid off, or discharged, or leaves his place of employment, and at said time he is entitled to a vacation, he shall receive his vacation wages at the time of the layoff or discharge, or at the time he leaves his place of employment. Provided, however, that if such employee be discharged for proven dishonesty, he shall not be entitled to any vacation or vacation pay, whether the same has accumulated or not.

Section 53. In the event a regular full-time employee who has been employed two (2) years or longer voluntarily quits or is discharged for reasons other than proven dishonesty, such employee shall be paid pro rata vacation pay earned up to the time the employment relationship is severed.

ARTICLE 18

MINIMUM WEEKLY SCHEDULE

Section 54. No regular employee shall be scheduled for less than twenty (20) hours in a work week, if the employee is available.

ARTICLE 19

NO FREE WORK

Section 55. It is intended that there shall be no "free" or "time-off-the-clock" work practices under this Agreement. Any employee found by the Employer or the Union to be engaging in such unauthorized practice shall be subject to discipline.

ARTICLE 20

TIME CARDS

Section 56. In stores where time cards are used, employees shall be required to punch their own time card immediately before beginning work and immediately upon ending work. No employee shall have the right to punch another employee's time card.

In stores without time clocks, time cards shall be filled in daily by each employee. Any employee punching or filling in another employee's time card shall be subject to immediate discipline.

ARTICLE 21

SPLIT SHIFTS

Section 57. There shall be no daily split shifts. A split shift is defined as two work periods separated by more than a normal meal period, but within eight (8) hours. Notwithstanding the above, store meetings which are covered elsewhere in this agreement shall under no circumstances be considered as a split shift.

ARTICLE 22

STORE MEETINGS

Section 58. All time spent by an employee actually attending any store meeting where his attendance is required by the Employer shall be counted as time worked with a minimum of two (2) hours at the applicable rate of pay when an employee is called back for such a meeting. In the event the employee is required to attend more than two (2) meetings per calendar year, the call-in-provision in Article 23 shall apply.

ARTICLE 23

REPORTING PAY

Section 59. Any employee able to render required services shall, if called for work, be guaranteed an amount equal to four (4) hours' pay at his straight-time rate of pay. Employees working in two (2) stores of the Employer in any one (1) day shall receive a full day's pay for such work.

Notwithstanding the above, students and Courtesy Clerks able to render required services shall, if called for work, be guaranteed three (3) hours' pay, provided the employee is able and available to work the three (3) hours.

ARTICLE 24

LUNCH BREAKS

Section 60. Each employee who is scheduled to work in excess of five (5) hours in a day shall receive, on his own time, a one (1) hour lunch period, or, upon mutual agreement between the employee and the Employer, a one-half (1/2) hour lunch period at approximately the middle of his workday. Individual employees' change of lunch period from one (1) hour to one-half (1/2) hour, or vice versa, shall occur only at the beginning of a new work schedule.

Employees' scheduled lunch periods will be set forth on the schedule, but the parties recognize it may be necessary to alter the lunch period schedule due to the needs of the business.

ARTICLE 25

RELIEF PERIODS

Section 61. The Employer will give employees a relief period of fifteen (15) uninterrupted minutes for each four (4) hour period worked, as near as practical to the middle of the four (4) hours. Notwithstanding the above, any employee whose work shift is seven (7) hours or more, shall receive at least two (2) rest periods.

Employees' scheduled lunch periods will be set forth on the schedule, but the parties recognize it may be necessary to alter the lunch period schedule due to the needs of the business.

When an employee is required to work ten (10) hours in a day, he shall be entitled to a third relief period.

ARTICLE 26

PROBATIONARY PERIOD

Section 62. The first thirty (30) calendar days of employment shall be considered a trial period, during which time an employee may be terminated for any reason and he shall have no recourse to the grievance or arbitration procedures set forth in this Agreement concerning such termination.

This probationary period may be extended an additional thirty (30) calendar days by mutual agreement between the Employer, employee and the Union.

ARTICLE 27

SENIORITY

Section 63. Seniority is the length of continuous employment with the Employer. Seniority shall be dated from the date the employee actually reports for work.

Section 64. Seniority of Transferred Employees. Employees transferring into the bargaining unit shall have no seniority rights during the thirty (30) calendar-day period immediately following such transfer. Upon completion of such calendar thirty (30) day period, all seniority acquired since the most recent hire date of the employee while in the employ of the Company shall be fully restored to the employee to be used for whatever purpose or rights he or she is otherwise entitled.

Section 65. Termination of Seniority. Seniority shall terminate for any of the following reasons:

1. Quit.
2. Justifiable Discharge.
3. Layoff of nine (9) months for employees with less than two (2) years of service; twelve (12) months for employees with two (2) or more years of service.
4. Failure to return to work in accordance with the terms of a leave of absence.
5. Failure to report for work upon recall after a layoff within five (5) days after date of mailing of recall notice sent by registered letter to the last address furnished in writing to the Employer by the employee.

Section 66. Seniority Lists. Bargaining unit seniority lists shall be provided to the Union no more than two (2) occasions during the calendar year, upon request by the Union.

Section 67. Definition of Full-Time Employee. A regular full-time employee is defined as an employee who has been hired as such or works forty (40) or more hours per week for at least four (4) consecutive weeks, in his home store, except for assignment to a forty (40) hour per week schedule as a result of the employee receiving any hours caused by other employees' absence for any reason. Scheduled hours of work voluntarily vacated by an employee (such as trading of hours) shall not be used for purpose of advancing an employee to full-time status. An employee who fails to maintain full-time status as a result of working less than forty (40) hours per week for reasons other than absence due to an approved leave of absence, or a reduced schedule resulting from an on-the-job injury for twelve (12) consecutive weeks shall be designated as a part-time employee.

BARGAINING NOTE: It is understood that for purposes of this provision, the definition of "absence" shall include such things as absence from work due to vacation, holiday, vacated shift, unexcused absence, funeral leave, jury duty, leave of absence and illness.

Assignment to Full-Time Status. When a full-time vacancy, other than a four (4) week at forty (40) hour opening defined in Section 67, occurs and the Employer determines that such vacancy shall be filled by a full-time employee, the job vacancy for non-management positions shall be filled by the assignment of the most senior qualified employee of the classification who has signed the current full-time request list as provided for in this Agreement. Should management be unable to fill such vacancy from the list, then such vacancy shall be posted within the affected store for seventy-two (72) hours and management shall offer the full-time assignment to the senior qualified employee of the store and classification who signed the posting before hiring off-the-street.

Four (4) week at forty (40) hour openings shall be filled by the most senior employee within the store and affected classification who has signed the full-time request list as set forth in this Agreement. Should management be unable to fill such vacancy from the list, then such vacancy shall be posted within the affected store for seventy-two (72) hours and management shall offer the full-time assignment to the senior qualified employee of the store and classification who signed the posting before hiring off-the-street.

Notwithstanding the above, the Employer may transfer a full-time employee from another store to fill a vacancy in lieu of advancing an employee to full-time status under this Article.

Employees with three (3) or more years of service may sign the full-time request list during the first fifteen (15) days of January and the first fifteen (15) days of July to be considered for advancement to full-time effective with the first workweek in February and August respectively. Such request shall state the specific store(s) in the bargaining unit that the employee desires advancement to full-time. The Employer will send the Union a copy of the new full-time request list.

If an employee is offered assignment to full-time status and accepts or declines the same, his/her request shall be voided.

The Employer shall not make assignments of full-time status to a probationary employee or to an employee on leave of absence.

Section 68. Voluntary Reduction to Part-Time. A full-time employee, who has requested and has been assigned a part-time schedule, shall immediately be classified as part-time.

Section 69. Promotions. The Employer agrees to make promotions to non-management, non-APC classifications to the most senior qualified employee within each store. Management will post a list of openings within the store on Monday. Employees may sign the posting and be considered for promotion. The posting shall remain posted through midnight Wednesday. The Company shall offer the promotion to the senior qualified employee within the store prior to hiring off-the-street. Floral clerks, Pharmacy Technicians, Bakery Production employees, and Cake Decorators may be assigned at management's discretion.

For purposes of this section, a promotion is an assignment to a classification which has a higher "journeyman" or "thereafter" rate than the classification being vacated by the involved employee.

For All Purposes Clerk (APC) positions, management shall fill the opening with the most senior qualified employee in the bargaining unit who has previously signed the promotion request list as described below. An employee who is desirous of promotion to All Purpose Clerk (APC) may sign the promotion request list during the first fifteen (15) days of January and the first fifteen (15) days of July to be considered for promotion effective with the first workweek in February and August respectively. Such request shall state the specific stores in the bargaining unit the employee is desirous of promotion to. The employer will send the Union a copy of the new promotion request list. If the list is exhausted for a particular store, then management will post the opening within the store and allow employees of the store, regardless of their seniority date, to request promotion. The Company shall offer promotion to the senior qualified employee within the store prior to hiring off-the-street.

If an employee is offered and accepts or declines the same, he/she will have his/her request voided. An employee accepting a promotion must hold such position for six (6) months before being eligible to sign up and accept another promotion.

The Employer shall not make promotional assignments to probationary employees or to an employee on a Leave of Absence.

Section 70. Probationary Period for Promotions. When any employee is promoted to a higher classification, he shall be on probation for thirty (30) calendar days if full time, forty-five (45) calendar days if part time. If an employee is unsuccessful during probation, the employee will be returned to his prior classification with regard to position and status.

Section 71. Demotion for Just Cause. Except under the provisions of Section 74, no employee shall be demoted from a higher classification without just cause.

Section 72. Demotions and Step Downs.

1. Whenever a member of the bargaining unit, classified as a Head Clerk, or above, is demoted, such employee may be returned to the classification

and status (i.e., full-time or part-time) held when he/she accepted the bargaining unit position of Head Clerk or above, or the employee may exercise his/her seniority to claim a position in accordance with the current Full-Time or Promotion Request Lists. It is understood that the employee must be employed for one continuous year in the bargaining unit prior to the demotion or step down or the employee shall be placed in the position of Courtesy Clerk.

2. Whenever a management employee, who is not a member of the bargaining unit, is demoted, or steps down into the bargaining unit, such employee may exercise his or her seniority, provided a vacancy (as defined in the collective-bargaining agreement) exists, to claim a position in the bargaining unit in accordance with the Full-time or Promotion Request Lists. For the purpose of this Section, the non-bargaining unit management employee shall be deemed to have full company seniority from the first day of assignment into the bargaining unit notwithstanding language set forth in the collective bargaining agreement establishing a 30-day waiting period. It is understood that the employee must be employed for one continuous year in a store or facility covered by a collective bargaining agreement with Local No. 7 immediately preceding the demotion or step down or the employee shall be placed in the position of Courtesy Clerk.

3. This agreement shall not apply when Head Clerks or above are affected by a layoff (as opposed to a demotion or step down). Under such circumstances, the provisions of the collective bargaining agreement concerning layoff shall govern.

4. Notwithstanding the foregoing, it is understood that the demotion and step down of bargaining unit employees will be subject to the provisions of the collective bargaining agreements.

5. Whenever a member of the bargaining unit, in a lesser classified job than Head Clerk, is demoted, whether voluntary or involuntary, such employee may be returned to the classification and status (i.e. full-time/part-time) held when he accepted the current classification being vacated, or the employee may exercise his seniority to claim a position in accordance with the current Full-Time or Promotion Request Lists.

ARTICLE 28

UNSCHEDULED OVERTIME

Section 73. Unscheduled Overtime Hours. Daily overtime not previously scheduled shall be offered in seniority order within the department, the classification and the store, to the employees present when the need for overtime arises. Nothing herein shall be construed to require the scheduling of overtime when another employee's scheduled hours can be extended or part-time employees may be called in without overtime penalty. Hours unclaimed under this procedure may be assigned in

reverse order of seniority among those employees within the department within the classification within the store present when the need for overtime arises.

Overtime assignments of four (4) hours or more may be filled by calling in employees, in seniority order, within the classification and the department on their non-scheduled day without violating this Section.

ARTICLE 29

LAYOFFS

Section 74. Layoffs. When a reduction in the workforce is necessary, as opposed to a reduction in hours, the following procedure shall be used:

Layoff will begin in departments (checker, day stocker, night stocker and produce for all-purpose clerk classification; general merchandise and grocery department for the general merchandise clerk classification) in the classification to be affected in reverse seniority order. The affected person shall be notified and given the following options:

(a) Displacing a less senior employee in the same classification in the store, if the affected employee is qualified for such position.

(b) Displacing the least senior employee within the same classification within the employee's home store quadrant, if the affected employee is qualified for such position, (with regard to booth assignments, floral designers, and pharmacy technicians, an employee must be qualified to exercise their rights herein). For purposes of this provision, the Denver bargaining unit shall be divided into 4 quadrants using Alameda and Broadway as the lines for establishing the quadrants.

(c) Displacing the least senior employee within the same classification within the bargaining unit, if the affected employee is qualified for such position, (with regard to booth assignments, floral designer (most senior by store) and pharmacy technicians, an employee must be qualified to exercise the rights herein.

(d) Displacing the least senior employee in a lower classification within the same store, if the affected employee is qualified for such position. (With regard to booth assignments, floral designers [most senior by store] and pharmacy technicians, an employee must be qualified to exercise the rights herein.)

(e) Accepting the layoff.

(f) Employees on medical leave of absence, and subject to layoff, shall be placed on layoff until such time as they are released to return to work. The affected employees shall be given their layoff options immediately upon their release to work.

Such employee shall receive the rate of pay for any lower classification to which he moves under this procedure.

Section 75. Employees Accepting a Lower Classification. Laid off employees, and employees who accept a job in a lower classification in lieu of layoff, shall be recalled as needed, in order of seniority, to jobs they are qualified to perform. The Employer shall not hire a new employee or promote an existing employee into a position for which a laid off employee or employee who accepts a job in a lower classification is qualified and available to perform. Employees recalled from lay-off may refuse if the store being offered is more than ten (10) miles from their previous store. In such event, the employees will maintain recall rights.

Section 76. Employees Accepting Lay Off. An employee accepting a layoff, rather than accepting a job in a lower classification, may inform the Employer in writing at the time of the layoff of his desire to be recalled to a lower classification and such notification shall be honored when a vacancy occurs. The notice shall specify the lower classification to which the employee desires recall. It is understood that any employee on layoff from the classification where the vacancy occurs shall have preferential rights to such vacancy. Employees recalled from lay-off may refuse if the store being offered is more than ten (10) miles from their previous store. In such event, the employees will maintain recall rights.

Section 77. Courtesy Clerk Options. The above notwithstanding, the options of a Courtesy Clerk shall be limited to displacing the shortest service Courtesy Clerk in that store or accepting the layoff. Courtesy Clerks with three (3) or more years of service may displace the least senior courtesy clerk in the bargaining unit.

ARTICLE 30

TRANSFER FROM STORE TO STORE

Section 78. Transfers from Store to Store. Transfers from store to store shall not be made or denied for capricious, arbitrary or discriminatory reasons. Employees desiring a transfer to another store within the bargaining unit, in order to be near their residence, may indicate their desire for transfer in writing to their Store Manager. Such transfer requests will be considered at the time an opening occurs within their classification and status.

ARTICLE 31

NEW STORE LANGUAGE

Section 79. In the event of the opening of a new store within the bargaining unit (not a replacement of an existing store), the following procedure shall apply:

1. At least four (4) weeks prior to the opening of a new store, the Employer will post a sheet in each location for interested employees to sign if desirous of a transfer to the new location. The sheet shall remain posted for at least ten (10) days.
2. Job openings either at the new store or created by transferring employees at their former store shall first be filled by employees on layoff in the classification of the vacancy before any new employees are hired or current employees are promoted.
3. Employees who have signed the new store transfer request sheet shall be given consideration based on their qualifications and the requirements of the store. It is understood that the Employer may move employees from its own competitive stores which may be impacted by the new store opening before consideration of other employee desires.
4. In the event the Employer opens new stores within the geographical area of this Agreement, as set forth in Article 1, not less than sixty percent (60%) of the initial staffing of the new store shall be made by employees covered by this bargaining Agreement, if available.

ARTICLE 32

LEAVES OF ABSENCE

Section 80. Sickness, Injury or Pregnancy. Leaves of absence shall be granted for up to eighteen (18) months without pay when an employee with three (3) months of continuous service is unable to work because of bona fide sickness, accident, disability, or pregnancy. However, in the event such an employee is unable to return to work at the end of eighteen (18) months of his/her leave period, he/she shall be entitled to an additional leave of six (6) months if he/she submits satisfactory medical evidence that he/she will be able to return to duties within his/her classification within the said additional period.

Section 81. Leave of Absence for Care of Newborn or Adopted Child. For employees with one (1) year of continuous service in the bargaining unit, a Leave of Absence for either parent shall be granted without pay for a period of up to twelve (12) months for the purpose of Newborn or Adopted Child Care. The employee shall be guaranteed reinstatement in accordance with his seniority. An employee who wishes to change his or her date of return to work shall notify the Store Manager two (2) weeks in advance and shall be returned to work as set forth above. The Leave of Absence for either parent must end no later than twelve (12) months from the date of birth or date of adoption. The Employer may require verification of the parent relationship to the newborn or to the adopted child.

Section 82. Leave of Absence for Family Care. A family care leave, without pay, shall be granted, upon request by an employee for a total of up to six (6)

consecutive months within a two (2) year period. The employee requesting the leave must have a minimum of one (1) year continuous service in the bargaining unit at the time of the request. The employee shall be guaranteed reinstatement in accordance with his seniority at the end of his leave. Any employee who wishes to change his or her date to return to work shall notify the Store Manager two (2) weeks in advance of the date they intend to return. The purpose of this leave shall be to care for seriously ill family members. For the purpose of this leave, "family members" shall be:

1. Spouse and parents of the employee.
2. Biological or adopted unmarried children under nineteen (19) years of age and full-time students up to age 23.
3. A child of any age who is incapable of self-support.
4. Any relative residing in the employee's home and dependent upon the employee for care.

The employee shall be required to present satisfactory evidence of serious illness of the family member, the expected duration of the absence, and the reason for the employee's involvement.

Section 83. Personal Leaves. Leaves of absence without pay for reasonable periods not to exceed thirty (30) days may be granted by the Employer to employees who have completed one (1) year of service for other reasons mutually agreed to between the Employer and the employee. The thirty (30) day period may be extended by an additional thirty (30) days by mutual agreement between the Employer and employee.

Section 84. Military Leave. All seniority granted employees under the terms of this Agreement shall be subject to the rights granted by law to the employees volunteering, called or conscripted for active military service under the National Guard Act of 1940 and the Selective Service Act of 1942, and any additions or amendments thereto, or rulings and interpretations thereof by any authorized court or agency.

Section 85. Union Leave. Leaves of absence without pay for Union business not to exceed six (6) months may be granted by the Employer to employees who have completed one (1) year of service. The six (6) months may be extended by an additional six (6) months by mutual agreement between the Employer and employee.

Section 86. Request for Leave of Absence. All leaves of absence must be requested in writing to the Store Manager unless the employee is physically disabled to the extent that such advance request is not possible and shall state: (1) the reason, (2) date leave is to begin, and (3) expected date of return to work. Leaves of absence shall be granted in writing in advance and a copy shall be given to the employee.

Section 87. Returning from Leave of Absence. The employee must be qualified to resume his regular duties upon return to work from an approved Leave of

Absence. A doctor's certificate verifying that the employee is able to resume his normal duties may be required. The employee shall be returned to the job previously held, or to a job comparable with regard to rate of pay no later than on the first (1st) weekly schedule, provided the notice of intent to return to work is received prior to 9:00 am, Wednesday of the week preceding the next available schedule.

ARTICLE 33

BEREAVEMENT LEAVE

Section 88. Upon request, an employee covered by this Agreement shall be granted the necessary time off with pay at his regular straight-time rate of pay in order to make arrangements for, attend a funeral and/or for grieving occasioned by a death in his immediate family. Such time off with pay shall in no event exceed three (3) regularly scheduled working days, and the amount of such paid time off actually granted shall normally depend upon the distance involved. The immediate family is defined as the employee's father, mother, step-parents, grandparents, spouse, children, brother, or sister; and father, mother, brother or sister of the then existing spouse, step-child, and grandchildren. Payments shall not be made hereunder where the relative's death occurs while the employee is on vacation or on a Leave of Absence.

Additional time, without pay, shall be granted as is needed by the employee up to 7 days.

Section 89. If an employee is notified of the death of his spouse, parent, child or grandchild while at work, he shall be granted the remainder of the day off and paid for scheduled work hours that day. This shall not be counted as part of the above three (3) days. Employees must attend the funeral in order to qualify for pay, and the Employer may require satisfactory evidence confirming the relationship to the deceased person.

Section 90. No schedule shall be changed for the purpose of making the employee's day off replace a day that would otherwise have been paid for under these provisions.

ARTICLE 34

JURY DUTY

Section 91. Whenever any employee covered by this Agreement is required to serve on a petit jury during his regular working hours, the Employer agrees to pay such employee the difference between what he is paid for serving on the jury and what he would have received from the Employer in straight-time pay had said jury duty not prevented him from being at work. On any scheduled work day, the employee shall promptly report to complete any remaining hours of his scheduled work day; provided, no employee shall be required to so report for work on any day on which he has served

and been compensated by the court for at least eight (8) hours' jury duty, nor shall any employee who reports back to work under this Section be required to work more than ten (10) hours, less the number of hours for which he served and was compensated for jury duty by the court on that day. The Employer may require a statement from the court certifying attendance.

Section 92. When the Employer requests an employee to appear in court, he shall be compensated at his regular straight-time hourly rate of pay for such time.

Section 93. The Employer will maintain its practice of rescheduling employees required to serve on jury duty.

ARTICLE 35

SICK LEAVE

Section 94. Full-Time employees covered by this Agreement who, in their first anniversary year, worked two thousand (2,000) hours or more and who have been continuously employed by their employer for a period of one (1) year, shall be credited with forty-eight (48) hours of sick leave pay. Employees (excluding part-time courtesy clerks) who in their first anniversary year work one thousand two hundred and forty-eight (1,248) hours or more (but less than two thousand [2,000] hours) and who have been continuously employed by their employer for a period of one (1) year, shall be credited with hours of sick leave with pay on the basis of the total hours worked (including vacation hours) in their anniversary year divided by two thousand eighty (2,080) hours times forty-eight (48) hours. It is understood that employees shall not be credited with more than forty-eight (48) hours of sick leave credit per anniversary year.

Unused sick leave shall be cumulative, and after the first (1st) year of continuous employment, full-time employees shall accumulate unused sick leave at the rate of four (4) hours for each month of continuous employment in which they work one hundred sixty (160) hours in a four (4) week month and two hundred (200) hours in a five (5) week month. Employees who work at least ninety-six (96) hours (but less than one hundred sixty (160) hours) in a four (4) week month and one hundred twenty (120) hours (but less than two hundred (200) hours) in a five (5) week month shall accumulate unused sick leave for each month of continuous employment on the basis of total hours worked during the preceding month divided by one hundred sixty (160) hours in a four (4) week month and two hundred (200) hours in a five (5) week month times four (4). Said monthly credit shall not exceed four (4) hours for each month. Unused sick leave shall not exceed a maximum accumulation of six hundred (600) hours.

A doctor's certificate or other authoritative verification of illness may be required by the Employer. Said sick leave is to commence on the second (2nd) full workday's absence for sickness or non-occupational injury, and on the first (1st) workday's absence if the employee is hospitalized or has accumulated in excess of two hundred

and forty (240) hours. The waiting period provided herein shall apply for each illness or non-occupational injury.

Sick leave shall be paid after the appropriate waiting period and will be based on the number of scheduled hours missed due to the sickness or non-occupational injury. For consecutive absences which exceed one (1) week, the maximum hours paid will be the same as the hours scheduled in the week in which the illness or non-occupational injury occurred. Sick leave pay must be requested by the employee and will be paid, if eligible as provided above, at the employee's regular classification rate, calculated at straight time, not to exceed eight (8) hours per day until accumulated sick leave is used up or employee returns to work.

Sick leave benefits are not convertible to cash.

Section 95. Employees hired on or after March 6, 2005. Employees hired on or after March 6, 2005 who have completed three (3) consecutive years of employment shall commence accumulating sick leave credit of up to two (2) hours for each month that such employee works at least one hundred twelve (112) hours in a four week month or one hundred forty (140) hours in a five-week month. Such credit shall be determined by dividing the actual hours worked for such month by one hundred sixty (160) hours (in a four week month) or two hundred (200) hours in a five week month times two (2). Unused sick leave shall not exceed a maximum accumulation of sixty (60) hours. Sick leave shall be paid as provided in the preceding section, except sick leave shall not commence until the third (3rd) full workday's absence. There shall be no first (1st) or second (2nd) day sick leave for these employees.

ARTICLE 36

INJURY ON THE JOB

Section 96. When an employee is injured on the job, there shall be no deduction from the employee's pay for the day in which the employee was injured and reported for medical care.

ARTICLE 37

HEALTH AND WELFARE COVERAGE

(Medical, Surgical, Hospital, Dental, Prescription,
Vision and Life Insurance)

Section 97. Trust Fund. The Rocky Mountain UFCW Union and Employers Health Benefit Trust ("Health Benefit Trust") is a trust fund jointly administered by an equal number of Trustees representing the Employer and the Union. All equal number of Trustees representing the Employer and the Union. All contributions provided for in

this Article will be paid into the Health Benefit Trust. The Trust Fund is to be jointly administered by an equal number of Trustees representing the Employer and the Union. There shall be three (3) Plans of benefits, Plan A, Plan B and Plan C with contributions as provided herein. As a condition of receiving the contributions provided above, the Trustees of the Plan will:

1. Establish Plan(s) of benefits, which can be supported by the contributions provided in the Agreement, and
2. Maintain the Trust in a fully funded status as provided herein and in the Trust Agreement

The Trustees shall establish a separate accounting of income and expenses for participants of the Fund who agree in their collective bargaining agreements to a fixed contribution rate. The Trustees are expressively prohibited from using the contributions of the Employer's contributing on fixed contribution rate basis to pay benefits for participants of other employers who have not adopted these fixed contributions.

Employer Contributions and Benefit Levels. The Employer agrees to contribute the following amounts per month for each eligible employee.

Employees hired on or before March 5, 2005

	PLAN A	PLAN B
Effective June 1, 2009 (May hours)	$379.02	$303.21
Effective June 1, 2010 (May hours)	$447.63	$358.10
Effective June 1, 2011 (May hours)	$602.71	$482.17
Effective January 1, 2012 (December hours)	$807.14	$645.70

Employees hired on or after March 6, 2005

	PLAN A	PLAN B	PLAN C
Effective June 1, 2009 (May hours)	$326.04	$260.84	$164.32
Effective June 1, 2010 (May hours)	$385.07	$308.06	$194.07
Effective June 1, 2011 (May hours)	$518.48	$414.79	$261.30
Effective January 1, 2012 (December hours)	$694.33	$555.47	$349.93

Employee Co-Premiums. Employees who are eligible to participate and enroll in the Health Plan shall as a condition of such participation make a monthly co-premium payment equal to $5.00 per week if enrolled in employee only coverage $10.00 per week if enrolled as employee plus spouse or employee plus children and $15.00 per week if enrolled in family coverage. **Effective January 1, 2013, the required weekly**

co-premium amounts for all active employees enrolled in the Plan shall become: $7.50/week for employee only, $15/week for employee and children or employee and spouse and $23/week for employee, spouse and children/family. Such co-premiums shall be made by payroll deduction and forwarded to the Trust Fund on a monthly basis by the Employer.

Enrollment and Eligibility: Effective calendar year enrollment period beginning January 1, 2010, the Plan shall conduct an annual enrollment in accordance with the following procedure.

General Rule

- Currently Enrolled
  - If enrolled for 2009 and no changes desired - need not do anything – terms of enrollment for 2009 remain in effect until coverage under the Plan terminates or until a change is desired.
  - If enrolled and a change is desired - need to timely complete new enrollment form on same basis as in prior years.
  - If not enrolled for 2009, but want to enroll for 2010 or for a subsequent year, need to timely complete enrollment form on same basis as in prior years.
    - Newly eligible employee must initially make a positive election to enroll in the Plan. Terms of initial enrollment will remain in effect until coverage under the Plan terminates or until a change is desired.

Special Rules

- Newly eligible employees – must enroll within 90 days.
- Current special enrollment event rules that remain in effect
- Newly acquired dependent – must enroll within 30 days. The effective date of coverage will be:
- Marriage – the date of marriage.
- Birth of a dependent – the date of birth.
- Adoption or Placement for Adoption of Dependent – date of adoption or placement for adoption.

- Employee or dependent lose coverage under another plan – must enroll within 30 days (Exception: If loss of coverage is under this Plan, individual has 60 days to enroll under Plan). The effective date of coverage will be the first day of the month following the termination of coverage.

- Special disenrollment rules that remain in effect:

  - Dependent spouse becomes covered under spouse's employer's plan or employment status so that the spouse is no longer eligible to participate in a health plan sponsored or maintained by his/her employer - Plan must be notified within 60 days of spouse's coverage to discontinue payment of working spouse fee. The cessation of the working spouse fee is prospective only.

  - Disenrollment – if dependent loses status as eligible dependent or an employee or dependent becomes covered under another plan – must disenroll within 60 days of event causing loss of coverage or effective date of coverage under another plan. The reduction in the weekly payroll deduction is prospective only.

- New procedures/rules.

  - Administration office will need to do semi-annual verification of continuation of student status of known students plus any child who attains age 19 in the spring and fall of each calendar year.

  - For first claim filed by spouse each calendar year, administration office will need to verify working status of spouse and if working, determine if covered by employer's plan.

- Continuation of Rule Regarding Special Enrollment Events

- Employees currently enrolled in the Plan shall continue to be enrolled in the Plan unless they made a positive election to discontinue their enrollment or change their coverage. A discontinuation in coverage may be made within sixty (60) days of a special enrollment event as defined by the Plan. Administrative office will need to do semi-annual verification.

Employees must initially make a positive election to enroll in the Plan. Enrollment is for the entire plan of benefits for the Plan and an employee's failure to

make an initial positive enrollment into the Plan shall result in such employee being ineligible for all benefits of the Plan for the remainder of the calendar year or until there has been a special enrollment event as provided in the Plan's Rules and Regulations, whichever occurs first.

The administrator of the fund will use the enrollment data in order to establish the eligibility of employees and their dependents for participation in plan coverage. None other than those employees contained on the enrollment report shall receive benefits from the Trust without the express authorization of the Trustees. The administrator will promptly notify the Trustees in writing of any instances where coverage has been provided to persons who are not included in the enrollment data, or where a claim for payment has been submitted by or on behalf of such person.

The Fund will audit its enrollment and claims records as least once within each 24 month period to ensure that no employees of the Employer, or the dependents of such employees, are participating in plan coverage for which they are not eligible and to ascertain that claims and other plan expenses are being paid in accordance with the Plan's provisions.

Initial Eligibility – Part-time employees hired before March 6, 2005 who on March 5, 2005 have met the initial eligibility requirement for benefits under the Trust will continue to be eligible for coverage provided the employee enrolls in the Plan beginning in 2005, and further provided the employee has made the required employee co-premium payment. Such employees shall continue to be eligible for Plan A if such employee was eligible for Plan A on March 5, 2005. Employees who were eligible for and were participating in Plan B on March 5, 2005, shall participate in Plan B until such employee has been covered under such Plan B for 24 months. Thereafter, such employee may advance to Plan A provided they continue to enroll and meet the eligibility requirements of the Plan. Employees hired on or before March 5, 2005, who are not eligible for coverage as of March 5, 2005 shall be required to meet initial eligibility for Plan B, and subsequent eligibility to begin participation in Plan A, as provided in the predecessor agreement which terminated in 2004.

All part-time employees (excluding Courtesy Clerks) and their eligible dependents hired on or after March 6, 2005 shall, beginning the first of the month following 12 calendar months of employment (but not before January 1, 2010 with regard to their eligible dependents), be eligible to enroll and participate in the Health Plan, under the Health Plan C. Upon completion of the first (36) months of eligibility under Plan C, such employee and their eligible dependents may enroll in Plan B for the next (36) months of eligibility under Plan B. Thereafter, provided the employee continues to maintain eligibility, such employee and their eligible dependents may enroll and participate in Plan A.

Full-time employees (excluding Courtesy Clerks) shall on the first of the month following 3 months of employment, be eligible to enroll with their eligible dependents in

Plan B, and after (36) months of eligibility under Plan B, shall be allowed to enroll with their eligible dependents in Plan A.

Courtesy Clerks hired on or after March 6, 2005 shall, beginning the later of the first of the month following thirty-six (36) months of employment or attaining the age of nineteen (19), be eligible to enroll and participate in the Health Plan on an employee only basis under the Health Plan C. Upon completion of the first thirty-six (36) months of employee only eligibility under Plan C, such Courtesy Clerks and their eligible dependents may enroll in Plan B. Such Courtesy Clerks shall not be eligible to progress to Plan A.

On-going Eligibility – After satisfying initial eligibility requirement provisions and enrollment in the Health Plan, the employee must continue to meet the monthly on-going eligibility requirements as a condition of continued participation in the Health Plan. Enrolled employees who work (80) hours in a (4) week month or (100) hours in a (5) week month shall be eligible for coverage on a lag month basis. For the purposes of this Article, hours worked shall include hours paid directly by the Company for holiday, vacation, jury duty, funeral leave and sick pay.

Employees shall continue to be eligible for benefits provided they enroll for coverage in accordance with this Article. In any event, all employees must continue to meet all eligibility requirements of the Plan as a condition of continued eligibility.

Trust Plan Changes. The Trustees at the earliest possible date but not later than June 1, 2005 shall revise the plan of benefits to include:

- The Plan's current coordination of benefits provision and credit balance system shall be replaced with a coordination of benefit provision that limits payment to the maximum payable under the Plan.
- The Plan shall adopt a fee of one hundred dollars ($100) per month for a spouse of a covered employee who is eligible to enroll in health coverage at their employer, but fails to do so, as a condition of enrollment in this Plan.
- Adopt the long term funding policy contained herein.
- The Parties agree to adopt true managed care approaches to providing mental/nervous and physical benefits under the Plan. The Plan Administrator should not perform such managed care.
- The Parties will adopt cost control measures that will aid the Fund in managing costs within the contributions provided by the Employers and Participants to this Plan.

Effective January 1, 2010, the Trustees of the Plan shall be directed to adopt the following modifications to the active plan(s) of benefits:

Health and Care Management

Direct Trustees to Implement Integrated Health and Care Management Programs. The programs shall be designed to progress over the term of the Agreement to "best-in-class" levels with respect to the key characteristics listed below:

- Quality education campaign for all participants
- Superior participant communications, including robust web tools
- Superior participant information tools
- Analytics measuring participation, compliance, and results
- Very strong comprehensiveness of programs
- High levels of integration
- Strong physician behavior change mechanisms
- Significant levels of medical and drug trend reduction

1. Establish a health risk assessment questionnaire to be completed annually. If employee and spouse complete annually, such employee's co-premium to the Plan shall be reduced $5 per month for each employee and spouse (max $10) for that enrollment's calendar year. An HRQ must be completed each year during enrollment to be eligible to receive the HRQ incentive for each year. During the term of this Agreement, the Trustees may, by mutual agreement, reallocate the HRQ incentive amounts provided above.

2. Establish 24-hour nurse call-in line and/or medical decision support.

3. Develop a medical management program that targets high-risk participants with chronic diseases such as diabetes, obesity, asthma and cardiovascular disease. In order to encourage participant engagement in such programs and to enhance the goal of improving health status a series of incentives must be developed.

   There is recognition that incentives may take various forms and will likely evolve and change over time based on program experience with a goal of maximizing program effectiveness and reducing health costs and medical trend. The initial focus will be a thorough educational campaign in connection with program roll out.

4. Establish free and/or reduced cost educational programs such as:

   a. Weight management
   b. Smoking cessation
   c. High Cholesterol

5. Reduce prescription drug co-pays as shown below for participants taking maintenance drugs (and related supplies which require a prescription) for certain disease states which would include categories of drugs such as:

   a. Hypertension
   b. High cholesterol
   c. Diabetes control drugs
   d. Asthma
   e. Glaucoma
   f. Osteoporosis

Drug Class	Co-Pay
Generic	$2.50
Formulary Brand	$10
Nonformulary Brand	$20

It is understood that the Plan's consultants will continue to evaluate the effectiveness of including these scheduled drug categories on Plan costs and based on their recommendations the Trustees may remove drugs from this list and/or add other categories of drugs consistent with the objective of increasing compliance with prescribed drug therapies which will lower plan costs and trend.

6. Complex/Catastrophic Care Management to provide case management of the entire health care and treatment for participants with high-risk health conditions.

7. Preventive health care at medically appropriate times (see below)

Service	PPO coverage (In-network)
Mammography	Plan pays 100%
Routine Annual Physical Exam	Plan pays 100%
Well-baby care	Plan pays 100%
Childhood Immunizations	Plan pays 100%
Papanicolaou (Pap) smear and pelvic examination	Plan pays 100%
Prostate specific antigen (PSA) testing	Plan pays 100%
Colonoscopy	Plan pays 100%

Utilize nationally recognized guidelines as a basis for coverage.

Long Term Funding Policy

1. The parties recommend to the trustees that a Minimum Reserve Requirement be established equal to IBNR reserves plus a lag month reserve. The Fund consultants shall calculate the IBNR and lag month

reserve requirement at least once every twelve months beginning on (date) and report these amounts to the Trustees at their next regularly scheduled meeting. Any withdrawing employer shall reimburse the Fund for their participants claims run off.

2. If the market value of the assets at any twelve (12) month review point is ever below the calculated minimum reserve requirement level as calculated by the Fund consultants, then the Fund consultants shall prepare recommendations for benefit plan redesign and/or employee co-premium contributions such that the dollar amount of any such deficiency will be fully recovered by the end of the twelve (12) month period beginning after the trustee meeting in which the deficiency is first projected.

3. No changes are permitted that would violate any contractual agreement between the Fund and any third party vendor.

4. If the Fund consultants cannot agree on a recommended plan of benefit redesign and/or employee co-premium contributions, and the Trustees cannot agree to a corrective action plan, by virtue of deadlock motions, then the trustees must act to adopt the recommended corrective action plan that has the least adverse impact on plan participants, however, one set of Trustees may exercise the Fund's dispute resolution procedure on an expedited basis to determine if other corrective actions must be taken.

5. The minimum reserve target defined above is solely meant to be a "floor". It is not also a "ceiling". That is, no Trustee action is required or expected in the event that reserve levels are above the minimum reserve target.

6. **The Long-Term Funding Policy provisions of this Article are suspended for the period of May 11, 2012 through and including September 12, 2015.**

Extended Benefits. An employee who has been eligible for benefits for six (6) months or more immediately prior to becoming physically disabled and thereby unable to work, shall continue to be eligible for benefits during his continuing period of disability, up to a maximum of six (6) months.

Courtesy Clerk Coverage. Courtesy Clerks who are qualified for coverage under any other Plan as a dependent are not entitled to benefits under the Health Benefit Trust; except that under the coordination of benefits provision as established by the Trustees, where a Courtesy Clerk is covered as a dependent under any other "Plan," shall be considered the primary carrier and this Health Benefit Trust shall be considered as secondary carrier.

Retiree's Benefits. The Employer will contribute eighteen dollars and thirty-four cents ($18.34) per month per eligible active bargaining unit employee, covered under this Agreement, in the Health Plan to subsidize the self pay costs of providing Health

and Welfare benefits to eligible retirees under the Rocky Mountain UFCW Unions and Employers Health Benefit Plan (the "Retiree's Health Plan").

Effective for employees who retire on or after October 1, 1996, the eligibility requirements for participation in Retiree's Health Plan shall be:

> Employees retiring on or after October 1, 1996, must have a combined total of 15 years of service and have attained age 50, or be totally disabled, at the time of his termination of employment.

ARTICLE 38

NON-DUPLICATION OF BENEFITS

Section 98. In the event that any law or government regulation requires any payment from the Employer for benefits which would replace, supplement or modify the Health and Welfare, Dental, Pension or other benefits provided hereunder this Contract, the parties will upon thirty (30) days notice, by either party, meet and negotiate new provisions pertaining to such affected benefits.

ARTICLE 39

PENSION

Section 99. Employer Contributions. For all employees hired before March 6, 2005, covered by this Agreement, the Employer shall pay one dollar and five cents ($1.05) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid) into the Rocky Mountain UFCW Unions and Employers Pension Plan, which shall be jointly administered by the Union and the Employer by an equal number of trustees as provided in an agreement establishing such Pension Fund.

For all employees hired after March 5, 2005, contributions shall be at a rate of forty-eight cents ($0.48) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid).

Though no contributions are required on Courtesy Clerks, except as set forth below, they shall be granted past service credits if promoted from the Courtesy Clerk classification.

Effective January 1, 2010 (December hours) for all employees covered by this Agreement, the Employer shall pay eighty two cents ($0.82) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid) into the Rocky Mountain UFCW Unions and Employers Pension Plan, which shall be jointly administered by the Union and the Employer by an equal number of trustees as provided in an agreement establishing such Pension Fund. Though no contributions are required

on Courtesy Clerks, except at set forth below, they shall be granted past service credits if promoted from the Courtesy Clerks classification.

In the event the New Hire Benefit goes into effect as provided herein, then effective with hours worked after the adoption of such Benefit, the Employer shall pay an additional seven cents ($0.07) per hour for all hours worked at straight time (including hours worked on Sunday, vacation and holiday hours paid) to fund the benefit.

New Hire Benefit: If the Trustees adopt the Alternate Schedule described above, and such Schedule becomes fully effective, the Trustees are authorized to amend the Plan (if they believe it is appropriate to do so) in order to provide the following Benefit for those participants whose employers have adopted the Alternate Schedule above. Newly hired employees hired on or after March 6, 2005 shall be eligible to receive an accrual rate per month for each year of credited service earned by such employees, commencing on January 1, 2010 (i.e., for service on or after January 1, 2010) subject to the following terms, conditions and limitations:

- Funding through an employer supplemental contribution of seven cents ($0.07) per hour;
- Normal retirement age of sixty-five (65);
- The accrual rate shall be ten dollars ($10) per month for each year of credited service earned between January 1, 2010 and December 31, 2012.
- The accrual rate shall be fifteen dollars ($15) per month for each year of credited service earned on or after January 1, 2013.
- Any adjustable benefits otherwise provided by the Plan, including but not limited to Rule of 80 Pension, are inapplicable to this "new hire" benefit; and,
- Agreement by the plan's co-actuaries that the "new hire" benefit can be funded by the seven cents ($0.07) per hour employer contribution, otherwise the benefit shall be in the amount, up to $10 or $15 per month per year of credited service as specified above, the co-actuaries agree can be provided by said funding.

Section 100. Courtesy Clerk Contributions. Pension contributions will be made on behalf of all Courtesy Clerks with ten (10) years or more of continued service with the Employer. Pension contributions shall be made as set forth above. All hours worked as a Courtesy Clerk prior to the time contributions are required will count towards pension eligibility and credits.

Section 101. Long-Term Funding Policy

1. The trustees shall, no later than April 1, 2005, adopt the following Long Term Funding Policy. Such Long Term Funding Policy shall be applicable for plan year 2005 and subsequent plan years. Effective with the January 2005 contribution payment, the employers will increase the hourly contribution by fifteen cents ($0.15) per hour from one dollar and five cents ($1.05) to one dollar and twenty cents ($1.20) for employees hired before ratification.

   This fifteen cents ($0.15) per hour increase in contribution is a "supplemental" contribution dedicated solely to improving the funding of the pension plan, will not be used to increase benefits and will be discontinued at the times set forth in paragraph 2.

2. This supplemental contribution shall continue to be made until the earlier of such time the Plan reaches a financial state whereby either: (i) the funding ratio of the Plan (actuarial value of assets over actuarial liability) is at least one hundred percent (100%); or any contribution of the employers would not be deductible for federal income tax purposes in the year in which it is required to be made. However, unless changes are needed to support contribution deductibility, no changes shall be made when the Plan has withdrawal liability.

   Effective January 1, 2010 (December hours) the supplemental contribution provided above in subsections 1 and 2 shall no longer apply and shall be replaced by any supplemental contribution that may be provided in the Pension Protection Act section of this agreement.

3. If as of any valuation date commencing with the 01/01/06 valuation, a funding deficiency is projected to occur in less than five (5) years, the Trustees will reduce benefits such that a projected funding deficiency will not occur within any of the eight (8) years following the valuation date. The parties agree to apply for section 412(e) relief if available before the benefit reductions are enacted. It is understood that application for section 412(e) requires the parties to reduce benefits as a condition of the application. Such section 412(e) application, if approved, must cure the funding deficiency as prescribed above.

   If the section 412(e) application is not approved, or not acted on, within 18 months of the valuation date (for example 01/01/06 valuation), then the Trustees will immediately enact benefit reductions to cure the funding deficiency as prescribed above.

4. In no event will benefit reductions be delayed to or beyond a time that would expose the employers to liability beyond the supplemental contribution including but not limited to liability for the payment of excise taxes or additional contributions. Any deadlocked issue over the enactment of benefit reductions and/or the application of this policy shall be submitted to expedited arbitration ahead of any other matter pending

arbitration. Such expedited arbitration shall occur within 60 days of the request for arbitration and the arbitrator shall render his decision within 60 days following the close of the hearing in the matter.

5. The parties authorize and direct the Trustees of the Plan to develop Maintenance of Equity Policy for employers that do not adopt this agreement upon renewal of the collective bargaining agreement (or for new agreements).

6. If the Plan experiences a minimum funding deficiency, any excise tax that is levied against the employers will be allocated amongst such employers in a way that first makes all employers not contributing the full amount of the supplemental contribution responsible for fully paying any accumulated missed supplemental contributions with interest. Thereafter, the balance of any excise tax remaining will be allocated to all employers in proportion to their non-supplemental contribution rate. Finally, for any employer not adopting this agreement, future benefits will be based on the assumption that $0.15 of the current rate being contributed is deemed to be supplemental.

7. The parties recognize there is a possibility of merger of the Denver Area Meatcutters Pension Fund with the Rocky Mountain UFCW Union and Employers Pension Plan and give full authority to effectuate such merger to the Board of Trustees of the two pension plans without further approval of the parties of this Agreement.

Section 102. Said Pension Fund shall be used to provide benefit pensions for eligible employees of the Employer as provided in a Pension Plan, the terms and provisions of which are to be agreed upon by the parties hereto; said Pension Plan shall, among other things, provide that all benefits under the Plan and costs, charges and expenses of administering the Plan and all taxes levied or assessed upon or in respect of said Plan or Trust or any income there from shall be paid out of the Pension Fund.

Section 103. Said Pension Plan and the Trust Agreement establishing the Pension Fund have been submitted to the United States Treasury Department and the United States Department of Labor for the approval and rulings satisfactory to the Employer, that said Plan is qualified under I.R.C. Section 401, et seq. and that no part of such payments shall be included in the regular rate of pay of any employee.

Section 104. If for any reason, the United States Treasury Department and the United States Department of Labor withholds approval and rulings satisfactory to the Employer, the parties to this Agreement hereto agree to negotiate other fringe benefits or wage increases in the amount equal to the cents per hour provided for in this Article for all hours worked at straight-time in lieu of payments into the Pension Fund.

Section 105. The Employer shall be represented by its employees, or some other representative on the Board of Trustees administering such Pension Plan. A

copy of the Trust Agreement and any amendments thereto shall be made a part hereto as if herein at length set forth, when adopted.

Section 106. Pension Protection Act ("PPA")

The bargaining parties agree and understand that the Employer may be obligated to make pension contributions in addition to the base contribution rate specified in the Employer Contributions Section. The amount of any such supplemental contribution shall be determined as follows:

i. Alternate Schedule Contribution Rate: In the event the Trustees of the Plan adopt the Rehabilitation Plan Alternate Schedule attached hereto as Appendix B, the Employer shall pay the contribution rate required in the Alternate Schedule (modified only as provided herein) of one dollar and thirty-seven cents ($1.37) per hour effective January 1, 2010 (on December hours) which includes the rate of eighty two cents ($0.82) per hour described in the Employer Contribution section above and a supplemental contribution of fifty-five cents ($0.55) per hour. In the event the New Hire Benefit goes into effect as provided herein, then effective with hours worked after the adoption of such Benefit, the Employer shall pay a total contribution rate of one dollar and forty-four cents ($1.44) per hour which reflects the sum of the contribution rate required in the Employer Contribution section, the supplemental contribution rate of this section and the new hire benefit contribution rate provided herein.

ii. Default Schedule Contribution Rate: In the event the Trustees of the Plan do not adopt the Rehabilitation Plan Alternate Schedule, but instead adopt a legally valid "Default Schedule" within the meaning of the PPA, the Employer shall pay the contribution rate required under the Default Schedule effective January 1, 2010 (on December hours); provided that in no event shall such contribution rate be payable prior to the effective date of all of the benefit adjustments required under the Default Schedule. For example, if the Default Schedule benefit adjustments do not become effective until the start of the Rehabilitation Period under the PPA, the Employer shall not be required to pay the Default Schedule contribution rates until that time.

If any required Default Schedule contribution rate exceeds the rate provided for under subsection (i) above, then each annual increase in the top pay rate provided for in this contract shall be permanently reduced by fifteen cents ($0.15) per hour, and ten cents ($0.10) per hour in the case of Courtesy Clerks, effective with the next scheduled pay rate increase following the implementation of the Default Schedule contribution rate. The permanent reductions provided for herein shall continue year after year. It is understood that each annual top rate increase will be reduced until either sufficient reductions have occurred so as to equal the amount of the increase to the supplemental contribution rate of subsection (i) caused by the implementation of the default schedule or until the date on

which the employer implements contribution rates which are reduced to, or below, the contribution rates under subsection (i) above and in accordance with subsection (vii) below, whichever occurs first, but in no event shall any such wage reductions made be restored.

iii. Long-Term Funding Policy Contribution Rates: In the event the Alternate Schedule in subsection (i) above and the Default Schedule in subsection (ii) above are not applicable during the term of this agreement, but the Long-Term Funding Policy is implemented, the Employer shall not be obligated to pay a supplemental contribution under any other provision of this Agreement, but shall continue to pay the base contribution specified in the Employer Contribution Section plus a supplemental contribution under this subsection (iii) that shall not exceed fifty-five cents ($0.55) per hour. This supplemental contribution shall be a contribution amount which has the same proportionate value relative to the value of the benefit adjustments under the Long Term Funding Policy as the value of the supplemental contribution of fifty-five cents ($0.55) per hour under subsection (i) has to the value of the benefit adjustments under the Alternate Schedule. This approach shall be accomplished by utilizing the following formula: a) the present value of benefit adjustments under the Long Term Funding Policy, divided by b) the present value of benefit adjustments under the Alternative Schedule, multiplied by c) the supplemental contribution of fifty-five cents ($0.55) per hour under subsection (i). These calculations shall be made by the employer consultants and shall be final and binding on all parties.

For example: If $5M is the present value of benefit adjustments under the Long Term Funding Policy and if $10M is the present value of benefit adjustments under the Alternative Schedule and fifty-five cents ($0.55) per hour is the supplemental contribution under subsection (i), then the supplemental contribution under this subsection (iii) is $0.55 times $5M divided by $10M, or twenty seven and one-half cents ($0.275) per hour.

iv. It is understood and agreed that the Employer may reduce the amount of any of the above supplemental contributions due the Trust (but not below zero) by the amount of any surcharge, deficiency or excise tax required to be paid by the Employer any time after entering Critical Status. The supplemental contribution provided for herein shall be dedicated solely to improving the funding of the Plan, and shall not be used to increase or improve benefits, and will be reduced or discontinued upon determination by the Plan's Trustees, based on projections provided by the Plan's actuaries, that such supplemental contributions are no longer needed to support the level of benefits provided for under the Plan in accordance with the provisions of subsection (vii) below.

v. As a result of the Plan's having been certified as being in critical status for the Plan Year beginning January 1, 2009, the Trustees are authorized to adopt the Rehabilitation Plan Alternate Schedule attached as Appendix B hereto (if they believe it is appropriate to do so). If the Alternate Schedule

is adopted by the Trustees, it is hereby deemed approved by the bargaining parties and automatically incorporated into this Agreement.

vi. In no event shall any contribution increases be required during the term of this Agreement as a result of any annual updates or other changes to the Rehabilitation Plan Alternate Schedule or, if applicable, to any Default Schedule.

vii. In the event the Trustees determine, based on projections provided by the actuaries for the Plan, that, at any time during the term of this Agreement, an Alternate Schedule or Default Schedule with lesser contribution rates and/or benefit reductions would be sufficient to reasonably enable the Plan to emerge from critical status by the end of the Rehabilitation Period, the Trustees may amend the Alternate Schedule or Default Schedule in a manner that, to the extent possible, would restore reduced benefits and would reduce the Employer's supplemental contribution in an equal manner and amount, based on actuarial equivalence, provided that such modifications to the Alternate Schedule or Default Schedule would still allow the Plan to emerge from critical status by the end of the Rehabilitation Period, taking into account to the extent legally permitted any relief available under IRC Section 431(d). In the event the Trustees amend the Alternate Schedule or Default Schedule as provided in this subsection (vii), then the parties agree to adjust the supplemental contribution rates provided above to reflect the lower rates in the amended Alternate Schedule or Default Schedule. Notwithstanding the foregoing, if, prior to the effective date of any benefit cuts specified in the Alternate Schedule or the Default Schedule, the Trustees determine that (a) such benefit cuts are no longer required to avoid critical status or to have a valid Rehabilitation Plan, and (b) the supplemental contribution could be reduced or eliminated, then the Employer supplemental contribution shall be reduced or eliminated accordingly, and the Employer shall be further entitled to recoup the value of any supplemental contribution paid prior to the effective date of the benefit reductions set forth in the Alternate Schedule or Default Schedule. This provision shall apply regardless of the reason for the Trustees' determination, including a change in the law (e.g., a further extension of the Plan's green status) and/or improved investment returns. The value of the contributions shall be recouped via a suspension of contributions in an amount equal to the amount of the supplemental contribution paid.

viii. The Board of Trustees is authorized to take all reasonable measures to cooperate and assist in achieving the objectives set forth in this Section.

APPENDIX B

Rocky Mountain UFCW Unions and Employers Pension Fund
Schedule of Contributions and Benefits

REHABILITATION PLAN – 2009 PLAN YEAR ALTERNATE SCHEDULE
Contribution and Benefit Adjustments
• Total contribution rate of one dollar and thirty seven cents ($1.37) per hour on January 1, 2010 (December hours). All contributions are deemed to be inclusive of any surcharges, deficiency, and/or excise tax any time after entering Critical Status. • In the event the Board of Trustees adopts a New Hire benefit, the total contribution rate will increase to one dollar and forty four cents ($1.44) per hour effective January 1, 2010 or with the adoption of such benefit, whichever occurs later.
• Elimination of 100% of the value of all adjustable benefits on all accrued benefits and future benefit accruals to the maximum permitted by law, except as noted below. Adjustable benefits to be eliminated include the following: — Rule of 85 Pension; — Subsidized Early Retirement Reduction Factors; — Age 60 Supplement; — Post-Retirement Death Benefits in Excess of QJSA (including $1,000 Lump Sum Death Benefit); — Pre-retirement Death Benefits in Excess of QPSA; — Payment options other than Single Life Annuity and QJSA; and — All other adjustable benefits within the meaning of Code section 432(e)(8)(A)(iv) (other than Disability Pension and modified Rule of 80 Pension as described below). • The following adjustable benefits shall be retained: — Disability Pension; and — Rule of 80 Pension, except that this benefit will be modified to require that a Participant must have attained age 55 at his Termination Date in order to be eligible • Reduction of future benefit accruals to $30 per month of credited service for credited service on or after January 1, 2010. • Benefit reductions effective January 1, 2010

Rehabilitation Period
January 1, 2010 through December 31, 2022.
Plan to Emerge from the Red Zone and Annual Benchmarks to Assess Progress Toward Emergence

The Plan's actuaries certify that the Contribution and Benefit Adjustments shown above are sufficient for the Plan to emerge from the Red Zone at the end of the Rehabilitation Period based on the funded status of the Plan as of January 1, 2009 before the addition of any New Hire benefits. In the event that the New Hire benefits are implemented, the Plan's actuaries certify that with the additional contributions specifically designated to fund the New Hire benefits, the plan is still reasonably expected to emerge from Critical Status after such benefit increases, as shown in the annual benchmarks including the New Hire benefits. These schedules will be updated as needed throughout the Rehabilitation Period. Progress toward emergence from the Red Zone will be measured by the Plan's Funding Standard Account Credit (Deficiency) Balance being greater than (less than) the amounts in the following projections. These projections have been made in accordance with the provisions of the Pension Protection Act of 2006 including:

- Contribution rates effective for hours worked in December 2009 payable in January 2010 in accordance with the Collective Bargaining Agreement.
- An assumption of the same number of contributable hours as reported for the actuarial valuation as of 1/1/2008. The reasonableness of this assumption has been verified by the Trustees.
- No market related investment gains or losses from 9/30/2009 forward and no other actuarial gains or losses from 1/1/2009 forward.

APPENDIX B

Rocky Mountain UFCW Unions & Employers Pension Plan

Annual Benchmarks for Emergence from the Red Zone

As of	Funding Standard Account Credit (Deficiency) Balance	Funding Standard Account Credit (Deficiency) Balance With New Hire Benefits
12/31/2010	$ 17,473,000	$ 17,892,000
12/31/2011	28,829,000	29,593,000
12/31/2012	33,676,000	34,719,000
12/31/2013	31,190,000	32,445,000
12/31/2014	28,483,000	29,885,000
12/31/2015	22,601,000	24,087,000
12/31/2016	14,669,000	16,175,000
12/31/2017	5,118,000	6,577,000
12/31/2018	(489,000)	859,000
12/31/2019	(3,922,000)	(2,754,000)
12/31/2020	(4,621,000)	(3,703,000)
12/31/2021	(2,243,000)	(1,644,000)
12/31/2022	239,000	447,000
12/31/2023	1,158,000	903,000
12/31/2024	16,098,000	15,307,000
12/31/2025	15,836,000	14,819,000
12/31/2026	21,237,000	19,946,000

ARTICLE 40

DISCHARGE AND NO DISCRIMINATION

Section 107. The Employer hereby agrees not to discriminate against any employee or discharge him because of membership in the Union and/or for upholding Union principles; and further, no employee who falls within the bargaining unit shall be discharged without good and sufficient cause.

No employee who, because of his or her religion, has conscientious objections to working on his or her day of Sabbath, will be required to work on his or her Sabbath as a condition of employment. If the rights of the employees under this paragraph operate in conflict with the seniority provisions contained elsewhere in this agreement, the right of seniority shall prevail.

Section 108. The Employer and the Union agree that each will fully comply with the applicable laws and regulations regarding discrimination against any employee, or applicant for employment, because of such person's race, religion, color, national origin, sex or age.

Section 109. Use of the male gender herein shall, except as the context requires, be deemed to include the female gender.

ARTICLE 41

UNION REPRESENTATIVE VISITATION

Section 110. The President of the Union, or the Business Representative thereof, shall have the right of entering the premises of the Employer for the purpose of interviewing employees in such a way as to not interfere with the service of the Employer. The said representative shall make their presence known to the Manager, or the person in charge in the absence of the Manager, when possible, upon entering the premises. The Employer shall, upon request of an authorized Union Representative, furnish satisfactory evidence to ascertain whether employees are being paid in accordance with the terms of this Agreement and review with the Union Representative the facts giving rise to disciplinary action.

ARTICLE 42

UNION STEWARD

Section 111. The Union shall have the right to designate two (2) Stewards per store (stores that employ over one hundred (100) clerks may have three (3) Stewards, and stores that employ over one hundred seventy-five (175) clerks may have four (4) Stewards) in which they work who shall perform their duties with the least possible inconvenience to the Employer. Such Stewards shall not be discriminated against because of their Union activities and such Stewards shall have top seniority for the purpose of layoff in that store. The Store Manager shall be advised in writing by the Union of the name of the Steward(s) in his store.

The Employer agrees to schedule the stewards two days off, without pay, to attend the Union's annual stewards' conference. Such days shall be unscheduled days of work. It is expressly understood and agreed that the stewards will be scheduled their normal hours during such week.

Section 112. Employees Rights to Union Representation. When an employee is involved in a disciplinary interview where the probable result of such interview will be the imposition of disciplinary action, the Employer shall have Union Representation of the employee's choice if present.

ARTICLE 43

DISPUTE PROCEDURE

Section 113. Should any dispute or complaint arise over the interpretation or application of this Agreement, there shall be an earnest effort on the part of the parties to settle such promptly through the following steps, and failure to follow the procedures set forth below shall result in forfeiture of the grievance.

Section 114. Step 1. By conference during scheduled working hours between the Steward and/or the Union's Business Representative and/or the aggrieved employees and the Manager of the store.

Section 115. Step 2. If the grievance cannot be satisfactorily resolved under Step 1 above, the grievance shall be reduced to writing and submitted to the representative designated by the Employer to handle such matters. Such submission shall be made within twenty (20) days of the date of the occurrence of the event which gives rise to the grievance and shall clearly set forth the issues and contentions of the aggrieved party or parties and must reasonably allege a specific violation of an express provision of this Agreement. (In the case of a discharge the time limits shall be fourteen (14) days.) The Employer designee and the Union Business Representative shall meet within ten (10) days after receipt of written notice of the grievance and attempt to resolve the grievance. In an instance where an employee feels he has not been paid in accordance with the wage progression scales set forth herein, such employee shall have an obligation to bring this to the attention of the Store Manager as soon as the employee first has knowledge of such alleged error. In the event the employee has been improperly paid, said payment error shall be corrected on a retroactive basis, but not beyond ninety (90) days prior to the date on which the grievance is presented in writing. This ninety (90) day retroactive liability shall not be applicable to situations covered by Article 9, Section 22, paragraph 2.

Section 116. Step 3. If the grievance is not satisfactorily adjusted in Step 2, either party may, with reasonable promptness, but in no event later than thirty (30) days from the date of the Step 2 meeting, in writing, request arbitration and the other party shall be obligated to proceed with arbitration in the manner hereinafter provided. The parties shall forthwith attempt to agree upon an impartial arbitrator.

Section 117. In the event the parties are unable to reach agreement upon the selection of an arbitrator within fifteen (15) days of the written request for arbitration, the party requesting arbitration may, with reasonable promptness, request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service. From this panel of seven (7) names, each party shall alternately strike three (3) names, the moving party striking first. The remaining arbitrator from the list shall be the impartial arbitrator. A finding or award of the arbitrator shall be final and conclusive upon the parties hereto.

Section 118. The arbitrator shall have all the rights, power, and duties herein given, granted and imposed upon him; but his award shall not change, alter or modify any of the terms and conditions set forth in this Agreement. The expenses of the impartial arbitrator shall be shared equally by the parties. The arbitrator will issue his decision within thirty (30) calendar days after the close of the proceedings. This thirty (30) day calendar time limit may be extended by mutual agreement between both parties.

Section 119. In the event either party refuses to arbitrate on demand of the other party, and an order compelling arbitration is obtained in Federal Court on the basis contended by the moving party, the refusing party will pay to the moving party reasonable legal fees incurred, up to two hundred dollars ($200.00). Similarly, if the moving party fails to prevail in such an issue, the moving party will pay reasonable legal fees incurred up to two hundred dollars ($200.00) to the refusing party.

Section 120. Remedies for Errors: If an error is made by management in the application of the provisions of this Agreement resulting in a lost work opportunity for the aggrieved employee such as vendor stocking, scheduling and assignment of hours disputes, classification issues, and work jurisdiction matters and the affected employee immediately files a grievance, the employee shall be made whole by being permitted to work the number of hours lost. Such hours shall be above and beyond the posted schedule. The employee shall advise management anytime after the next schedule is finalized for the workweek of their desire to exercise their right to work the hours due during the workweek on the date and time determined by the employee. An aggrieved employee may not demand such remedy on an overtime or premium-pay basis if the alleged violation occurred on what would have been a straight-time day for such employee. The employee must exercise this right to work within four (4) weeks of the settlement of error with the employee or such right shall be forfeited and no further remedy shall be required.

ARTICLE 44

NO STRIKE OR LOCKOUT

Section 121. During the life of this Agreement, there shall be no lockout, strike, picketing, boycotting, stoppage of work, anti-company publicity or other economic action of whatsoever nature, against the Company.

It is understood that it shall be a violation of this Agreement for the Union or its agents to require its members to observe picket lines set up by any labor organization at the premises of the Employer.

ARTICLE 45

STORE CLOSING

Section 122. Severance Pay Upon Termination When Store is Sold or Closed. In the event the Employer closes or sells a store and employees are terminated as a result thereof, pay equal to one week's pay for each year of continuous service commencing with the third (3rd) year of continuous service for employees, up to, but not to exceed eight (8) weeks pay at their regular rate. However, those employees who have an incomplete year of continuous service as an employee will receive pro-rata severance pay for that year as follows:

0-3 months equals twenty-five (25) percent of a week's pay.
3-6 months equals fifty (50) percent of a week's pay.
6-9 months equals seventy-five (75) percent of a week's pay.
Over 9 months equals one week's pay.

Severance pay shall be computed based on the average hours worked per week for the fifty-two (52) weeks preceding a voluntary lay-off or termination.

Section 123. The Employer shall continue contributions to the Pension and Health and Welfare Trust Funds for three (3) full months following termination on an hourly basis in direct relationship to the severance pay received for those employees who receive severance pay, except those employees who secure employment with a contributing Employer in the Pension and Health and Welfare Trust Funds.

Section 124. All moneys due employees, including severance pay, shall be paid in a lump sum upon termination.

Section 125. An employee who is terminated and who is eligible for severance pay, and accepts severance pay, forfeits his seniority and has no recall rights. However, an employee may elect to accept a voluntary layoff not to exceed ninety (90) days. At the end of the ninety (90) day period, if he has not been recalled, he will be paid severance pay and forfeit his seniority. Any extensions of this ninety (90) day period must be agreed upon in writing and signed by the employee, a representative of the Union and the Employer. In no case will such extension exceed a total of six (6) months from the date the employee accepted the layoff.

Section 126. If an employee is offered a transfer or other employment with the Employer within forty (40) miles of the store in which he was last working and he refuses to accept the transfer or other employment with the Employer he forfeits his rights to severance pay and pensions and health and welfare contributions.

Section 127. If a store is sold and the successor Employer offers employment to an employee who is otherwise eligible for severance pay under the terms of this Article and the new job is comparable, then no provisions of this Article shall apply.

Section 128. The Employer agrees to give to the employees and the Union four (4) weeks' notice in advance of a store closing or sale. When such notice is given, an employee shall remain with the Employer until the plant or store closes, or forfeits his rights under this Article, unless mutually agreed to by the employee, Employer and Union.

Section 129. No benefits shall accrue under the terms of this Article unless the Employer makes a business decision to close or sell a store. If a store closing is caused by fire, flood, storm, land condemnation or remodeling then this Article shall not apply.

Section 130. It is understood and agreed that employees can exercise their seniority rights under the Layoff Article; however, if they exercise such seniority rights, the provisions of this Article shall be null, void and not applicable. Employees may exercise their seniority rights to bump the least senior employee in their classification in the bargaining unit closest to their home, provided all stores in the affected bargaining unit have closed; however, if they exercise such seniority rights, the provisions of this Article shall be null, void and not applicable.

ARTICLE 46

BULLETIN BOARD

Section 131. The Employer will provide bulletin board space for the posting of official Union notices.

ARTICLE 47

UNION STORE CARDS

Section 132. The Union Store Card is the property of the UFCW and is loaned to the Employer for display. Said card may be removed from the store by the Union if the Employer refuses to comply with a final decision of an arbitrator reached under the provisions of this Agreement.

ARTICLE 48

LIE DETECTOR TESTS

Section 133. The Employer shall not require any employee to submit to a polygraph examination.

ARTICLE 49

UNIFORMS/EQUIPMENT

Section 134. The Employer agrees to provide all required uniforms and laundry service for all required caps, uniforms, smocks, aprons, towels and rags, except for laundering of drip-dry garments. The employee agrees to exercise care in the use of Company property and equipment.

Notwithstanding the above, the employee shall be required to meet the dress requirements as detailed in the Letter of Understanding, "Dress Requirements," attached to this Agreement.

ARTICLE 50

PHARMACY TECHNICIANS

Section 135. Effective with the signing of this Agreement the selection of employees to perform as Pharmacy Technicians shall be at the discretion of the Employer. Pharmacy Technicians shall be enrolled in the Employer's Technician training program. The Pharmacy Technician will be on probation during the length of the training program and will be demoted, or terminated in the case of a new hire, during said probationary period if satisfactory progress is not made in the training program.

Employees who are performing as Pharmacy Technicians on the effective date of this Agreement shall be evaluated to determine their skills, abilities and knowledge relative to their position. Employees in need of additional training shall be enrolled in the training program and given the specific training needed to correct the deficiency. In the event the employee is unable to satisfactorily complete the training then he will be demoted.

ARTICLE 51

MASTER SAFETY COMMITTEE

Section 136. The Employer and the Union will jointly set up a Master Safety Committee to discuss and work towards resolving safety issues in the workplace. The Master Safety Committee shall include at least two (2) Employer officials and at least two (2) Union officials as well as up to five (5) employee participants.

The Employer and the Union agree to seek information relative to ergonomic stresses common in the workplace. The Master Safety Committee will meet periodically to review the information obtained. The parties will discuss and work toward resolving ergonomic safety issues found to be prevalent in the workplace.

The Employer shall pay employee participants their regular hourly rate of pay for all time so spent and mileage for Company authorized joint meetings.

ARTICLE 52

JOINT LABOR MANAGEMENT COMMITTEES

Section 137. There shall be established in each store a joint Labor Management Committee whose purpose shall be to investigate, study and discuss mutual solutions to problems affecting Labor-Management relations in the store in a sincere attempt to improve the parties' basic relationship. The Committee in each store shall be made up of an equal number of Union and Employer representatives and shall develop its own guidelines as determined by the participants in the store and as approved by the Union and the Employer. The Committee shall not have the authority to modify the terms of this Agreement.

ARTICLE 53

SAVING CLAUSE

Section 138. If, during the term of this Agreement, or during any renewal or extension of the same, any Federal or State Law is enacted, or any rule or regulation is issued under any Federal or State Law, which would make compliance by the Union, the Employer, employees, or any of them, with the terms, provisions, or condition of this Agreement a violation of any of said laws, rules or regulations, then such terms, provisions or conditions shall become inoperative and of no effect from the effective date of any such decision, law, rule or regulation. The remainder of this Agreement not in conflict with any of said laws, rules or regulations shall continue in full force and effect.

Section 139. In the event any such terms, provisions or conditions become inoperative and of no effect, either party to this Agreement may open the same for bargaining only as to substitute provisions, if any, for those provisions made inoperative upon a thirty (30) days written notice to the other party.

It is specifically understood that the no-strike and no-lockout provision set forth elsewhere in this Agreement shall remain in effect throughout the term of this Agreement.

ARTICLE 54

APPRENTICE ADVANCEMENT

Section 140. When an apprentice employee is due to be advanced on the basis of actual hours of work experience as set forth in this Agreement, and the Employer

believes that such employee has not acquired sufficient knowledge, skill, experience, and ability to justify such increases, the Employer may, with written prior consent of the Union, jointly request an apprentice evaluation committee, as set forth in the next paragraph, to review the employee and make a determination as to whether a period of up to two hundred sixty (260) hours additional training is warranted at the existing classification rate then in effect for such employee to give the employee an opportunity to improve his performance. At the end of such two hundred sixty (260) hour period, the employee must either be advanced to the next higher wage classification, or be terminated, if such termination is justified under the terms of the Agreement.

Section 141. Upon request, as set forth in the previous paragraph, an apprentice evaluation committee may be established by the parties as follows: two (2) members appointed by Mountain States Employers Council and two (2) members appointed by UFCW, Local No. 7. The apprentice evaluation committee will meet with and review any apprentice employee who, in the opinion of the Employer, does not have the capabilities to warrant a classification increase.

Section 142. The committee shall determine whether additional training is warranted for the employee's classification requirements.

ARTICLE 55

TECHNOLOGICAL CHANGES

Section 143. The parties recognize that automated equipment and technology is now available for the retail food industry. The Employer recognizes that there is a desire to protect and preserve work opportunities. At the same time, the Union recognizes that the Employer has a right to avail itself of modern technology. With this common objective, the parties agree as follows:

Section 144. In the event the Employer introduces major technological changes which, for the purpose of this Article, are defined as price marking and electronic scanners and which would have a direct material impact affecting bargaining unit work, thirty (30) days advance notice of such change will be given to the Union.

In addition, the Employer agrees:

1. Any retraining necessary will be furnished by the Employer at no expense to the employees.
2. Where retraining is not applicable the Employer will make every effort to effect a transfer to another store, or other employment.
3. In the event the employee is not retrained or transferred and is permanently displaced as a direct result of major technological changes as defined above, the employee will be eligible for severance pay in accordance with the following provisions:

a) All employees, excluding courtesy clerks, with two (2) or more years of continuous service will be eligible for one (1) week's severance pay for each year of continuous service. Maximum severance pay of ten (10) weeks' pay to be paid on a lump sum basis. Weekly severance pay shall be determined by the average number of hours worked for the four (4) weeks preceding displacement, not to exceed forty (40) hours' straight-time pay.

b) An employee shall be disqualified from severance pay in the event the employee:

(1) Refuses retraining,

(2) Refuses a transfer or other employment within a radius of forty (40) miles

(3) Voluntarily terminates employment.

ARTICLE 56

ENTIRE AGREEMENT

Section 145. This Agreement contains all of the covenants, stipulations and provisions agreed upon between the parties hereto and no representative of either party has authority to make, and none of the parties shall be bound by, any statement, representation or agreement reached prior to the signing of this Agreement or made during these negotiations not set forth herein.

ARTICLE 57

TERM OF AGREEMENT

Section 146. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement.

Section 147. This Agreement shall be in full force and effect beginning at 12:01 a.m. on May 13, 2012, and shall remain in full force and effect until midnight on September 12, 2015, and shall be automatically renewed from year to year thereafter,

unless either party desires change or termination at the expiration of said Agreement. In such event, the party desiring such change or termination shall notify the other party in writing sixty (60) days prior to the expiration date, specifying the changes desired. Changes in the Agreement shall be limited to those outlined in writing by either party and the negotiations shall begin within fifteen (15) days after receipt of such notice.

IN WITNESS WHEREOF, the Parties above named have signed their names and/or affixed the signature of their authorized representative this _____ day of _____2013.

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 7, DENVER, CO
Chartered by
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO DENVER, CO

BY: _____
Kim C. Cordova
President

DATE: _____

KING SOOPERS, INC.

BY: _____
Stephen J. DiCroce
Sr. Director – Labor Relations

DATE: _____

COST OF LIVING ALLOWANCE

Effective May 18, 1986, for employees other than Courtesy Clerks, there shall be a cost of living allowance based on the increase in the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers of the Bureau of Labor Statistics, US Department of Labor (1967 = 100) between March, 1985 and March, 1986. There shall be a one cent (1¢) per hour adjustment for every full (.4) increase in the Index which exceeds an increase of five point five percent (5.5%) in the Index during the period between March, 1985 and March, 1986.

DRAFT

APPENDIX "A"

KING SOOPERS CLERKS AGREEMENT

The minimum wages for the indicated classifications shall be as set forth below on the dates indicated. The Employer may hire any employee at any rate in the progression schedule at its sole discretion.

Rate determination

Employees hired before March 6, 2005 who remain in their classification after commencement of this Agreement shall be paid in accordance with the "hired and assigned in the bargaining unit prior to March 6, 2005" wage schedule while they remain in that classification.

Demotions, Step Downs and layoffs: An employee who is demoted, steps down, or who is laid off in accordance with this Agreement, shall be placed back into the same wage schedule in which the employee was working immediately prior to their assignment into management or promotion into the classification from which they are being demoted, stepping down or laid off. In determining the proper progression level for an employee demoted, stepping down, or laid off from a classification with a higher "thereafter" hourly rate to a classification with a lower "thereafter" hourly rate, such affected employee shall be placed in the appropriate progression level in the rate schedule referenced in this paragraph based on their experience in the newly assigned classification, regardless of whether such assigned rate results in a reduction in hourly rate. In determining prior experience hereunder, the Employer will give recognition to the verified number of hours of actual work experience in the same classification which said employee may have performed for the Employer and the verified number of hours actual work experience on a comparable job which said employee may have performed within the previous five (5) years for any other employer in a similar retail grocery operation.

Rate Determination – Promotions, new hires and new entrants into the bargaining unit: Employees hired into, or assigned to, or promoted to a different classification, the bargaining unit on or after March 5, 2005 shall be assigned to the "EMPLOYEES HIRED INTO THE BARGAINING UNIT OR ASSIGNED OR PROMOTED ON OR AFTER MARCH 6, 2005" wage scale. Employees who are promoted to a different classification after March 5, 2005 shall not receive a reduction in their hourly rate of pay if when promoted to such classification they are being paid an hourly rate of pay greater than the minimum, unless they are above the "thereafter" hourly rate in which case they will immediately be paid the "thereafter" hourly rate. When such employee is paid less than the "thereafter' hourly rate, prior to receiving an increase in their hourly rate of pay, they must work 1,040 hours at their current rate before promotion to the hourly rate in the new classification that would give them an increase in their hourly rate of pay.

KING SOOPERS APPENDIX "A" CLERK RATES

EMPLOYEES HIRED AND ASSIGNED IN THE BARGAINING UNIT PRIOR TO MARCH 6, 2005

CLASSIFICATIONS	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
ALL PURPOSE/NUTRITION CLERK				
FIRST 960 HOURS OF WORK	$10.13	$10.13	$10.13	$10.13
SECOND 960 HOURS OF WORK	$11.92	$11.92	$11.92	$11.92
THIRD 960 HOURS OF WORK	$12.85	$12.85	$12.85	$12.85
FOURTH 960 HOURS OF WORK	$13.87	$13.87	$13.87	$13.87
JOURNEYMAN	**$17.06**	**$17.31**	**$17.56**	**$17.81**
BAKERY CLERK				
FIRST 960 HOURS OF WORK	$9.59	$9.59	$9.59	$9.59
SECOND 960 HOURS OF WORK	$10.75	$10.75	$10.75	$10.75
THIRD 960 HOURS OF WORK	$11.76	$11.76	$11.76	$11.76
THEREAFTER	**$14.43**	**$14.68**	**$14.93**	**$15.18**
PHARMACY TECHNICIANS				
FIRST 1040 HOURS WORKED	$10.40	$10.40	$10.40	$10.40
NEXT 1040 HOURS WORKED	$11.05	$11.05	$11.05	$11.05
NEXT 1040 HOURS WORKED	$11.70	$11.70	$11.70	$11.70
NEXT 1040 HOURS WORKED[1]	$12.55	$12.55	$12.55	$12.55
NEXT 1040 HOURS WORKED	$13.25	$13.25	$13.25	$13.25
NEXT 1040 HOURS WORKED[2]	$14.43	$14.43	$14.43	$14.43
NEXT 520 HOURS WORKED	$14.80	$14.80	$14.80	$14.80
THEREAFTER	**$17.06**	**$17.31**	**$17.56**	**$17.81**
PLANT/FLORAL CLERK				
FIRST 960 HOURS OF WORK	$9.28	$9.28	$9.28	$9.28
SECOND 960 HOURS OF WORK	$10.24	$10.24	$10.24	$10.24
THEREAFTER	**$13.36**	**$13.61**	**$13.86**	**$14.11**
PLANT/FLORAL MANAGER	**$16.42**	**$16.67**	**$16.92**	**$17.17**
NON-FOOD OR GENERAL MERCHANDISE CLERK				
(EMPLOYED PRIOR TO MAY 6, 1979. THERE SHALL BE NO FUTURE ASSIGNMENT TO THIS CLASSIFICATION)				
THEREAFTER	**$13.36**	**$13.61**	**$13.86**	**$14.11**

[1] Starting rate for Certified Technician
[2] Top Rate for Non-Certified Technician

CLASSIFICATIONS	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
NON-FOOD OR GENERAL MERCHANDISE CLERK				
FIRST 960 HOURS OF WORK	$7.79	$7.79	$7.79	$7.79
SECOND 960 HOURS OF WORK	$8.59	$8.59	$8.59	$8.59
THIRD 960 HOURS OF WORK	$9.60	$9.60	$9.60	$9.60
THEREAFTER	**$11.53**	**$11.78**	**$12.03**	**$12.28**
SANITATION				
FIRST 960 HOURS OF WORK	$10.41	$10.41	$10.41	$10.41
SECOND 960 HOURS OF WORK	$11.57	$11.57	$11.57	$11.57
THIRD 960 HOURS OF WORK	$12.69	$12.69	$12.69	$12.69
THEREAFTER	**$15.35**	**$15.60**	**$15.85**	**$16.10**
COURTESY CLERK				
THIRD 480 HOURS OF WORK	$7.28	$7.28	$7.28	$7.28
THEREAFTER	**$7.60**	**$7.70**	**$7.80**	**$7.90**
SALAD BAR CLERKS				
FIRST 960 HOURS OF WORK	$7.79	$7.79	$7.79	$7.79
SECOND 960 HOURS OF WORK	$8.59	$8.59	$8.59	$8.59
THEREAFTER	**$11.00**	**$11.25**	**$11.50**	**$11.75**
DELIVERY DRIVERS				
(EMPLOYED ON OR AFTER 10/21/90)				
FIRST 960 HOURS OF WORK	$7.79	$7.79	$7.79	$7.79
SECOND 960 HOURS OF WORK	$8.09	$8.09	$8.09	$8.09
THIRD 960 HOURS OF WORK	$8.59	$8.59	$8.59	$8.59
THEREAFTER	**$11.02**	**$11.27**	**$11.52**	**$11.77**
SERVICE OR GROCERY MANAGER	**$17.81**	**$18.06**	**$18.31**	**$18.56**
HEAD CLERK & NIGHT CREW FOREMAN	**$17.46**	**$17.71**	**$17.96**	**$18.21**
PRODUCE MANAGER	**$18.14**	**$18.39**	**$18.64**	**$18.89**
GENERAL MERCHANDISE MANAGER				
(ASSIGNED AFTER 8/1/82)	**$17.61**	**$17.86**	**$18.11**	**$18.36**
GENERAL MERCHANDISE MANAGER				
(ASSIGNED PRIOR TO 5/1/82:	**$17.61**	**$17.86**	**$18.11**	**$18.36**
NON-EXPANDED STORE)				
****GENERAL MERCHANDISE MANAGER**				
(ASSIGNED PRIOR TO 5/1/82:	**$18.23**	**$18.48**	**$18.73**	**$18.98**
EXPANDED STORE)				

CLASSIFICATIONS	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
**G.M. DEPT. HEAD TRAINEE				
(ASSIGNED PRIOR TO 5/1/82)	$17.06	$17.31	$17.56	$17.81
SANITATION MANAGER	$16.34	$16.59	$16.84	$17.09
IN-STORE FILM LAB MANAGER	$17.06	$17.31	$17.56	$17.81
ASSISTANT BAKERY MANAGER	$15.58	$15.83	$16.08	$16.33
BAKERY MANAGER	$17.81	$18.06	$18.31	$18.56
TELESHOP ORDER SELECTOR	$12.92	$13.17	$13.42	$13.67
GRANDFATHERED TELESHOP ORDER SELECTOR	$17.06	$17.31	$17.56	$17.81

EMPLOYEES HIRED INTO THE BARGAINING UNIT OR ASSIGNED OR PROMOTED ON OR AFTER MARCH 6, 2005

CLASSIFICATION	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
ALL PURPOSE/NUTRITION CLERK				
First 1040 hours worked	$9.13	$9.13	$9.13	$9.13
Next 1040 hours worked	$10.13	$10.13	$10.13	$10.13
Next 1040 hours worked	$11.03	$11.03	$11.03	$11.03
Next 1040 hours worked	$11.80	$11.80	$11.80	$11.80
Next 1040 hours worked	$12.55	$12.55	$12.55	$12.55
Next 1040 hours worked	$13.25	$13.25	$13.25	$13.25
Next 1040 hours worked	$14.00	$14.00	$14.00	$14.00
Next 520 hours worked	$14.80	$14.80	$14.80	$14.80
Thereafter	$17.06	$17.31	$17.56	$17.81
PHARMACY TECHNICIANS				
First 1040 hours worked	$10.40	$10.40	$10.40	$10.40
Next 1040 hours worked	$11.05	$11.05	$11.05	$11.05
Next 1040 hours worked	$11.70	$11.70	$11.70	$11.70
Next 1040 hours worked[3]	$12.55	$12.55	$12.55	$12.55
Next 1040 hours worked	$13.25	$13.25	$13.25	$13.25
Next 1040 hours worked[4]	$14.43	$14.43	$14.43	$14.43
Next 520 hours worked	$14.80	$14.80	$14.80	$14.80
Thereafter	$17.06	$17.31	$17.56	$17.81

[3] Starting Wage for Certified Technician
[4] Top Rate for Non-Certified Technician

CLASSIFICATION	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
BAKERY CLERK				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.45	$8.45	$8.45	$8.45
Next 1040 hours worked	$9.10	$9.10	$9.10	$9.10
Next 1040 hours worked	$9.75	$9.75	$9.75	$9.75
Next 1040 hours worked	$10.40	$10.40	$10.40	$10.40
Next 1040 hours worked	$11.05	$11.05	$11.05	$11.05
Next 1040 hours worked	$11.70	$11.70	$11.70	$11.70
Next 520 hours worked	$12.35	$12.35	$12.35	$12.35
Thereafter	**$14.43**	**$14.68**	**$14.93**	**$15.18**
PLANT/FLORAL CLERK				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.30	$8.30	$8.30	$8.30
Next 1040 hours worked	$8.80	$8.80	$8.80	$8.80
Next 1040 hours worked	$9.30	$9.30	$9.30	$9.30
Next 1040 hours worked	$9.80	$9.80	$9.80	$9.80
Next 1040 hours worked	$10.30	$10.30	$10.30	$10.30
Next 1040 hours worked	$10.80	$10.80	$10.80	$10.80
Next 520 hours worked	$11.50	$11.50	$11.50	$11.50
Thereafter	**$13.36**	**$13.61**	**$13.86**	**$14.11**
PLANT/FLORAL MANAGER	**$16.42**	**$16.67**	**$16.92**	**$17.17**
NON-FOOD OR GENERAL MERCHANDISE CLERK				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.09	$8.09	$8.09	$8.09
Next 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 520 hours worked	$9.69	$9.69	$9.69	$9.69
Thereafter	**$11.53**	**$11.78**	**$12.03**	**$12.28**
SANITATION				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.09	$8.09	$8.09	$8.09
Next 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 520 hours worked	$9.69	$9.69	$9.69	$9.69
Thereafter	**$11.53**	**$11.78**	**$12.03**	**$12.28**

CLASSIFICATION	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
COURTESY CLERK (Hired on or after March 6, 2005 and prior to December 17, 2009)				
THIRD 480 HOURS OF WORK	$7.28	$7.28	$7.28	$7.28
THEREAFTER	**$7.60**	**$7.70**	**$7.80**	**$7.90**
COURTESY CLERK (Hired on or after December 17, 2009)				
THEREAFTER	Fed Min Wage ~~+$0.10~~	Fed Min Wage ~~+$0.10~~	Fed Min Wage ~~+$0.10~~	Fed Min Wage ~~+$0.10~~
SALAD BAR CLERKS				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.09	$8.09	$8.09	$8.09
Next 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 520 hours worked	$9.50	$9.50	$9.50	$9.50
Thereafter	**$11.00**	**$11.25**	**$11.50**	**$11.75**
DELIVERY DRIVERS				
First 1040 hours worked	$7.79	$7.79	$7.79	$7.79
Next 1040 hours worked	$8.09	$8.09	$8.09	$8.09
Next 1040 hours worked	$8.39	$8.39	$8.39	$8.39
Next 1040 hours worked	$8.64	$8.64	$8.64	$8.64
Next 1040 hours worked	$8.89	$8.89	$8.89	$8.89
Next 1040 hours worked	$9.14	$9.14	$9.14	$9.14
Next 1040 hours worked	$9.39	$9.39	$9.39	$9.39
Next 520 hours worked	$9.50	$9.50	$9.50	$9.50
Thereafter	**$11.02**	**$11.27**	**$11.52**	**11.77**
SERVICE OR GROCERY MANAGER	**$17.81**	**$18.06**	**$18.31**	**$18.56**
HEAD CLERK & NIGHT CREW FOREMAN	**$17.46**	**$17.71**	**$17.96**	**$18.21**
PRODUCE MANAGER	**$18.14**	**$18.39**	**$18.64**	**$18.89**
GENERAL MERCHANDISE MANAGER				
(ASSIGNED AFTER 8/1/82)	**$17.61**	**$17.86**	**$18.11**	**$18.36**
GENERAL MERCHANDISE MANAGER				
(ASSIGNED PRIOR TO 5/1/82:	**$17.61**	**$17.86**	**$18.11**	**$18.36**
NON-EXPANDED STORE)				

CLASSIFICATION	EFFECTIVE 9/11/2011	EFFECTIVE 9/9/2012	EFFECTIVE 9/15/13	EFFECTIVE 9/14/14
**GENERAL MERCHANDISE MANAGER				
(ASSIGNED PRIOR TO 5/1/82:	$18.23	$18.48	$18.73	$18.98
EXPANDED STORE)				
**G.M. DEPT. HEAD TRAINEE				
(ASSIGNED PRIOR TO 5/1/82:	$17.06	$17.31	$17.56	$17.81
SANITATION MANAGER	$16.34	$16.59	$16.84	$17.09
IN-STORE FILM LAB MANAGER	$17.06	$17.31	$17.56	$17.81
ASSISTANT BAKERY MANAGER	$15.58	$15.83	$16.08	$16.33
BAKERY MANAGER	$17.81	$18.06	$18.31	$18.56
TELESHOP ORDER SELECTOR				
First 960 hours worked	$7.77	$7.77	$7.77	$7.77
Next 960 hours worked	$8.59	$8.59	$8.59	$8.59
Next 960 hours worked	$9.62	$9.62	$9.62	$9.62
Next 960 hours	$10.59	$10.59	$10.59	$10.59
Thereafter	$12.92	$13.17	$13.42	$13.67

LETTERS OF AGREEMENT

The Letters of Understanding, which are carried over into the new five (5) year Agreement, are as follows; all others are deemed null and void:

1. Extension of thirty-day time limit as set forth in Article 21. Section 49, Step 3. Dated 6/27/80.
2. Settlement of NLRB Case 27-CA-8665, Information/Customer Complaints. Dated 5/4/84
3. Posting Official Notice Arbitration. Dated 5/14/84.
4. Hiring of Journeyman Floral Clerk. Dated 7/17/85.
5. Expedited Arbitration Procedures. Dated 10/2/87.
6. Definitions of "Beverages" in CBA. Dated 11/11/87.
7. Sick Pay Request Forms. Dated 11/17/87.
8. Sick Pay Accumulation. Dated 1/6/88.
9. Grievances Resolved at Store Level by Stewards. Dated 1/6/88.
10. Pharmacy Technician Staffing. Dated 1/11/88.
11. Promotions, Article 30, Section 71. Dated 1/3/88.
12. In-Store Film Processing Labs. Dated 11/3/88.
13. Outdoor Bedding Plant Sales/Holiday Pay. Dated 4/6/89.
14. Demotions and Step Downs. Dated 4/6/89.
15. In-Store Film Processing Labs. (Store #36) Dated 8/31/90.
16. ACTMEDIA, Inc. Dated 9/24/90.
17. Video Sales Snack Items. Dated 10/5/90.
18. Special Order Person. Dated 10/10/90.
19. Delivery Driver Supplemental Agreement. Dated 3/14/91

20. In-Store Film Processing Lab. Dated 5/7/91.
21. Community Ministries Volunteers. Dated 5/13/91.
22. Test of Pharmacy Technicians' Floater Pool. Dated 6/18/91.
23. Reclamation Center/Dry Cleaning. Dated 7/31/91.
24. Travel Agency. Dated 8/5/91.
25. Volunteer Organizations Participating in Coupon Programs. Dated 9/6/91.
26. Arbitrators Decision, Personal Beepers/Pagers. Dated 2/17/92.
27. Teleshopper Selection Center Supplemental Agreement. Dated 12/1/95.
28. Four Ten Hour Days. Dated 8/6/96.
29. Dress Requirements. Dated 4/17/97.
30. Pharmacy Technicians Agreement. Dated 6/25/98.
31. Delivery Drivers. Dated 11/17/00.
32. Pharmacy Technicians. **Revised 10/10/11**.
33. Employee Buyout. Dated 11/9/05.
34. Courtesy Clerks. Dated 11/9/05.
35. Verbal or Written Warnings 1/26/06.
36. **Nutrition Clerk Rate of Pay. Dated 8/30/10.**
37. **Health and Welfare Trust Fund. Dated 4/28/11.**

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL #7

BY: _____
Kim C, Cordova
President

DATE: _____

KING SOOPERS, INC.

BY: _____
Stephen J. DiCroce
Sr. Director – Labor Relations

DATE: _____

LETTER OF AGREEMENT

#1

EXTENSION OF THIRTY DAY TIME LIMIT AS SET FORTH IN ARTICLE 21, SEC. 49. STEP 3. DATED 6/27/80

June 27, 1980

Edward Behlke, Vice President
King Soopers, Inc.
65 Tejon Street
Denver, CO 80223

Re: Extension of Thirty Day Time Limit as Set Forth in Article 21, Section 49, Step 3

Dear Ed:

In the newly adopted bylaws of Local 7, there is a provision which will allow a member to appeal the Union's recommendation not to arbitrate a member's particular grievance. This appeal is brought before the Local Union's Executive Board.

Because of this procedure, the decision to arbitrate a particular grievance could go beyond the thirty (30) day time limit.

While the Union certainly has the right to request arbitration and then cancel such arbitration, the Union feels that it would be in the best interest of both parties and less paperwork if the Company would agree to extend this thirty (30) days provided that the Union notifies the Company of the grievance and the date of the appeal. The Union would further agree that in the event it chose to arbitrate said grievance, the Union must request such arbitration within ten (10) days after the appeal date.

As I recall, I have previously discussed this with you or one of your representatives and you have indicated that this procedure would be agreeable. If for some reason this does not meet with your approval, would you please contact me promptly?

Thanking you in advance, I am

The original document was signed by Charles E. Mercer and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#2

SETTLEMENT OF NLRB CASE 27-CA-8665, INFORMATION/CUSTOMER COMPLAINTS. DATED 5/4/84

Letter of Settlement
between
King Soopers, Inc.
and
United Food and Commercial Workers, Local Union No. 7

King Soopers, Inc. (hereinafter the "Employer") and United Food and Commercial Workers, Local Union No. 7 (hereinafter the "Union"), hereby agree to settle the allegations set forth in the Charge Against Employer in Case No. 27-CA-8665 on the following basis:

1. The Union hereby releases, remises and forever discharges the Employer from all matters asserted in the Charge Against Employer or Complaint and Notice of hearing in Case No. 27-CA-8665 now pending before the National Labor Relations Board, which charge the Union agrees to withdraw with prejudice and the Union agrees to take all procedural steps necessary to accomplish the dismissal of the Complaint therein.

2. The Employer denies that it has engaged in any unfair labor practices and the Employer's concurrence in this agreement shall not constitute an admission of any unfair labor practice.

3. If an employee is disciplined or discharged as a result of a customer alleging misconduct and a grievance is filed protesting the discipline or discharge which is presented to arbitration, upon request, the attorney representing the Union will be provided the name and telephone number of the complaining customer. The attorney will contact the customer by telephone, if contact is desired. If the customer agrees to a meeting in person during the telephone conversation, the Employer will provide the Union with the customer's address. If the customer does not have a telephone at home or at work, the Employer will provide the attorney representing the Union with the customer's address.

4. The Union's attorney shall keep the customer's name, telephone number and/or address confidential to himself or herself, except in the case of the Union's law firm the name, telephone number, and/or address may be provided to a law clerk.

5. The Union's attorney shall not intimidate, threaten or otherwise harass the customer, but shall conduct themselves in a professional manner.

IN WITNESS WHEREOF, the above named parties affix their names and the signatures of their duly authorized representative this 4th of May, 1984.

The original document was signed by Charles Mercer and Steven Niven and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#3

POSTING OFFICIAL NOTICE ARBITRATION. DATED 5/14/84

May 14, 1984

Michael C. Severns, Esq.
Mountain States Employers Council
1790 Logan Street
Box 539
Denver, Colorado 80201

Re: UFCW-7 v. King Soopers (Posting Official Union Notice Arbitration)

Dear Mike:

This letter will confirm that we have orally reached an agreement to settle this case on Thursday, May 10. Enclosed with this letter is a draft of the language which we have discussed over the telephone which is part of the settlement.

Outside of the settlement, we have made some other agreements or exchanged ideas. First, it is agreed that the August 29, 1983 notice which cased this grievance to be filed, would be considered proper under the attached language. Second, with respect to management reviewing the notice, we have agreed that such a review cannot unreasonable interfere with the timing of the notice, i.e., if it is important that the notice be posted immediately because its content needs to be knows before a date arising in the immediate future, it would not be proper for Kings to unreasonably insist that a particular individual review the notice who is not then available. If, however there is no particular time crunch involved, there is a fair amount of flexibility in terms of who reviews the notice and when.

Finally, with respect to the word inflammatory which is included in the settlement, we discussed two different sets of circumstances, one of which we would agree is inflammatory and one of which we would agree is not inflammatory. We recognize that there may be a fine line between the two and hope that all parties will act reasonably in interpreting the language in the facts of each case. With respect to what is inflammatory, it would be improper for the union in a notice to encourage members to file numerous and multiple grievances in an effort to harass King Soopers. It would not be inflammatory for the union to explain rights and to inform the employees that if they have problems or beliefs that these rights are being violated to discuss the matter with their steward or business agent.

I believe that this settlement is fair and reasonable for all sides and that the problem probably arose because of the heat of the moment. To my knowledge, there had never been any problems in the past with posting of notices and it is my firm hope that there will be none in the future. I appreciate your cooperation in helping reach a prompt and reasonable resolution to this matter. If you have any questions about the language, please feel free to call.

The original document was signed by Thomas Buescher on 5/14/84 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#4

HIRING OF JOURNEYMAN FLORAL CLERK. DATED 7/17/85

SETTLEMENT AGREEMENT

The United Food and Commercial Workers Union, Local No. 7 and King Soopers, Inc., hereby agree to resolve the grievance in Case #230-85 as follows:

1. It is agreed that the word "Journeymen" in Section 84 of the collective bargaining agreement refers to all classifications, having a Journeymen or a "Thereafter" rate.

2. It is agreed that, in the circumstances of this case, the Company did have a specific need to hire a Journeyman Floral Clerk and thus, the above-referenced grievance is hereby withdrawn on a non-precedent setting basis. The Company acknowledges however, that it has an obligation to review such hiring before they occur and will do so in all future cases.

The original document was signed by Ed Behike and Charles E. Mercer on 7/17/85 and is on file at the King Soopers Labor Relations Dept.

LETTER OF UNDERSTANDING

#5

EXPEDITED ARBITRATION PROCEDURES. DATED 10/2/87

Between

King Soopers, Inc. and UFCW Local No. 7

EXPEDITED ARBITRATION PROCEDURES

Effective upon ratification of a collective bargaining agreement, the parties signatory below agree to adopt an expedited arbitration procedure as outlined below. Notwithstanding the provisions of such agreement, the parties recognize that arbitration's already scheduled prior to the effective date of this agreement shall be arbitrated as in the past and not subject to the provisions of this agreement unless the parties mutually agree to do so.

Arbitrators David Goodman and Harry Maclean shall be selected as the arbitrators to hear cases arising under this procedure. The parties will direct the arbitrators to set aside one day per month to hear arbitration's under this procedures. As near as practical, such dates will be during the second and fourth week of each month. If necessary, and the parties mutually agree, the arbitrators will be asked to set aside more days per month.

The parties shall meet biweekly to review cases pending arbitration and to schedule cases for arbitration under this procedure. Should a case scheduled for arbitration be settled prior to the scheduled date, the parties will make an earnest effort to substitute another case for the scheduled date.

Except as otherwise set forth in this agreement, all discipline cases, including discharges, shall be subject to the provisions of this procedure. Contract interpretation cases, upon mutual agreement by both parties, shall also be subject to this procedure. For discipline cases, other than discharges, both parties agree, where practical, to schedule at least two such cases to be heard on one day, with the understanding that the presentation of such cases shall not exceed four hours, with both sides being allocated two hours for the presentation of their case and cross-examination of witnesses of the opposing side.

For all discipline cases, including discharges, both parties will make closing oral arguments unless mutually agreed otherwise, and the arbitrator will issue a brief written award. Where practical, the parties will direct the arbitrator to issue a written bench decision and summarize his decision in a one-page letter following the arbitration. The arbitrator, at his discretion, may request no more than seven days to deliberate on the issues of a particular case. In this regard, an arbitrator will issue his award within fourteen days following the close of the hearing.

Both parties will direct the arbitrator to issue an abbreviated award, which details only the arbitrator's award and a brief explanation as to the reasons for this award. In the case of contract interpretive matters, both parties recognize the need to file briefs and have the arbitrator write a detailed decision. In this regard, both parties agree to file briefs within two weeks following the close of the hearing and will direct the arbitrator to issue an abbreviated decision which details only the arbitrator's award within two weeks following the receipt of

briefs. The arbitrator will then issue a detailed decision within thirty days following receipt of the briefs by the parties.

Either party may, by notification to the other prior to a case being scheduled, exclude a particular case from the provisions of this agreement. In this case, the arbitration shall be scheduled and handled under the normal procedure.

Provisions of this agreement are hereby entered into by both parties signatory below and in full force and effect, unless either party, through written notification to the other party, gives thirty (30) days written notice of their intent to cancel this agreement. In this regard, the parties agree that cases scheduled for arbitration under this procedure shall proceed to arbitration as provided above.

The original document was signed by Steve DiCroce and Gary Hakes on 10/2/87 and is on file at the King Soopers Labor Relations Dept.

DRAFT

LETTER OF UNDERSTANDING

#6

DEFINITIONS OF "BEVERAGES" IN CBA. DATED 11/11/87

BETWEEN

KING SOOPERS, INC.

AND

UNITED FOOD AND COMMERCIAL WORKERS LOCAL NO. 7

King Soopers, Inc. and United Food and Commercial Workers Local No. 7 are signatory to certain Collective Bargaining Agreements covering employees employed by King Soopers, Inc. in its retail stores. The parties have agreed that the definition of "beverages" as it appears in the bargaining unit work jurisdiction provision of the Collective Bargaining Agreements shall be interpreted as follows:

> "Beverages" shall be defined as soda pop, liquid mixes (tonic, soda, Tom Collins, etc.), beer, waters (seltzer, mineral, flavored soda, etc.), wine (where carried), and non-carbonated fruit juices and juice flavored drinks packaged in a manner similar to soda pop items.

The original document was signed by Ed Behlke and Charles E. Mercer on 11/11/87 and is on file at the King Soopers Labor Relations Dept.

LETTER OF UNDERSTANDING

#7

SICK PAY REQUEST FORMS. DATED 11/17/87

The United Food & Commercial Workers' Local No. 7 (hereinafter "the Union") and King Soopers, Inc. (hereinafter "the Employer") hereby agree to resolve the grievance in Case No. 52-84 as follows:

1. The Employer may require employees to complete its sick pay request forms in accordance with the following:

   a. Part I of the form must be completed for all absences for which the employee is requesting sick pay.
   b. Part IV of the form may be required to be completed for absences of three or more scheduled work days.
   c. Completion of Part IV of the form may be requested prior to three scheduled work days if there are suspicious circumstances indicating malingering by the involved employee. Additionally, the Employer may require completion of Part IV where the employee's absenteeism record is excessive. Under the above circumstances, the employee will be notified by a Company representative, while still absent, that the employee will be required to have Part IV completed.
   d. In lieu of completing Part IV, where necessary, the employee may submit the following, which shall constitute "other authoritative verification", only if dates of disability and diagnosis are indicated.
      (1) Hospital bill
      (2) Worker Compensation Information
      (3) Health and Welfare trust fund information

2. The Employer will make every reasonable effort to insure that payments will be received in a timely manner.

3. The Employer will not refuse to allow employees returning from sick leave to report for work because the employee has not completed the sick pay request form or provided other verification of illness. The only exception would be where the employee does not appear physically capable of performing the work or where the illness could remain contagious and therefore dangerous to either product, customers or employees. Where the request for sick leave is denied, the Union may grieve and pursue the same.

4. For absences of one calendar week or more, employees will be required to request a leave of absence in writing.

5. Completion of the sick pay request form will not be required by employees who are not eligible for, or are not requesting sick pay.

The original document was signed by Ed Behlke on 11/17/87 and Charles E. Mercer on 12/22/87 and is on file at King Soopers Labor Relations Dept.

LETTER OF UNDERSTANDING

#8

SICK PAY ACCUMULATION. DATED 1/6/88

BETWEEN

KING SOOPERS, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

Whereas, during the negotiations for the current contract, the parties agreed that part-time employees would accrue sick pay on a pro-rata bases;

Whereas, a dispute has arisen as to how full time employees would continue to accrue sick pay;

Whereas, resolution of such an issue was not contemplated nor discussed during said negotiations.

Therefore, in order to resolve the dispute, the parties named above hereby agree as follows:

> Employees classified as full time shall continue to receive 4 hours sick pay credit per month, provided said employee works the minimum hours set forth in the Meat and Clerks Agreements.

This agreement shall apply to all collective bargaining agreements between the parties, which have the above-described language and shall be in effect during the terms of said Agreements.

The original document was signed by Steve DICroce and Gary Hakes on 1/6/88 and is on file at the King Soopers Labor Relations Dept.

LETTER OF UNDERSTANDING

#9

GRIEVANCES RESOLVED AT STORE LEVEL BY STEWARDS. DATED 1/6/88

BETWEEN

KING SOOPERS, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL NO. 7

To encourage prompt and equitable resolution of grievances, the parties set forth above agree to the following:

All grievances resolved at the store level between Management and the Union appointed Shop Steward shall be entered into on a non-precedent setting basis.

The original document was signed by Steve DiCroce and Gary Hakes on 1/6/88 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#10

PHARMACY TECHNICIAN STAFFING. DATED 1/11/88

This letter is to confirm the understanding reached with Harley Fujimoto on October 27, 1987, regarding the filling of shifts in the Pharmacy and further reflects the Unions additional points of concern that we discussed in December, 1987.

As we discussed, the Pharmacy Department often has additional scheduling needs that cannot be staffed with current pharmacy technicians. Further, such scheduling needs do not justify the needs to additional staff. Therefore, we agreed as follows:

> That it shall not be a violation of the Collective Bargaining Agreement to temporarily advance a senior qualified general merchandise clerk on a weekly basis to cover pharmacy technicians' hours which cannot be assigned at straight time to current technicians. It is further understood that such assignments shall not exceed 16 hours per week or as written.

Please execute this letter and return to me. I've included an extra copy for your records.

*This agreement may be discontinued by either party by written notice 5 days prior to taking effect.

The original document was signed by Steve DiCroce and Gary Hakes on 1/11/88 and is on file at the King Soopers Labor Relation Dept.

LETTER OF AGREEMENT

#11

RE: PROMOTIONS (ARTICLE 30, SECTION 71). DATED 11/3/88

The following understanding shall apply to all bargaining units covered by contract with the UFCW Local No. 7:

1.) That in compliance with the standards set forth by the Department of Labor, no employee shall be promoted to the Bakery, Produce, Meat or Deli while under the age of 18. If the affected employee turns 18 years old during the promotion period, he/she shall then become eligible for promotion to the above job assignments in accordance with Article 30 Section 71.

2.) It is understood that age shall not be a factor in all other promotion not covered under #1 above.

The original document was signed by Steve DiCroce and Gary Hakes on 11/3/88 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#12

IN STORE FILM PROCESSING. DATED 11/3/88

King Soopers, Inc. and the United Food and Commercial Workers Union, Local 7, hereby agree to the following understanding relative to the addition of In-store film processing labs:

1.) That the duties of the General Merchandise/Non-Food Clerk be expanded to include the operation of the In-store film processing lab.

2.) That the In-Store film processing lab shall be a separate department and, notwithstanding Sections 70 and 83 of the clerks agreements, when necessary, management shall have the right to hire GM clerks for these primary assignments, due to lack of qualifications of internal candidates, off-the-street whom management determines to be qualified. It is further agreed that prior to hiring an employee off-the-street, that management will post a notice to current employees in the bargaining unit to solicit applicant for the position. Bargaining unit employees shall receive preference, if qualified, before any new employee is hired.

3.) Section 73 (c) (7) shall be modified to include In-store film processing as work excluded from the training requirements of such section. All qualified promotees or new hires will be given the necessary training relative to King Soopers policies, procedures and equipment. In the event management elects to provide basic training (photo experience referenced above) in order to qualify an employee management agrees that such training would be provided to bargaining unit employees first.

4.) Section 90 (b) & (c) shall be modified to include film processing as an inclusion in which an employee must be qualified for before they can displace an employee in these jobs.

5.) GM/Non-food clerk assigned to the Film Processing Department shall not be allowed to perform traditional GM/Non-food duties other than those directly related to the stocking, selling and processing/handling of film.

6.) Nothing in this agreement should be construed to prevent the transfer of work from one department to another. However, in the event management transfers film handling and/or sales from the service center to the processing department, it is agreed that as a result of such transfer of work, no GM/Non-Food Clerk working at the service desk in the store at the time of transfer shall have their hours reduced as a result of such transfer.

7.) GM clerks hired or promoted into the processing department shall be started at the 2nd progression level for general Merchandise/Non-food Clerks hired on or after May 6, 1979. The rate for department managers shall be $8.87 per hour.

8.) It is understood that the work performed by In-store labs shall be separate and distinct from the work performed by Royal Color and that nothing in this agreement extends this agreement or recognition to Royal Color, nor prevents the transfer back to Royal Color of this work in the event of a layoff, employees of the film lab shall be allowed to exercise their seniority in accordance with the contract.

9.) Jurisdiction of Local No. 7 extends only to film processing work when performed within a store.

10.) This agreement shall be in effect until May 1, 1989 and limited to store #26. The Company agrees to review this understanding for modification or permanence with the union prior to May 1, 1989 and failure to reach an agreement shall result in this agreement becoming null and void, and neither the parties shall return to the current contract. This agreement, nor the experimental practice it allows, shall serve to prejudice the rights either party has pursuant to the contract.

The original document was signed by Steve DiCroce and Gary Hakes on 11/3/88 and is on file in the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#13

HOLIDAY PAY FOR PART-TIME EMPLOYEES AND OUTDOOR BEDDING PLANT SALES. DATED 4/6/89

King Soopers Inc. and the UFCW Local No. 7 agree as follows relative to the disputes regarding payment of holiday pay to part-time employees under the clerks and meat agreements, and the dispute over which classification has jurisdiction over collection of sales during the outdoor bedding plant sale.

1. The language governing holiday pay for part-time employees under the meat and clerk agreements shall be interpreted as follows:

   Holiday pay shall be based on the actual hours worked, or paid for vacation for the week immediately preceding the week in which the holiday occurs. Other hours paid for, but not worked, such as funeral pay, sick pay, holiday pay, jury pay, etc. shall not be included in determining holiday for part-time employees. It is understood that such holiday pay is subject to the employee meeting the other eligibility requirements of the contract.

   It is further understood, that a part-time employee who does not perform work in the week immediately preceding the holiday and is not on vacation during that week or receiving sick pay or in the first 30 days of an LOA for an on-the-job injury, shall not be entitled to any holiday pay. A part-time employee who does not perform work in the week prior to a holiday and who is not on vacation, but is receiving sick pay or is within the first 30 days of an LOA or an on-the-job injury shall be paid the minimum 3 hours of holiday pay providing they meet the other eligibility requirements of the contract.

2. All pending grievances filed on the issue in #1 shall be resolved on the basis of this interpretation.

3. It is understood that the parties have a dispute as to the permissible duties of GM/Non-food clerks with respect to the handling and sales of seasonal bedding plants items outside the plant and floral department. The parties agree to the following interpretation with the understanding that such understanding does not prejudice the parties position on the principal issue stated above.

   The sales of bedding plants and related items outside the store (and Christmas trees during the holiday season) shall be performed by Plant and Floral clerks of the store. In the event that Plant and Floral clerks don't exist in the location or they have their hours maximized, then the company may utilize GM/Non-food clerks to perform the work at the GM/Non-food clerks current rate of pay.

   No other changes are contemplated by the agreement.

The original document was signed by Steve DiCroce on 4/6/89 and Gary Hakes on 4/3/89 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#14

RE: DEMOTIONS AND STEP DOWNS. DATED 4/6/89

Between

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

and

KING SOOPERS, INC.

1. Whenever a member of the bargaining unit, in a lesser classified job than Head Clerk, is demoted, whether voluntary or involuntary, such employee may be returned to the classification and status (i.e., full time/part time) held when he/she accepted the current classification being vacated, or the employee may exercise his/her seniority to claim a position in accordance with the current Full Time or Promotion Request lists.

2. This agreement shall not apply when a bargaining unit employee is affected by a layoff (as opposed to a demotion or step down). Under such circumstances, the provisions of the collective bargaining agreement concerning layoff shall govern.

3. Notwithstanding the foregoing, it is understood that the demotion and step down of bargaining unit employees will be subject to the provisions of the collective bargaining agreement.

4. This agreement shall be in full force and effect from date acceptance until May 6, 1990, and may be continued upon mutual agreement of the parties.

The original document was signed by Steve DiCroce and Gary Hakes on 4/6/89 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#15

IN-STORE FILM PROCESSING LABS, (STORE #36). DATED 8/31/90

August 22, 1990

Gary Hakes
Assistant to General Council
UFCW, Local #7
7760 West 38th Avenue
Wheat Ridge, Co. 80033

RE: In-Store Film Processing Lab, Letter of Understanding - Dated 11/3/88 (continued thru 5/8/93)

Dear Gary:

At our meeting last Thursday, August 16, 1990, we discussed the expansion of the above letter of understanding to include Store #36 as a site for an In-store film processing lab. It was our understanding that you saw no problem in including this additional store in the agreement.

Thus, this letter represents a formal request to modify the above referenced letter of understanding to include Store #36 in addition to Store #26 as sites for In-Store Film Processing Labs.

If this is an acceptable modification to the letter of understanding, please sign below and return a signed copy to me. Thank you.

The original document was signed by Susan Meader and Gary Hakes on 8/31/90 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#16

ACTMEDIA, INC. DATED 9/24/90

between

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL NO. 7

and

KING SOOPERS, INC.

WHEREAS, King Soopers, Inc., has contracted certain services with ACTMEDIA, Inc.; and

WHEREAS, this work would not normally otherwise exist within stores;

NOW, THEREFORE, the parties identified above agree as follows:

1. Representatives from ACTMEDIA, Inc. may maintain advertising pace on aisle vision billboards, shopping carts and the shelf talker instant coupon machine in all stores, with the understanding that such advertising placards are not to include pricing of any kind.

2. It is further understood that this work is strictly limited as set forth above and shall not be expanded further.

3. The Company will provide the Union with a copy of the current work contract with ACTMEDIA, Inc., and this agreement shall expire concurrent with said contract, unless mutually agreed upon by the parties to continue the same.

The original document was signed by Steve DiCroce on 9/24/90 and Gary Hakes on 9/14/90 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#17

VIDEO SALES SNACK ITEMS. DATED 10/5/90

King Soopers and the UFCW Local No. 7 hereby agree to the following understanding regarding the sales of certain snack items in self-contained video departments:

> Popcorn, candy, pop, and other snack items that are normally sold in the major theaters can be sold in the video department by non-food clerks at the time the customers rent their video. It is agreed and understood that no other food items may be purchased in the video department.

The original document was signed by Steve DiCroce and Gary Hakes on 10/5/90 and is on file at the King Soopers Labor Relation Dept.

DRAFT

LETTER OF AGREEMENT

#18

SPECIAL ORDER PERSON (KS #'S 4 AND 7). DATED 10/10/90

Case Nos. 475- and 476-90

The parties agree to resolve the above-referenced matters as follows:

1. No later than Oct. 22, 1990, the Company agrees to post a notice in all stores by district, identifying an opening for a "District Special-Order Person", which job is to be performed by an all-purpose clerk.

2. The notice shall remain posted for seven days in an area accessible to all employees.

3. After the seven-day posting requirement has been complied with, the names shall be submitted to a central location and a copy of each store posting shall be provided to the Union.

4. No later than Dec. 2, 1990, the Company will assign this position to the most senior, qualified employee who has signed the list. Qualification required for consideration would include previous ordering experience, as well as stocking experience; and, where qualifications are reasonably equal, seniority shall prevail.

5. As future openings occur within this job assignment resulting from quit, discharge, transfer, promotion or a new-job assignment, the above procedure will again be used in determining who will be assigned to the vacancy.

The original document was signed by Steve DiCroce on 10/10/90 and Gary Hakes on 9/21/90 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#19

DELIVERY DRIVER SUPPLEMENTAL AGREEMENT. DATED 3/14/91

KING SOOPERS, INC. (Denver, Colorado) A division of DILLON COMPANY, INC., hereinafter referred to as the "Employer" and the UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL #7, AFL-CIO-CLC, hereinafter referred to as the "union" are parties to a Labor Agreement having as its term May 6, 1990 to May 8, 1993. Said Agreement, hereinafter referred to as the "Principal Agreement" covers the retail clerk operations of the Employer's stores in the metropolitan Denver area.

This Supplemental Agreement which has as its term October 21, 1990 to May 8, 1993, amends, modifies, or changes certain identified portions of the Principal Agreement as set forth below. Where there is no reference to an Article or Section then such Article or Section shall be deemed to not have included in this Supplemental Agreement.

ARTICLE 1
RECOGNITION AND EXCLUSIONS

Section 1. Amend language of the Principal Agreement as follows:
Addition: Delivery Drivers
Exclusion additions: temporary/seasonal employees and contract.

Paragraphs two and three same as Principal Agreement.

ARTICLE 2
BARGAINING UNIT WORK JURISDICTION

Section 2. Amend language of the Principal Agreement as follows:

All work and services performed in the bargaining unit connected with the delivery of merchandise to the public and the picking up of shopping carts shall be performed by bargaining unit members except as provided below. Supervisors, non bargaining unit employees, contract laborers and temporary/seasonal employees may perform work covered under this Supplemental Agreement, except that the Employer agrees not to hire additional contractors to pick-up shopping carts.

ARTICLE 3
UNION SECURITY AND CONDITIONS

All Sections. Same as Principal Agreement.

ARTICLE 4
CHECK-OFF

All Sections. Same as Principal Agreement.

ARTICLE 5
NEW EMPLOYEES, TRANSFERRED EMPLOYEES, PROMOTED OR DEMOTED

All Sections. Same as Principal Agreement.

ARTICLE 6
RIGHTS OF MANAGEMENT

All Sections. Same as Principal Agreement.

ARTICLE 7
DEFINITIONS OF CLASSIFICATIONS

Section 19. Add to Section 19 the following definitions.

f. 4. DELIVERY DRIVERS. A delivery driver is an employee whose principal job assignment includes the delivery of customer purchases to the customer, picking up of abandoned shopping carts in the vicinity of the store and returning same to store and the necessary maintenance of shopping carts. Delivery drivers may perform all work connected with the selection of customer purchases from the sales floor, including the storage and retrieval thereof. Delivery drivers may also be required to make incidental pick-ups and deliveries of items at the Employer's warehouses or manufacturing facilities and of other items not listed above at the Employers discretion.

f. 5. TEMPORARY/SEASONAL EMPLOYEES. Temporary Seasonal employees may be hired from 11/15 to 1/6 and 2/1 to 6/15 for periods not to exceed 30 days and may perform any of the work designated in Section 19, f.4, which would not include the selection of customer purchases from the sales floor, including the storage and retrieval thereof.

f. 6. SHOPPING CART CONTRACT LABORERS. The employer agrees to not contract with any additional contractors for the purpose of shopping cart collection during the life of this agreement.

f. 7. DELIVERY CONTRACT LABORERS. The employer may employ contract laborers for the purpose of making pick-ups and deliveries as defined in f. 4. above with the understanding that such contractors shall not be allowed to select customer purchases from the sales floor, including the storage and retrieval thereof.

Section 20. Same as Principal Agreement.

ARTICLE 8
RATES OF PAY

All Sections. Same as Principal Agreement.

ARTICLE 9
PRIOR EXPERIENCE

All Sections. Same as Principal Agreement.

ARTICLE 10
TEMPORARY ASSIGNMENTS

All Sections. Same as Principal Agreement.

ARTICLE 11
NO REDUCTION IN PAY

All Sections. Same as Principal Agreement.

ARTICLE 12
WORKWEEK

All Sections. Same as Principal Agreement.

ARTICLE 13
OVERTIME

All Sections. Same as Principal Agreement.

ARTICLE 14
SUNDAY PREMIUM

All Sections. Same as Principal Agreement.

ARTICLE 15
TRAVEL BETWEEN STORES

All Sections. Same as Principal Agreement, except add new sections to read:

> "A premium of $0.30 cents per hour for all hours worked in the collection of shopping carts by an employee using his personal vehicle."
>
> "Any employee whose driving record shows a pattern of continuous and repetitive disregard for traffic laws, public safety and the employers interest, may be subject to progressive discipline."

ARTICLE 16
NIGHT PREMIUM

All Sections. Same as Principal Agreement.

ARTICLE 17
HOLIDAYS AND HOLIDAY PAY

All Sections. Same as Principal Agreement.

ARTICLE 18
VACATIONS

All Sections. Same as Principal Agreement.

ARTICLE 19
SCHEDULE POSTING

All Sections. Same as Principal Agreement.

ARTICLE 20
MINIMUM DAILY SCHEDULE

Section 63. Amend language of Principal Agreement as follows:

> Delivery Drivers shall not be scheduled for less than two (2) hours per day, or 16 hours per week, provided they are available for work.

ARTICLE 21
MINIMUM WEEKLY SCHEDULE

All Sections. Same as Principal Agreement.

ARTICLE 22
NO FREE WORK

All Sections. Same as Principal Agreement.

ARTICLE 23
TIME CARDS

All Sections. Same as Principal Agreement.

ARTICLE 24
SPILT SHIFTS

All Sections. Same as Principal Agreement.

ARTICLE 25
STORE MEETINGS

All Sections. Same as Principal Agreement.

ARTICLE 26
REPORTING PAY

Sections 69. Amend Principal Agreement as follows:

Any employee able to render required services shall, if called for work, be guaranteed an amount equal to two (2) hours' pay at his straight-time rate of pay. Employees working in two (2) stores of the Employer in any one (1) day shall receive a full day's pay for such work.

ARTICLE 27
LUNCH BREAKS

All Sections. Same as Principal Agreement.

ARTICLE 28
RELIEF PERIODS

All Sections. Same as Principal Agreement.

ARTICLE 29
PROBATIONARY PERIOD

All Sections. Same as Principal Agreement.

ARTICLE 30
SENIORITY

Section 73. Add new paragraph to language in Principal Agreement- "Delivery Drivers shall have separate seniority for all applications of the collective bargaining agreement. It is understood that drivers may be based at an individual store, be assigned to a HUB store or the floral design center and that for purposes on the seniority provisions of this agreement that such assignment shall be considered as a store. Further, employees may be dispatched from their base store to deliver an order from another store and that such assignment shall not be considered a breach of this agreement."

Section 74-80. Same as Principal Agreement.

Section 81. Add to language of Principal Agreement:

8. Notwithstanding the above, an employee classified as a Delivery Driver shall be eligible for promotion to a higher classification provided the employee has worked a minimum of 2 years in the delivery driver classification.

9. It is understood and agreed that the position of delivery driver is not subject to bid under the provisions of Section 81.

Section 82. Same as Principal Agreement.

ARTICLE 31
AVAILABLE HOURS

Section 88-96. Same as Principal Agreement.

Section 97. Amend language of Principal agreement as follows:

> The Employer retains the right to hire Delivery Driver personnel directly off-the-street. It is further understood that the Employer retains the right to select current employees at its discretion for delivery positions.

ARTICLE 32
PREFERRED SHIFTS

Section 98. Same as Principal Agreement

ARTICLE 33
UNSCHEDULED OVERTIME

Section 99. Amend paragraph two to provide "Overtime assignments of two (2) hours..."

ARTICLE 34
REDUCTION IN HOURS

All Sections. Same as Principal Agreement.

ARTICLE 35
LAYOFFS

Section 105. Add new last paragraph to current language to read:

> It is understood and agreed that higher classified employees of the bargaining unit shall not have the right to displace Delivery Drivers in the event of a layoff.

Section 106-107. Same as Principal Agreement.

ARTICLE 36
TRANSFER FROM STORE TO STORE

All Sections. Same as Principal Agreement.

ARTICLE 37
NEW STORE LANGUAGE

All Sections. Same as Principal Agreement.

ARTICLE 38
LEAVE OF ABSENCE

All Sections. Same as Principal Agreement.

ARTICLE 39
FUNERAL LEAVE

All Sections. Same as Principal Agreement.

ARTICLE 40
JURY DUTY

All Sections. Same as Principal Agreement.

ARTICLE 41
SICK LEAVE

All Sections. Same as Principal Agreement.

ARTICLE 42
INJURY ON JOB

All Sections. Same as Principal Agreement.

ARTICLE 43
HEALTH AND WELFARE COVERAGE

All Sections. Same as Principal Agreement.

ARTICLE 44
NON-DUPLICATION OF BENEFITS

All Sections. Same as Principal Agreement.

ARTICLE 45
PENSION

All Sections. Effective January 1, 1993 employees under this agreement shall cease to participate in the employers retirement program and shall begin participation in the pension program as defined in the Principal agreement.

ARTICLE 46
DISCHARGE AND NO DISCRIMINATION

All Sections. Same as Principal Agreement.

ARTICLE 47
UNION REPRESENTATIVE VISITATION

All Sections. Same as Principal Agreement.

ARTICLE 49
DISPUTE PROCEDURE

All Sections. Same as Principal Agreement.

ARTICLE 50
NO STRIKE OR LOCKOUT

All Sections. Same as Principal Agreement.

ARTICLE 51
STORE CLOSING

All Sections. Same as Principal Agreement.

ARTICLE 52
BULLETIN BOARD

All Sections. Same as Principal Agreement

ARTICLE 53
UNION STORE CARDS

All Sections. Same as Principal Agreement.

ARTICLE 54
LIE DETECTOR TESTS

All Sections. Same as Principal Agreement.

ARTICLE 55
UNIFORMS/EQUIPMENT

All Sections. Same as Principal Agreement.

ARTICLE 57
MASTER SAFETY COMMITTEE

All Sections. Same as Principal Agreement.

ARTICLE 58
JOINT LABOR MANAGEMENT COOPERATION

All Sections. Same as Principal Agreement.

ARTICLE 59
SAVINGS CLAUSE

All Sections. Same as Principal Agreement.

ARTICLE 61
TECHNOLOGICAL CHANGES

All Sections. Same as Principal Agreement.

ARTICLE 62
ENTIRE AGREEMENT

All Sections. Same as Principal Agreement.

ARTICLE 63
TERM OF AGREEMENT

All Sections. Modify dates as agreed in the Principal Agreement.

COST OF LIVING ALLOWANCE/ LETTERS OF UNDERSTANDING

Same as Principal Agreement as is applicable.

LETTER OF AGREEMENT

#20

IN-STORE FILM PROCESSING LAB. DATED 5/7/91

August 22, 1990

Gary Hakes
Assistant to the General Council
UFCW, Local #7
7760 West 38th Avenue
Wheat Ridge, Co. 80033

Re: In-Store Film Processing Lab, Letter of Understanding Dated 11/3/88 (continued thru 5/8/93)

Dear Gary:

This letter represents a formal request to expand the above referenced Letter of Understanding to include Store #50 and Store #40 as sites of In-Store Processing Labs. With the addition of these Stores the Letter of Understanding will allow us to have such Labs in Stores #26, #36, #40 and #50.

The addition of Store #40 and #50 to the sites of In-Store Film Processing Labs corresponds with their scheduled remodels during this calendar year. The placement of In-Store Film Processing Labs allows us to expand the services provided to our customers at these locations.

If this is an acceptable modification to the Letter of Understanding, please sign below and return a signed copy to me.

Should you have any questions, feel free to give me a call.

The original document was signed by Susan Meader on 4/24/91 and Gary Hakes on 5/7/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#21

COMMUNITY MINISTRIES COUPON PROGRAM, DATED 5/13/91

May 10, 1991

Gary Hakes
Assistant to the General Counsel
7760 West 38th Avenue
Wheat Ridge, CO 80033

RE: Community Ministries Coupon Program

Dear Mr. Hakes:

In our May 7, 1991 phone conversation we discussed and agreed to the implementation of a coupon program here at King Soopers by the organization, Community Ministries, which would operate under the same conditions as the Chum Coupon Program. Below is the revision of the Chum Coupon Program to reflect Community Ministries' involvement at this time.

The Union agrees to the following:

1. Community Ministries Volunteers may:

   a. Take inventory at the affected store, numbering aisles and listing categories of item in each aisle for the program's internal use.

   b. Place coupon on certain products in the stores using cellophane tape.

   c. The counting and sorting of these coupons shall be performed by bargaining unit members.

   d. Either party may discontinue said program by fourteen (14) days written notice to the other party.

   e. This program shall be limited to a six-month trial period from the date said program is begun.

   f. This program will be implemented at KS #19 and, upon mutual agreement between the parties, be expanded to additional stores in the Denver metro area.

   g. This agreement will become effective as of May 7, 1991.

Please sign and return one copy to the company.

The original document was signed by Susan Meader on 5/13/91 and Gary Hakes on 5/15/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#22

TEST OF PHARMACY TECHNICIANS' FLOATER POOL. DATED 6/18/91

between

KING SOOPERS, INC.

and

U. F. C. W., LOCAL #7

Effective the first Sunday following the signing of this Letter of Agreement King Soopers, Inc., and U. F. C. W., Local #7 hereby agree to a sixty (60) day trial of a Pharmacy Technicians' Floater Pool in the District Defined as the geographic area covered by the Company's District Manager, Mike Fitzgerald.

1. Management shall determine the number of Pharmacy Technicians in the District's Pharmacy Technician Floater Pool.

2. Management shall schedule the Pharmacy Technician Floaters ("Floaters" herein) on the basis of seniority and ability up to eight (8) hours per day or forty hours (40) per week to hours not scheduled or claimed by based Pharmacy Floater in more than one store per day to maximize his/her schedule. The seniority of Floaters shall be honored based on the hours made available from the stores in the weekly scheduling of Floaters so the fewest number of stores as practical. The employee being assigned hours shall not have the right to accept such hours in part, but shall be obligated to accept the entire schedule as written.

3. Hours of work assigned to Floaters shall be those of Pharmacy Technician hours in the District which cannot be covered by Technician hours in the District which cannot be covered by Technicians in their own locations, to include hours of work needed which were not on a posted schedule or hours on a posted schedule which have become available and Company has elected to fill some or all of those hours and has been unable to do so through the use of employees at the store where the need arises. Such requests for hours shall be turned into the Management person in the District assigned to scheduling the Pharmacy Technician Floaters.

4. Floaters shall have a right to full or part time vacancies which become available in individual stores, before hiring off the street.

5. Either party reserves the right to cancel this Agreement during the sixty (60) day test period in writing to the other party. It is understood and agreed that if this program is not terminated within 30 days following the expiration of the effective date of this Agreement, then such Agreement shall be extended and may be expanded to other districts until and unless either party gives 30 days advance written notice of its intent to cancel this agreement.

The original document was signed by Susan Meader on 6/18/91 and Charles Mercer on 6/23/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#23

RECLAMATION/ DRY CLEANING. DATED 7/31/91

July 31, 1991

Mr. Gary Hakes
UFCW Local No. 7
7760 West 38th Avenue, Suite 400
Wheat Ridge, CO 80033

RE: Reclamation

Dear Gary:

To follow up our discussion of the Steward's Conference, the Company will be operating a reclamation center that will allow King Soopers to obtain credit from manufacturers on damaged and unsalable products.

This will change the method in which damaged product is handled at the store level, instead of marking down product and placing it on the markdown rack, the APC will box all damaged products and ship them to the reclamation center. The reclamation center will work with the manufacturers to obtain credit for the merchandise.

We are hopeful that this program will reduce shrink expense and increase employee bonuses. Also, as we discussed we will be developing a new dry cleaning service in the stores. Non-food/GM clerks will accept and handle items to be cleaned. These items will be sent to a dry cleaner, who will clean the garments and return them to the stores. The clerks will store the cleaned garments and complete the transaction with the customer.

Thank you for your cooperation.

The original document was signed by Steve DiCroce on 7/31/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

 # 24

TRAVEL AGENCY, DATED 8/5/91

August 5, 1991

Mr. Gary Hakes
UFCW Local No. 7
7760 West 38th Avenue, Suite 400
Wheat Ridge, CO 80033

RE: Travel Agency

Dear Gary:

We have previously agreed to allow the establishment of a travel agency at store #38. It is our intent to allow Travel Cartel to expand into other stores.

As I indicated previously, due to the technical and licensing nature of this business, this is an area that we would not operate. Consequently, this is work that would not be done by bargaining unit employees.

Please let me know as soon as possible, if the Union objects to this expansion.

The original document was signed by Steve DiCroce on 8/5/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#25

REQUESTS OF VOLUNTEER ORGANIZATIONS TO PARTICIPATE IN COUPON PROGRAMS IN VARIOUS KING SOOPERS LOCATIONS. DATED 9/6/91

Gary Hakes
Assistant to the General Counsel
UFCW, Local #7
7760 West 38th Avenue
Wheat Ridge, CO 80033

RE: Request of Volunteer Organizations to participate in Coupon Programs in various King Soopers locations.

Dear Gary:

On Friday August 23, 1991 I spoke with you over the phone regarding the above referenced issue. Currently, we have specific letters with your Union over the CHUM and Community Ministries organizations having coupon programs in our locations. We would like to extend these letters to include other organizations which approach us to do like coupon programs.

The same conditions which have been applied to the CHUM and Community Ministries Organizations would apply to these forthcoming groups. Under these conditions volunteers may:

1) Take inventory at the affected store, numbering aisles and listing categories of item in each aisle for the program's internal use.

2) Place coupons on certain products in the store using cellophane tape.

3) The counting and sorting of these coupons shall be performed by bargaining unit members.

The Company will notify you of the specific organization and store location where a coupon program is placed as they are added to the coupon program. As before either party may discontinue said program with fourteen (14) day written notice to the other party.

Should you have any questions regarding the above referenced Coupon Program expansion to include additional volunteer organizations and store locations, please let me know. Otherwise, as this is an expansion of a previous agreement, please sign below and return a copy to me.

The original document was signed by Susan Meader 9/6/91 and Gary Hakes on 9/9/91 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#26

PERSONAL BEEPERS/PAGERS; UNION CASE NO. 858-91. DATED 2/17/92

February 17, 1992

Ms. Susan Meader
Labor Relations Department
King Soopers, Inc.
P.O. Box 5567
Denver, Colorado 80217

-and-

Mr. John Bowen
Associate General Counsel
UFCW, Local #7
7760 West 38th Avenue
Wheat Ridge, Colorado 80033

RE: Personal Beepers/Pagers; Union Case No. 858-91

Dear Ms. Meader and Mr. Bowen:

This letter sets forth the terms of the settlement which was agreed to between the parties in relation to the above referenced grievance during the Med/Arb session conducted on February 13, 1992, at Mountain States Employers Council.

The parties agree that bargaining unit employees may carry beepers/pagers on their persons on Company premises during working hours, but only if all of the following conditions are met:

1. The employee notifies the Store Manager in writing that they have a personal beeper/pager and that they may be carrying it with them on Company premises during working hours.

2. The beeper/pager must be set so that it does not emit any audible signal. In other words, it must not "beep". It may be set so that it signals the owner of an incoming call by vibrating.

3. The beeper/pager must remain hidden from the view of customers at all times. In other words, it should be kept in a pocket out of sight or worn under a smock or other covering garment whenever an employee is in an area where any customers are.

4. Service to customers is not to be interrupted. The employee may not look at the beeper/pager at any time while they are on the sales floor and they may only return calls while they are on authorized break periods.

The parties also agree that any violation of the above conditions by any employee may result in progressive discipline up to and including possible discharge in appropriate cases.

Finally, it is expressly understood that the Company may apply different rules in the case of any employee that it wants to wear a beeper/pager during working hours for its own business reasons. In other words, the four conditions set forth above apply only to bargaining unit employees who carry beepers/pagers for their own personal reasons.

As usual, it was a pleasure to work with the parties on this case and, if I can be of any further assistance in the future, please feel free to give me a call.

The original document was ordered by arbitrator John F. Sass on 2/17/92 and is on file at the King Soopers Labor Relations Dept.

DRAFT

LETTER OF AGREEMENT

#27

TELESHOPPER SELECTION CENTER SUPPLEMENTAL AGREEMENT.

DATED 12/1/95

King Soopers and the UFCW Local No. 7 agree to the creation of a central selection center for teleshopper (hereinafter referred to as the "Center"), under the Denver clerks' agreement on the following basis:

1. The UFCW shall be granted jurisdiction over the work traditionally performed under the Denver Clerk and Meat agreements at the Center and such Center shall be accreted to the Denver Clerks Bargaining unit. All terms and conditions of Denver Clerks and Meat Agreements shall apply except as modified below.

2. The Company shall post a job vacancy notice in each store for employees interested in transferring to job assignments at the Center. Delivery Drivers at HUB stores being consolidated to the Center shall be transferred to the Center. Any employee accepting employment at the Center shall be paid the appropriate Teleshopper Order Selector rate. For all purposes under the collective bargaining agreement the Center shall be considered a store. Employees accepting the position of Teleshopper Order Selector must hold such position for two years before exercising their seniority to claim another position.

3. Non-management, bargaining unit employees covered under the collective bargaining agreement and working at the center shall be classified and employed in the classification of "Teleshopper Order Selector" and paid at the following rates:

Teleshopper Order Selector	
1st 960 hours	$ 6.59
2nd 960 hours	$ 7.28
3rd 960 hours	$8.14
4th 960 hours	$ 8.91
Thereafter	$ 9.67

The classification of Teleshopper Order Selector shall not be applicable in any other store of the Company. None of the classifications of the collective bargaining agreement shall be applicable to the Center except for the positions of Delivery Driver and Head Clerk. Delivery Drivers and Head Clerks may perform any of the bargaining unit work at the Center.

Any All Purpose Clerks signing the initial job posting and hired at the Center between December 1, 1995 and December 15, 1995, shall be grand-fathered as a Teleshopper Order Selector at their current rate. In any event, the Employer may limit the initial hiring of All Purpose Clerks at the Center to no more than 25% of the initial staffing of Order Selectors hired at the center. It is further understood, that any employee hired at the Center after December 15, 1995, shall be placed at the entry rate for Teleshopper Order Selector regardless of the rate they are transferring from.

4) It is understood that the Company's non-bargaining unit Teleshopper Order Coordinators shall be excluded from this Agreement and shall not perform bargaining unit work.

5) The Company may fill temporary Order Selector vacancies of less than thirty days at its discretion may include the temporary assignment of employees (including Courtesy Clerks) from other stores (however, nothing in this Agreement shall be construed to require the Company to make such temporary assignments on the basis of seniority).

6) In accordance with the current collective bargaining agreement vendors and non-bargaining unit management employees assigned to the Center may perform any of the bargaining unit work at the Center. The Company retains the right to have sanitation work performed by employees of store #65 in lieu of assigning Teleshopper Order Selectors to perform the work.

7) Customers may pick-up teleshopper orders from the Center.

8) It is agreed that pre-packaged meat and deli products, including meat and/or Deli products processed at the Meat Plant or a store, may be stocked and handled under this agreement by meat wrappers at the Center, or from store #65, however, in the event the Company elects to establish a fresh meat processing department and/or full service deli, at the Center, the parties agree to meet to negotiate provisions under the Meat Agreement for such operations at the Center.

9) The Company reserves the right to teleshop orders at each store and/or to transfer product and merchandise (such as floral arrangements, Rx, shopped orders, etc.) from stores to the Center, for delivery to customers. It is understood that Teleshopper Order Selectors may enter, and shop for product in any department, at store *#65* for the purpose of completing a customer order processed at the Center under this Agreement.

10) The Center may allow bargaining unit employees to perform certain non-bargaining unit functions at the Center. In this event, it is understood that such work shall not be accreted to the bargaining unit and that management retains the right to hire non-bargaining unit employees to perform excluded work.

11) Management retains the right to close the Center upon 30 days advance written notice to the Union. In this event, Teleshopper Order Selectors shall be given layoff rights pursuant to the Principal Agreement.

12) This agreement shall be in effect through May 11, 1996 and thereafter unless either party desires to seek change in the agreement during the 1996 negotiation of the principal agreement.

The original document was signed by Steve DiCroce and Gary Hakes on 12/1/95 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#28

SCHEDULING OF SHIFTS. DATED 8/6/96

King Soopers and U.F.C.W. Local No. 7 hereby agree to the following understanding relative to the scheduling and selection of shifts under Article 10 of the collective bargaining agreement.

Upon mutual agreement between the Union and the Company, management may establish a fixed number of 4, ten hour work schedules for full-time employees. Such schedules shall be listed on the schedule of shifts and may be selected by any qualified employee during the selection process. It is understood that a full-time employee electing to select a ten hour shift shall be obligated to select an entire schedule of four, ten hour shifts. In the event no full-time employee selects the four, ten hour schedule, then management shall retain the right to assign such schedule to the least senior, qualified full-time employee within the department and classification.

The provisions of the collective bargaining agreement shall be modified as follows to accommodate the scheduling of four, ten hour workshifts:

- Overtime shall be paid for all work in excess of ten (10) hours in any scheduled workday.
- Payment for funeral pay shall not exceed the straight-time hour scheduled per day missed up to a maximum of twenty-four (24) hours of pay.
- After eight (8) hours of work, the employee shall be entitled to a third fifteen *(15)* minute break.
- Payment for jury duty shall not exceed eight (8) hours pay per day missed less what the employee is paid for serving on the jury. Pursuant to section 93, the Employer may reschedule employees required to serve on jury duty, including but not limited to, restricting such employee from selecting a four, ten hour work schedule.
- Sick leave pay will be paid, if eligible and following the full work day absence if such applies, not to exceed the number of hours scheduled on the day missed.

The original document was signed by Stephanie Bouknight on 8/1/96 and Gary Hakes on 8/6/96 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#29

DRESS REQUIREMENT. DATED 4/17/97

Effective October 1, 1996, in addition to published grooming requirements, employees shall be expected to report to work as follows: White oxford (long or short sleeved) shirt. Sweatshirts are not permitted (except King Soopers employees may wear King Soopers Logo sweatshirts), but black or navy cardigan style sweaters are permitted as are cardigan vests. Undershirts with printing, logos or designs that show through are not permitted. The Company provided name badge must be worn while on duty. Black (and/or Khaki at King Soopers) dress type pants of dress wool, cotton, knit, or black non-faded denim material in good condition and repair, which shall be provided by the employee. "Dockers" type pants are acceptable, sweats, stirrup pants, stretch pants, spandex, etc. are prohibited. Shoes must be black or white, clean and in good condition. Open toe or open heel shoes are not permitted. Laces must be black. Socks or nylon hose must be worn with the shoes. Courtesy Clerks may wear shorts between May 1 through September 30 provided they are of the same material allowed above. The Company will provide one (1) necktie and two (2) aprons, which will be replaced by the company if worn out or damaged as a consequence of normal wear and tear. Employees will be required to replace at their cost lost ties and aprons. Meat cutters and wrappers shall be provided smocks/coats in lieu of aprons or vests.

The original document was signed by Steve DiCroce on 4/1/97 and Gary Hakes on 4/17/97 and is on file at the King Soopers Labor Relations Dept.

LETTER OF AGREEMENT

#30

PHARMACY TECHNICIANS. DATED 6/25/98

King Soopers and UFCW Local No. 7 hereby agree as follows relative to the creation of the new classification of certified Pharmacy Technician.

1. Effective immediately, a new classification of Certified Pharmacy Technician shall be established. Certified Pharmacy Technicians shall be hired or assigned as provided in Article 50 of the collective bargaining agreement. A Certified Pharmacy Technician shall be allowed to perform all duties in the pharmacy permitted by law. Any employee hired or assigned, as a Certified Pharmacy Technician must hold certification from a testing organization approved by the Employer prior to hire or assignment as a Certified Pharmacy Technician. Rates of pay for Certified Technicians shall be as follows:

Certified Pharmacy Technicians	5/17/98	7/5/98
1st 960 hours	$10.58	$10.81
2nd 960 hours	$11.53	$11.78
Thereafter	$12.53	$12.80

   Any employee classified as a Pharmacy Technician who obtains certification as provided herein shall be re-classified as a Certified Pharmacy Technician on the first Sunday following receipt of such certification. In such event the employee shall be placed in the Certified Pharmacy Technician progression at the rate that equals their current rate, or the entry rate, whichever is greater.

   For technicians certified on or before the effective date of this agreement, the Company agrees to research the number of hours worked by technicians, at the former top certified technician rate, after becoming a certified technician, and credit those hours worked toward advancement to the new top certified technician rate.

2. The Company agrees to provide a pre-certification test training course of at least eight (8) hours and a self-study text book for all employees classified as Pharmacy Technicians on the effective date of this Letter of Agreement.

3. All Pharmacy Technicians shall be required to take a company authorized certification exam not later than the last exam offered for calendar year 1997. The Company agrees to pay the cost of the initial exam.

4. A Pharmacy Technician who fails the initial certification exam as provided above, shall be allowed to re-take the test at the next Denver exam date. The Company agrees to provide an additional eight (8) hours of training to prepare the employee for the re-test. The Company will provide training for and pay for only one such re-test.

5. It is understood that any employee assigned as a Certified Pharmacy Technician, shall be required to maintain certification as a condition of assignment as a Certified Pharmacy Technician. It is further understood that, in the event an employee fails to maintain certification as required by the Company, such employee shall be demoted in accordance with the step down language of the collective bargaining agreement.

The original document was signed by Steve DiCroce and Ernest L. Duran, Jr. on 6/25/98 and is on file at the King Soopers Labor Relations Dept.

DRAFT

LETTER OF AGREEMENT

#31

DELIVERY DRIVERS. DATED 11/17/00

Between

UFCW LOCAL NO. 7

and

KING SOOPERS, INC.

The above-named parties maintain a collective bargaining agreement for the Delivery Drivers.

Article 30, Section 81, paragraph 8, is hereby modified to substitute "one (1) year" for "two (2) years."

The original document was signed by Steve DiCroce on 11/17/00 and Ernest L Duran on 11/16/00 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#32

PHARMACY TECHNICIANS

DATED 12/10/2010 (Revised October 10, 2011)

Effective October 16, 2011, King Soopers and UFCW Local No. 7 hereby agree to the following modification to all Clerk collective bargaining agreements in Colorado. It is understood and agreed that this Letter of Agreement supersedes and replaces the existing Letter(s) of Agreement (#32 dated 6/7/00 and 12/10/10) contained in the current collective bargaining agreement(s) between the parties.

1. Effective October 16, 2011, the Certified Pharmacy Technician and Non-Certified Pharmacy Technician rate schedules shall be combined as follows:

PHARMACY TECHNICIANS	9/11/2011	9/9/2012
1st 1040 hours worked	$10.40	$10.40
Next 1040 hours worked	$11.05	$11.05
Next 1040 hours worked	$11.70	$11.70
Next 1040 hours worked	$12.55	$12.55
Next 1040 hours worked	$13.25	$13.25
Next 1040 hours worked	$14.43	$14.43
Next 520 hours worked	$14.80	$14.80
Thereafter	$17.06	$17.31

Non-Certified Technicians shall be placed into the new schedule to rates that match their existing rate, if applicable and shall be credited with hours worked in their current progression rate toward progression in the new schedule. If the same rate does not exist in the new structure, then the employee shall be moved to the next highest rate in the new schedule and such employee shall be expected to work the hours of that step before progressing to the next step. Non-Certified Technicians at the 8th progression step shall be placed into the $13.25 progression step.

Certified Technicians shall be placed into the new schedule on the same basis as non-certified Technicians. Recently certified technicians who at the time of certification were at the top rate and were being held for 1,040 hours shall immediately be advance to the rate in the new schedule that gives them an increase.

2. Non-certified technicians shall not progress beyond the 6th progression step. The starting rate/progression for newly certified technicians, or those hired off the street, shall be the 4th progression step. A non-certified technician who becomes certified and who is working at a progression step below the 4th progression step shall be immediately advanced to the 4th progression step and shall be required to work all hours of that step before progressing to the next step. All other non-certified technicians who become certified shall continue to progress up the wage scale based on hours worked in each

step, except for those non-certified technicians who are being paid at the 6th progression step and who have worked 1,040 or more hours at the step shall be advanced to the 7th progression step and shall be required to work all hours of that step before progressing to the top rate. Any advancement in progression resulting from achieving certification shall occur on the first Sunday following notice of certification, by the technician, to the King Soopers Director of Pharmacy.

3. Non-Certified Pharmacy Technician and Certified Pharmacy Technicians, though paid on a common rate schedule, shall be considered as separate classifications for all purposes covered under the collective bargaining agreement including promotions, demotions, scheduling, layoffs, reduction of hours, etc. With respect to demotions and layoffs, non-certified technicians shall be considered as a lesser classification to certified technicians.

4. In determining the proper progression rate for Non-Certified Technicians, in addition to progression credit granted under the Experience Credit Provision of the Collective Bargaining Agreement, Non-Certified Technicians shall also be awarded 1,040 hours of progression credit for each 12 semester hours of college, university or trade school credits earned (excluding credits earned for pharmacy technician program) plus 2,080 hours of progression credit for completion of a non-Kroger sponsored Pharmacy Technician Program of 8 months or greater in length (1,040 hours if program is less than 8 months in length) not to exceed a maximum for college, university, trade school and pharmacy technician program progression credit of 4,160 hours. However, in no event shall a non-certified technician be given experience or college credit that would cause them to exceed the 6th progression step.

5. Any employee hired into, or assigned to, the classification of Pharmacy Technician must take the first company authorized pharmacy technician certification exam following their 8th month of hire or assignment as a pharmacy technician. If the technician fails this certification exam, then the technician <u>must</u> take the next scheduled certification exam following notification of the failure of the first exam. If the technician fails the retest, then the technician may be demoted to another position in accordance with the demotion and step-down procedures of the collective bargaining agreement.

6. Any pharmacy technician, who is currently classified as a Pharmacy Technician and has been employed, as a pharmacy technician in excess of eight months, <u>must</u> take the next scheduled company authorized certification exam. If the technician fails this certification exam, then the technician <u>must</u> take the next scheduled certification exam following notification of the failure of the first test. If the technician fails to take the initial exam or fails the re-test, then the technician may be demoted to another position in accordance with the demotion and step-down procedures of the collective bargaining agreement.

7. Any technician, who on the effective date of this amendment, has taken and failed two or more certification exams, will be allowed at their expense, to take the next scheduled certification exam. If the technician fails this exam, then the technician may be demoted to another position in accordance with the demotion and step-down procedures of the collective bargaining agreement.

8. Upon certification, all certified pharmacy technicians must maintain certification. The certified technician must present an updated copy of their renewed certification to the

Director of Pharmacy not later than 90 days following the expiration of their most recent certification. In the event that a certified pharmacy technician fails to maintain certification, then the employee may be demoted to another position in accordance with the demotion and step-down procedures of the collective bargaining agreement.

9. The Company provides a pre-certification training course of at least eight (8) hours and a study manual for all employees classified as Pharmacy Technicians and who are within their eight months of assignment as a Pharmacy Technician. If a pharmacy technician fails their first exam as described above, the Company provides an additional eight (8) hours of training to prepare the employee for the re-test.

10. The Company pays for the initial certification exam, if taken immediately following the technicians eighth month of employment or assignment as a technician and the subsequent re-test exam, if necessary. Any technician desiring to take the exam prior to their eighth month may do so at their own expense, however, if the technician passes this exam, then the Company will reimburse them for the cost of the exam.

The revised document was signed by Steve DiCroce and Kim Cordova on 10/10/11 and is on file at the King Soopers Labor Relations Department.

DRAFT

LETTER OF AGREEMENT

#33

EMPLOYEE BUYOUT. DATED 11/9/05

The Employer, at its discretion, may establish a buyout program as follows:

1. Employees with ten (10) or more years of service who elect his buyout by a date determined by the Employer and who work through their release date.
   - $500 per year of service – Part-time employees
   - $1,000 per year of service – Full-time employees
2. Employer retains the right upon notification to the Union to:
   - Establish offer dates and release dates
   - Terminate or extend the program
   - Require employees to sign a waiver and release
   - Limit the maximum payout under this program to any employee to 20 years of service
3. The employer may limit, by bargaining unit, the number of employees who can take this buyout at each store or facility. If more employees elect than permitted – Go by seniority.
4. Program not subject to Grievance and Arbitration Procedure

The original document was signed by Steve DiCroce on 11/9/05 and Kevin Schneider on 1/31/06 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#34

COURTESY CLERKS. DATED 11/9/05

King Soopers and UFCW Local No. 7 hereby agree as follows:

The parties have agreed that Courtesy Clerks who have more than three (3) years of continuous service as a Courtesy Clerk with King Soopers shall, during the term of this Agreement, be compensated at a straight-time hourly wage rate fifty-five cents ($0.55) per hour above the "thereafter" Courtesy Clerk wage rate set forth in Appendix "A" of this Agreement.

The original document was signed by Steve DiCroce on 11/9/05 and Kevin Schneider on 1/31/06 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#35

VERBAL OR WRITTEN WARNINGS

The United Food and Commercial Workers Union, Local No.7 (hereinafter the "Union"), and King Soopers (hereinafter the "Employer"), hereby agree to resolve all pending and future grievances protesting the issuance of verbal and written warnings (not related to sexual harassment) as follows:

A. If the issuance of a verbal or written warning is grieved, the Union will notify the Employer of the same.

B. If the grievant is disciplined further, or otherwise adversely affected, and the verbal or written warning is relied upon by the Employer in doing so, the Union shall have the right to submit the grievance protesting the warning to arbitration together with the grievance contesting the disciplinary or adverse action. It is expressly agreed that all such grievances will be consolidated.

C. It is further agreed that said grieved verbal or written warnings shall be removed from all files after a period of two (2) years if not relied upon for further discipline.

The original document was signed by Stephanie Bouknight and Kevin Schneider on 1/26/06 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#36

NUTRITION CLERK RATE OF PAY

King Soopers and UFCW Local 7 hereby agree as follows:

The parties have agreed that effective the first Sunday after the signing of this Agreement, Nutrition Clerks who possess or obtain a four (4) year college degree in nutrition or food science shall be paid at the rate one step below the "thereafter" wage rate set forth in Appendix "A: of the current collective bargaining agreement. After 520 hours at such wage rate, said nutrition clerk shall be paid the "thereafter" rate of pay.

The original document was signed by Stephanie Bouknight and Kevin Schneider on 8/30/10 and is on file at the King Soopers Labor Relations Department.

LETTER OF AGREEMENT

#37

HEALTH AND WELFARE TRUST FUND

King Soopers and UFCW Local No. 7 are parties to a number of collective bargaining agreements covering meat and clerk employees that provide health coverage for active employees and certain retiree employees under the Rocky Mountain UFCW Employers and Unions Health and Welfare Plan. Consistent with the parties understanding of January 22, 2010 regarding their agreement to direct the Trustees of the Plan to transfer surplus funds from the active account to the retiree account, the parties hereby agree to clarify their understanding with respect to the potential reallocation of funds in January 2012 as follows:

1. Should the Trustees of the Plan make the determination to reallocate all or part of the remaining $4,000,000 from the active plan to the retiree plan in accordance with the parties understanding of January 22, 2010, then the Employer agrees to temporarily reduce each of the contribution rates to the active plan ("Active Rates") as determined below and to temporarily increase the contribution rate to the retiree plan ("Retiree Rate") by the same amount for the same period of time to effectuate this allocation:

   a. The Trustees shall determine the amount to be reallocated between the active and the retiree plans in 2012 which reallocation may not exceed $4,000,000.

   b. The Co-Consultants to the Plan shall then compute over a 12 month period how much the Active Rates would have to temporarily be reduced for each employer participating in the Plan to effectuate the reallocation. Such amount shall be communicated to each employer along with the time period for making such reduced contribution rates.

   c. The Employer shall then remit to the Plan for a 12-month period the Active Rates decreased by such reduction amount and shall increase the Retiree Rate by the same amount for the same 12-month period.

2. It is understood and agreed that this transfer shall be on a cost neutral basis with respect to each employer.

3. This agreement shall only be applicable upon certification by the Chairman and Secretary of the Plan's Board of Trustees that all Employers participating in the Plan have entered into a similar agreement.

The original document was signed by Stephen DiCroce and Kim Cordova on 4/28/11 and is on file at the King Soopers Labor Relations Department.

KING Soopers

City Market

POLICIES AND SPECIAL PROCEDURES

YOU WE I

Make a Difference

JOINT EX. 3

27-CA-129598

Respondent 0240

Policies and Procedures

EUID/SSN: _____

Name (Last, First): _____

Store ID (DIV/STR): 620/_____

Doc Type: Personnel – Policy Acknowledgement Forms

Policies and Special Procedures Manual Sign-Off

Read and Sign This Document:

I acknowledge that I have been given a copy of the revised King Soopers/City Market Policies and Procedures Manual dated October 2013.

I understand that it is my responsibility to read this manual and become familiar with the policies, procedures, standards of conduct, and work rules contained therein.

I further understand that I will be responsible for complying with the policies, procedures, standards of conduct, and work rules contained therein and that my failure to do so may result in disciplinary action up to and including discharge on the first offense as provided therein.

Associate Name (Print): _____

Associate Signature: _____

EUID: _____

Date: _____

October 2013

Respondent 0241

J-3

EXHIBIT NO. _____ RECEIVED ✓ REJECTED _____

CASE NO. 27-CA-98 1295 CASE NAME: King

NO. OF PAGES: 81 DATE: 8/11/15 REPORTER: KA

WELCOME

At King Soopers/City Market, one of the keys to our strategic plan is "Our People Are Great." We know this is true because each day amazing associates, just like you, continue to do amazing things to put our Customers 1st. You have become a member of an exceptional team and we are glad to have you onboard. We hope the relationship will grow and you and the company will find it mutually rewarding.

It's not easy to be new in any company. There is so much to learn so quickly. This Policies and Procedures Manual is designed to speed up that process for you. To help you understand what is expected of you as an employee, the manual covers workplace guidelines and required personal conduct of all associates. It also provides important contact numbers, financial /compensation information, associate communication tools, and other details important to you as an employee. Also, your Management Team or the Human Resources Department at the Main Office will be happy to answer any questions or discuss any concerns you might have.

In addition to this manual, you'll find general conditions of employment and specific worksite rules at each location. We encourage you to familiarize yourself with those and ask questions until you gain a clear understanding of the requirements for your position.

King Soopers/City Market is committed to providing a positive and rewarding working environment for all associates. We want to see you succeed! Our managers are knowledgeable about all aspects of the retail grocery industry and this company, so you'll find them to be your most reliable source of information.

King Soopers, City Market, and our parent company, The Kroger Co., offer a wide variety of career opportunities, including store management, merchandising, customer communication (advertising), and other interesting areas. Our strong commitment to promoting from within the organization provides many opportunities for career advancement. To help you along that path, we have extensive, in-house management development programs open to those qualified associates who are interested in participating. Many of our company's leaders began their careers by working in our stores or in entry-level jobs and by taking advantage of these in-house programs.

From our very first stores, the founders of King Soopers, City Market, and The Kroger Co. all believed that exceptional customer service provided by friendly, helpful associates—along with clean, attractive stores—are a must in the retail grocery business. Over the years, we have been an innovative leader in the food industry, proving the long-term merit of these ideas. As an associate, you are a vital part of this success.

Welcome to King Soopers/City Market, a division of The Kroger Co. We are glad you are here!

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ABOUT OUR COMPANY...

Our History – Kroger and King Soopers/City Market

Currently, King Soopers/City Market form one of the 18 divisions of The Kroger Co., a fortune 500 company and the nation's leading retail grocer. Although the three chains began as independent companies, the joining of The Kroger Co., King Soopers, and City Market was not surprising. From the beginning, these companies were the fulfillment of the dreams of separate but very similar entrepreneurs.

Our Founders shared a common dream.

Each of our founders saw the possibilities in full service grocery stores, and they helped lead the industry to the "one stop shopping" that still appeals to customers today.

The Kroger Co.: The oldest of the three chains was begun by Barney Kroger, the son of German immigrants, who began his grocery business by selling mason jars of his mother's homemade sauerkraut down at the riverfront in Cincinnati. In 1883, he opened his first grocery store on East Pearl Street and, a year later, he bought out his partner and expanded his chain to two stores.

City Market: City Market was founded by Joseph Prinster, an Austrian immigrant, who, as a meat cutter, worked in large meat plants throughout the Midwest, including in Cincinnati. Coming west to LaJunta, Colorado, he fulfilled his dream of opening a meat and grocery business. His four sons--Paul, Frank Sr., Leo, and Clarence joined the business and later moved to Grand Junction where they opened the first City Market store on Fourth Street in 1924. In the late 1940's, City Market began an aggressive expansion that soon covered all the larger towns in Western Colorado.

King Soopers: In 1947, fresh from his service in the United States Navy during World War II, Lloyd King arrived in Denver, Colorado, with a dream to start his own grocery chain. On June 20 of that year, when the first King Soopers store at 57th and Webster in Arvada, Colorado, opened to serve customers, that dream became a reality. By the 1950's King Soopers had grown to nine stores and the expansion has continued to current times.

Innovations were the hallmark of all three companies.

The Kroger Co.: Barney Kroger is credited with a wide range of "firsts" in the retail grocery industry, including the first grocer to sell meats and groceries under one roof. One very important innovation was the purchase of his own fleet of trucks while competitors hired trucks as needed. Armed with that distribution tool, The Kroger Co. was ready to expand even more.

City Market: When the Prinster brothers opened the Grand Junction City Market store, it was the first large-scale "supermarket" of its kind in Western Colorado. They also introduced the concept of "cash and carry" in order to keep prices down.

King Soopers: Sharing Barney Kroger's vision of high quality at low prices, Lloyd King was one of the first grocery executives to introduce discount pricing. He was the first grocer in the Denver area to offer trading stamps in 1951, and the first in the country to include a pharmacy in his grocery stores in 1952.

Customer service was a strong value upon which each chain was built.

The Kroger Co.: Barney Kroger had a simple motto: "Be particular. Never sell anything you would not want yourself." That led to his focus on customers and providing them with the best products at the best prices with the best service.

City Market: The Prinsters founded City Market on the business philosophy of meeting the needs of their customers. They recognized that their customers wanted to pay reasonable prices and to receive friendly, helpful service. It was their commitment to provide that shopping experience to them.

King Soopers: Lloyd King built his grocery company on four basic principles, the first of which was "Friendly Service." He was committed to it himself and instilled his managers and associates. *[The other three principles were value for the dollar, cleanliness, and quality.]*

Being a good corporate citizen was important to all three companies.

The Kroger Co.: Barney Kroger was noted for giving back to the communities served by his stores. For example, in 1905 he donated 300 loaves of bread to help those who were severely impacted by a hard winter. The Kroger Co.'s current philosophy of being a strong corporate citizen reflects this early commitment demonstrated by the founder.

City Market: The philosophy of helping those in need was held strongly by the Prinsters as well. It was said of Joseph Prinster, Sr., "Everyone liked him. He was good to poor people and he couldn't see anyone go hungry." That same commitment to help those in need is still considered an important part of City Market's outreach into the community.

King Soopers: Lloyd King demonstrated his community outreach very early in his company's existence. King Soopers was noted not only for the company's support of numerous charitable causes, but for Lloyd King's own personal involvement with organizations such as the Salvation Army and the United Way.

A shared belief in the power of people led to successful mergers.

The Kroger Co.: Early on, Barney Kroger learned an important management strategy: Surround yourself with capable and motivated associates. He had a knack for hiring those with

talent and promoting them to positions of greater responsibility. Combining the best manpower with a solid retailing approach, the company was ready to grow.

City Market: In 1969, City Market was acquired by Dillon Companies, Inc., demonstrating the Prinster brothers' true belief in the future of their company. When Dillon Companies purchased City Market, it was said by their leaders: "We did not buy buildings; we bought management."

King Soopers: In 1957, Lloyd King recognized that for his company to keep growing, it was time to join forces with other like-minded grocery retailers. In 1957, King Soopers merged with Dillon Companies, Inc. based in Hutchinson, Kansas.

How We All Became One:

In 1983, the Kroger Co., headquartered in Cincinnati, Ohio, acquired Dillon Companies as a wholly owned subsidiary. The Dillon and Kroger merger brought a broader and sounder financial base and allowed City Market and King Soopers to continue their aggressive growth.

In 1987, City Market acquired eight Circle Super Stores, and in 2002, King Soopers acquired five Cub Food Stores. In 1999, Kroger Co. acquired the Fred Meyer family of stores which expanded Kroger's reach to the Pacific Coast.

Today City Market operates thirty-five stores on Colorado's Western Slope, Western Utah, Northern New Mexico, and Southwestern Wyoming. King Soopers operates 108 stores on Colorado's Front Range and in Cheyenne, Wyoming. King Soopers/City Market employs over 20,000 associates, making King Soopers/City Market the number one supermarket chain in Colorado!

As we continue to grow and prosper, we should never lose sight of what brought us here: the shared values, insights, wisdom, and courage of our founders. Each day we continue to fulfill their commitment to the families and communities we serve and their belief in you, our trusted and valuable associates. This is what we are truly about.

Kroger Banners

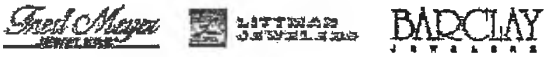
SUPERMARKETS

PRICE-IMPACT WAREHOUSE STORES

MULTI-DEPARTMENT STORES

CONVENIENCE STORES

JEWELRY STORES



Service Awards

Associates who have devoted many years of service to our customers are highly valued at King Soopers/City Market. Through many years of experience, these associates have gained valuable skills, knowledge, and judgment. In order to recognize and express our appreciation to these associates, Service Awards are given at the end of the first year of employment and for each five years of continuous service.

Business Ethics

King Soopers/City Market has established a strong reputation for integrity in our business. To maintain and enhance that reputation, it is important for each of us to adhere to the highest moral, ethical, and legal standards. Only by conducting business in this manner can the Company progress and ensure the respect of associates, shareowners, customers, suppliers, and government.

Compliance with laws and regulations applicable to the Company is essential. Associates are encouraged to contact Labor Relations or the Kroger Law Department if they have questions regarding appropriate conduct and compliance with the law.

Kroger has published a comprehensive policy on business ethics which covers the Company's policy with respect to accounting practices, bribery, conflicts of interest, outside directorship, confidential information and trade secrets, corporate hospitality, competition, supplier relations, political contributions and involvement, customer relations, shareowner relations, and securities trading. You are encouraged to obtain a copy of this policy from the Labor Relations Department if you have questions about conduct falling within these areas.

Charitable Giving

King Soopers/City Market maintains a high profile in our communities by supporting a variety of charitable programs. We work directly with the Second Harvest Organization that represents food banks in all of our market areas. We also have organizations that use King Soopers retail locations as collection stations for charitable organizations. We are proud of all of our associates that are active in the community and donate their time to charitable programs.

Our Mission

Our mission is to be a leader in the distribution and merchandising of food, health, personal care, and related consumable products and services. By achieving this objective, we will satisfy our responsibilities to shareowners, associates, customers, suppliers, and the communities we serve. We will provide our customers with great products at good prices and a shopping experience that makes them want to return.

We will achieve success for our shareholders, help sustain the environment, and serve our communities. Investments in retailing, distribution, and food processing will be continually evaluated for their contribution to our corporate return objectives.

We will constantly strive to satisfy the needs of customers as well as, or better than, the best of our competitors. Operating procedures will increasingly reflect our belief that the organization levels closest to the customer are best positioned to serve changing consumer needs.

We strive to provide all associates and customers with a safe, friendly work and shopping environment and will treat each of them with respect, openness, honesty, and fairness. We will solicit and respond to the ideas of our associates on an ongoing basis.

We value America's diversity and will strive to reflect that diversity in our work force, the companies with which we do business, and the customers we serve. As a Company, we will convey respect and dignity to all individuals.

We will encourage our associates to be active and responsible citizens and will allocate resources for activities that enhance the quality of life for our customers, our associates, and the communities we serve.

- Our Commitment: Provide our customers with great products at good prices and a shopping experience that makes them want to return.
- Be a preferred employer where every associate feels valued and customers recognize that our people are great.
- Achieve success for shareholders, help sustain the environment, and serve our communities.

Values

Honesty: We insist on truthfulness with each other, with our customers, with our vendors, and in our business records. We expect and value openness.

Integrity: We act in accordance with our values, even when it is difficult.

Respect: We treat all with dignity and value the opinions and perspectives of others.

Diversity: We seek and embrace differences in the backgrounds, cultures, and ethnicities of all associates, customers, and vendors.

Safety: We protect our customers and each other from injury with a safe and secure workplace and shopping environment.

Inclusion: We encourage and expect collaboration, teamwork, and the active involvement of all associaties.

Helping Hands

At King Soopers/City Market, the Helping Hands fund provides a way for associates to support one another in times of personal need. Built on the voluntary donations of many company employees, who have specified amounts automatically withheld from each paycheck, the fund is available for those who are facing times of hardship, such as the death of a family member, extreme medical bills, sickness, family tragedies, and more. To receive the funds, an associate needs to be nominated by his/her immediate supervisor whose request has been approved by the fund administrator. To become one of the ongoing donors to the fund, please contact Megan O'Neill in Community Affairs.

Open Door Policy

King Soopers/City Market encourages open lines of communication among all associates, regardless of position. We have an Open Door Policy that provides an opportunity for all associates to discuss issues they believe to be unfair or unjust. By encouraging open communication, we hope to provide a forum for resolving concerns and foster improved relationships among all associates.

If you have a concern at any time, you are encouraged to contact your Manager, District Manager, or the Labor Relations Department to discuss the matter in detail. Our goal is to respond to all inquiries promptly.

All associates are assured that there will be absolutely no retaliation by the Company or the Manager for bringing issues to their attention.

CUSTOMER RELATIONS

Customer 1st

As a valued member of our organization, it is vital that you are aware of, are able to communicate, and conduct business practices in alignment with our company's business strategy. Moreover, it is important that you find and use effective strategies for engaging others in the business strategy so that we can improve and succeed as a company.

King Soopers/City Market and the entire Kroger Company are presently engaged in a very important challenge to secure, retain, and expand our pool of loyal customers. An increasingly competitive marketplace including home improvement, discount, members-only, drug stores, and gas stations are selling products that, at one time, only grocery stores sold. In addition, people are preparing fewer meals at home than in the past and are buying fewer groceries because of this. Eating meals out in restaurants, ordering fast food, and ordering take-out food are all indicative of changed lifestyles where people are busier, and therefore, often eating at a hurried pace.

In an effort to respond to such competition and to take the changing lifestyles of our customers into account, the Kroger family of companies has adopted and implemented a Customer 1st business strategy. To that end, we would like all customers, after a shopping visit to one of our stores, to say the following about us:

Our people are great.

Our prices are good.

I get the products I want, plus a little.

The shopping experience makes me want to return.

These statements are known as the "Four Keys" of our Customer 1st business strategy. We have, as an organization, developed and begun implementing action plans relating to these four keys so that we can move closer to implementing business practices that better reflect our Customer 1st focus.

As we do so, we will be concentrating on various enabling factors to help move us toward our goal of increased sales and customer satisfaction. Some of these factors include improved store conditions, a greater selection of non-food merchandise, lower operating costs, and managed shrink (loss) across the enterprise.

As you proceed in your day-to-day activities in our company, we ask that you continually keep the overall business strategy of the organization in mind. Before implementing a practice, for example, take a moment to pause and ask the important question, "Does what I am doing directly tie in to the Customer 1st business strategy and thereby impact the overall success of the enterprise?" A "yes" answer to that question indicates that you and your team are well on your way to living the Customer 1st approach of our company. In doing so, you will not only contribute to the success of your department, you will help to ensure King Soopers/City Market and the entire Kroger Co.'s continued success.

Thank you for joining us in leading the way.

C1TE (Customer First Strategy Evolution)

Beginning in 2010 in an effort to continue to support the Customer First Strategy Kroger launched the web-based C1TE or Receipt Tracker survey. The survey provides a way for us to measure service effectiveness at King Soopers/City Market. The survey results are derived from actual customers who completed the online survey indicated by the survey invitation on the bottom of his/her shopping receipts. The key measure on the survey is OSAT or Overall Satisfaction. OSAT provides insight into our customer's evaluation of his/her total shopping experience. When answering the OSAT survey question, customers are asked to rate us on a scale of 1-5. A score of 5 is considered to be a "Top Box" score and indicates that the customer was "Highly Satisfied." All stores are part of a yearly process to set OSAT goals. All stores are currently tasked with the goal of receiving a score of 80% for OSAT indicating that 80% of the customers responding to the OSAT survey question rated the store a 5. Because OSAT looks at the Customers' Total Shopping Experience, all employees in the store play a key role in helping achieve the goal.

Conflict and Involving Management

As hard as we all strive to provide our customers with a superior shopping experience, occasionally customers are disappointed. Some of these disappointments you will be able to readily correct. In a few circumstances, the customer may be upset. These situations can quickly escalate to one of conflict. When a customer situation results in conflict, we expect our associates to continue to handle themselves with the utmost professionalism and maintain the proper business decorum. In these circumstances you should promptly involve management in the situation. Under no circumstances are associates allowed to argue with a customer or escalate an already tense situation.

Personal Information

Our customers frequently entrust us with personal information as a part of doing business with us. This information may include name, address, phone number, driver's license number, credit card numbers, personal health information, prescription records, etc., for which you are expected to maintain a high degree of personal integrity and confidentiality in the handling of this data to prevent its unauthorized disclosure.

GENERAL INFORMATION...

Career Opportunities

Education Opportunities

The Company sponsors or makes available a number of scholarship opportunities throughout the year to aid you in continuing your education. Eligibility rules and application criteria are unique to each scholarship. For more information, refer to the specific scholarship notice that is posted.

Associates are eligible to participate in the Retail Management Certificate Program. This is a ten course program that will offer associates the opportunity to develop an understanding of the retail industry and the requirements for success as a manager in the retail environment. Many of the local community colleges participate in this certificate program. Associates may earn the certificate and be on the path to obtaining an associate's degree. For more details, please contact your Store Manager, Human Resource Coordinator or the Human Resource/Training & Development Department.

General Level Positions

Often King Soopers/City Market associates develop an interest in pursuing other career opportunities within the Company. Associates can make their wishes known by completing an Internal Application and returning it to the Human Resources Department. It is the associate's responsibility to research thoroughly any changes that might occur such as pay, benefits, vacation, seniority, status, etc.

Job Postings

Our goal is to fill job openings with the most qualified candidates with a majority of positions filled from within our existing staff. As job openings become available, the Human Resources Department will post job openings. To help accomplish this, eligible job openings are posted on the Careers section of our website as well as store, plant, and office bulletin boards. The staffing of certain job openings may be governed by a separate process as defined within the Conditions of Employment or a collective bargaining agreement, and as a result may not be posted to the general associate base.

The posting system is designed to identify qualified applicants. Any interested associate, regardless of current job level, may respond to a posting. To be considered the associate must meet the skill level, be able to perform the essential job functions of the job, as well as the

position requirements. It is the associate's responsibility to research thoroughly any changes that might occur such as pay, benefits, vacation, seniority, status, etc. After reviewing all applications, the final candidates are then selected and granted interviews for the position.

Associates who are promoted may receive an increase in compensation. Promotion to a higher pay level reflects the fact that the associate is assuming the responsibilities of a higher contributing position. Associates who apply for a lateral move will not receive an increase. The associate will stay at his/her current hourly rate. Associates who apply for a demotion will have their pay reduced to the appropriate pay level of the new position.

After the selection has been made, Human Resources is responsible for notifying the candidate selected for the position. Human Resources or the location manager will also notify those not selected. The managers involved in a department/location transfer should work out an acceptable transfer and training schedule. The Human Resources Department is available to assist with training plans.

Responding to Division Job Postings

King Soopers/City Market associates who develop an interest in pursuing career opportunities within the division can make their wishes known by completing an Internal Application. To be considered, the associate must submit the completed Internal Application to the Human Resources Department with corresponding management recommendations, resume, and (if applicable) materials by the specified deadline.

Responding to Inter-Divisional Job Postings

King Soopers/City Market associates who develop an interest in pursuing career opportunities outside of the division with The Kroger Co. can make their wishes known by completing a Kroger Job Posting Acknowledgement (JPA) Form. To be considered, the associate must submit the completed JPA Form to The Kroger Co. Human Resources Department with corresponding management recommendations and signature of the Division Manager of Human Resources by the specified deadline.

Management Positions

Associates interested in pursuing a management position should complete a Management Interest Response Form and give the form to the appropriate King Soopers/City Market store manager.

Associate Communication Network

Associate communication plays a key role in keeping employees informed, in recognizing them for jobs well done, and in providing opportunities for associates to share their thoughts, ideas, and suggestions. Providing the glue that holds associate engagement together, communication is essential to helping our associates feel connected, committed, and aligned with our organization.

COMMUNICATION TOOLS

Newsletter

The King Soopers/City Market Great People Newsletter is a monthly publication used to recognize associates individually and as teams for their outstanding contributions to the success of the company and to provide important new information associates need to have. These newsletters are distributed in the break rooms at the stores and plants, on the Communication Board at the Main Office, posted on bulletin boards, and on the associate website, www.greatpeople.me.

Bulletin Boards

Each location is equipped with bulletin boards for purposes of distributing information to associates. These boards typically contain official notices, company policies/procedures, safety information, general company information, regulatory information, etc. Bulletin boards are a good source of information and should be regularly reviewed by associates. Please also consult the work rules posted on bulletin boards as well. Associates may not remove or post information to the bulletin boards without authorization of the store manager.

Distribution of Personal Material

Distributing any personal material in the work or selling area is prohibited during working hours.

TELEVISION

Video and live programming is provided via Kroger Television (KTV) and Rocky Mountain Television (RMTV). The main purpose is to provide televised training and information/recognition programs. Monitors are available in all locations.

WEBSITES

Associate Website: www.greatpeople.me

The associate website, www.greatpeople.me, is designed to inform and recognize associates. Creating and posting weekly content is shared by Associate Communication at Kroger and at King Soopers/City Market.

Hourly associates also can access their schedules on www.greatpeople.me on the myeSchedule tab.

Customer Website: www.kingsoopers.com AND www.citymarket.com

This is a consumer-based website and is designed to inform customers about our products and services, including advertisements. The website is maintained by The Kroger Co. and content is targeted specifically for customers of each division. Associates should not visit these customer websites while on the clock except for specific business purposes.

INTRANET

Office Associates Only: King City Office Web
ALL associates: King City Store Web
Barney Web

BUSINESS SOCIAL NETWORKING

Yodel

Kroger has a business social network where associates can share merchandising ideas, awesome displays, or any other work related topic. It is located at http://yodel.kroger.com. It is completely voluntary, and hourly associates should visit when they are off the clock. You will need your EUID and password to use Yodel. In general, you can Yodel business-related news, information, ideas, and best practices with other associates in our division or across the entire Kroger enterprise. You should not Yodel any confidential or proprietary business information or personal medical or health information about yourself or others without the express consent of

both the individual and the Kroger Associate Communications Department or Division HR Leader. Obscene, discriminatory, harassing, or defamatory postings and discussions around religion, politics, or soliciting are strictly prohibited.

Facebook

King Soopers/City Market currently has two official Facebook pages that are designed for both external and internal "fans."

Facebook.com/KingSoopersCareers
This page is targeted for external job applicants AND current associates with the purpose of keeping them updated as to ongoing employment opportunities with both King Soopers and City Market.

Facebook.com/KingSoopers and Facebook.com/CityMarketGrocery
These two pages are maintained by the Community Affairs Department and are designed to engage our customers as well as our associates in conversation about what is happening in this area at King Soopers and City Market.

Twitter

King Soopers/City Market has two types of Twitter accounts that are designed for both external and internal "followers".

Jobs: Twitter.com/KingSoopersJobs AND Twitter.com/CityMarketJobs: These two accounts are targeted for both internal and external potential candidates for employment. To stay in the loop about job announcements, associates are encouraged to become followers of either or both of these accounts.

Community Activity: Twitter.com/MyKingSoopers and Twitter.com/MyCityMarket: These two accounts are maintained by the Community Affairs Department and are designed to engage our customers as well as our associates. To receive tweets about the happenings of Community Affairs, associates are encouraged to become followers of either or both of these accounts.

Other Forms of Social Networking

As technology continues to develop, The Kroger Co. has a commitment to exploring the viability of adapting it to our business setting. These include texting and other platforms.

THE KING SOOPERS/CITY MARKET ONLINE COMMUNICATIONS POLICY
(The" Company" refers to The Kroger Co.)

The Company recognizes that online communications (such as social networking sites, personal websites, podcasts, videos, or blogs) are increasingly becoming a part of everyday life and are important to many of our associates.

Likewise, online sources can influence the public's impressions of the Company. When associates identify themselves as members of the Company and engage in inappropriate online communications, they can have a negative effect on the Company. Therefore, the Company has a policy on online communications.

You are responsible for the content you publish and the online spaces you manage.

If you identify yourself as an associate of the Company and publish any work-related information online, you must use this disclaimer: "The postings on this site are my own and don't necessarily represent the positions, strategies, or opinions of King Soopers/City Market."

You must comply with copyright, fair use, and financial disclosure laws, and you must not use without permission, or compromise in any way, the Company's intellectual property assets (like copyrights, trademarks, patents, or trade secrets – including, for example, King Soopers/City Market's logo, or trade names of products, or non-public information about the Company's business processes, customers, or vendors).

Confidential and proprietary information should not be discussed in any public forum unless it has been publicly reported by the Company. Confidential and proprietary information includes but is not limited to: financial results, new store designs, current or future merchandising initiatives, and planned technology uses or applications. Do not comment on rumors, speculation or personnel matters.

The Company's other policies and rules of conduct (including, but not limited to, its policy on business ethics, its intellectual property policy, and its anti-discrimination and anti-harassment policies) apply to all publications of any kind that relate in any way to the Company or to your work with the Company. When online, do not engage in behavior that would be inappropriate at work and that will reflect a negative or inaccurate description of our Company.

Compensation

Associate Payroll Checks

Associate payroll checks are the sole property of the associate identified on the check. No associate may receive or possess payroll checks made payable to another associate. Distribution of an associate's paycheck to relatives or friends should be established by written consent.

Every associate is responsible for checking the accuracy of his/her payroll check and immediately reporting any errors to management.

The Company reserves the right to discharge an associate and/or establish a repayment schedule to collect all monies overpaid to any associate due to payroll errors or associate fraud.

Employment/Wage Verification and W-2's

We are pleased to offer an automated verification service that allows you to have your employment and salary verified within a matter of minutes. This fast, secure service is used for anything you apply for that requires proof of employment. It also allows you to print a copy of your W-2. A small fee may be charged for this service.

Employer Codes: 10629 King Soopers/City Market

Applying for an apartment or loan?	Do you need a copy of your W-2?
Need proof of employment? Give the person who needs proof of your employment, the verifier, the following information: • Your Social Security Number • Employer Code: See above for options • The Work Number Access Options • www.theworknumber.com • 800-367-5690 **Need proof of your employment & income?** • Create a salary key by going to www.theworknumber.com or by calling 800-367-2884 • Login to the associate section by entering: The Employer Code: See above for options • Your Social Security Number • Your PIN (last 4 digits of SSN plus year (YYYY) of birthdate) • Select Create a Salary Key • Write down the six digit salary key and give it to the verifier. You can e-mail or print the salary key and instructions for the verifier if you use the web. • Give the person who needs proof of your employment and income, the verifier, the following information: • Your Social Security Number • Employer Code: See above for options • The salary key you created • The Work Number Access Options • www.theworknumber.com • 1-800-367-5690 **Applying to a Social Service Agency?** • Have the agency go to www.theworknumber.com or call 1-800-660-3399 for proof of your employment and income.	Go to **www.theworknumber.com** (click on the "Associates" box) **or** call 1-800-996-7566. Enter • The Employer Code: See above for options • Your Social Security Number • Your PIN (last 4 digits of SSN plus year (YYYY) of birthdate) **Select to request a duplicate W-2 Statement** **Make the following selections:** • Select to order your W-2 • Select the tax year • Choose to have your duplicate W-2 faxed, mailed to your home address or another address, or you can print it from the web **Note:** Address changes do not require a W-2c (W-2 Correction). You may change your address by simply requesting to receive a duplicate W-2 by mail, and then follow the menu options to change your address. However, this will not change your address in your employer's records. **You will be given a confirmation number.** You can check the status of your request by revisiting W-2 express and entering in your confirmation number.

If you have any questions, call the Client Service Center M–F 7:00 a.m. - 8:00 p.m. Central at 1-800-996-7566 (1-800-424-0253 TTY)

October 2013

Payday

The payroll period is from Sunday through Saturday. Paychecks for all weekly paid associates will be distributed no later than Friday of the following week.

Associates paid on a monthly salary or period basis receive their paychecks on a schedule determined by the Division.

Sooper Credit Union

Sooper Credit Union was organized to provide excellent financial services including: free checking, savings, and low-cost borrowing for all of its membership. All King Soopers/City Market associates and their families are eligible for membership in Sooper Credit Union.

Although the Sooper Credit Union receives advice and encouragement from King Soopers/City Market its operations and policies are established and governed by a Board of Directors selected by the members who belong to the credit union.

Your store manager or administrative assistant has all the necessary forms available for you to join. If you have any questions, call the Sooper Credit Union office nearest to you or visit www.soopercu.org.

Denver – (303) 986-2292
5590 W. Evans
Denver, CO 80227

Arvada – (303) 427-5005
5005 W. 60th Ave.
Arvada, CO 80003

Aurora – (303) 430-5473
998 S Chambers Road
Aurora, CO 80017

Grand Junction – (970) 242-0123
2440 Patterson Road
Grand Junction, CO 81505

Colorado Springs – (719)634-3516
2132 W Colorado Ave
Colorado Springs, CO 80904

Stock Purchase Plan

You can own a part of The Kroger Co. and all its various companies through The Kroger Stock Exchange. The Kroger Stock Exchange is a benefit plan that lets you become a shareholder in our Company. Any Company associate can participate and contribute as little as three dollars a week via payroll deduction. You can sell your stock for cash whenever you wish, providing you with cash liquidity. By participating

In The Kroger Stock Exchange you are saving for your future and sharing in the financial experience of your own Company. Please contact your Human Resources Department to enroll. If you have any questions once you have enrolled, please contact Shareowner Service at 1-800-872-3307 or e-mail them at **www.cpushareownerservices.com**

401(k) Plan

The Kroger 401(k) Plan is an employer-sponsored plan established for the purpose of providing you with retirement income when the time comes. Participating in the plan can be a key component of a financially secure retirement. A broad range of investment choices is available to help you diversify your account. You are eligible to enroll in the Kroger 401(k) Plan after you have reached age 21 and have completed 30 days of service in which you have worked at least 72 hours. Your contributions are pre-tax for Federal and State taxes. Contribution limits vary by year and income levels as defined by federal regulation. To learn more about and enroll in the 401(K) call 1-800-2KROGER or logon to ***www.benefits.ml.com***.

Vacations/Holidays

Associates may be eligible for Company paid vacations and holidays. Consult the Conditions of Employment or Collective Bargaining Agreement for your work group, or ask your manager, for more information. Eligibility for vacations and holidays, as well as pay, is governed by these documents.

Work Schedules

Your work schedule is determined by your manager on a weekly basis in accordance with the needs of the business, scheduling provisions for your work group and other factors. All work schedules are posted. For more information about scheduling contact your manager.

Contacting Your Company

A friendly and safe place to work depends on you. Associates are encouraged to report safety and health hazards, harassment, or any activity that may result in losses or harm to associates, customers, or the Company.

You are encouraged to make such reports to any of the following individuals. Also, you should use this list as a guide when calling with questions or concerns.

Human Resources Department

Associate Benefits/Payroll ..... 303-778-3275 or 1-877-373-3397

Employment 303-778-3100

City Market Labor Relations 970-244-1096

King Soopers Labor Relations 303-778-3258

Training & Development 303-778-2705

Kroger General Office Numbers

Main Office 513-762-4000

General Help Line 1-800-576-4377

Discrimination/Harassment Incidents and Concerns 1-800-689-4609
TDD: 877-673-6803

Vice President of Auditing 1-800-689-4609

Loss Prevention Department

Hotline 303-698-3500

Main Number 303-778-3363

Controlled Access to General Office

All Denver Main Office associates have been issued a photo security badge. This badge allows you to enter the office without using a conventional key. The badge system was installed with your safety and security in mind.

Unauthorized use of your badge is prohibited and will result in discipline up to and including termination. For safety purposes, the system is computer monitored to record when and where each badge is used.

If you lose your badge, please contact the Loss Prevention Department to get your badge reissued.

Health Benefits

The Company provides health, dental, vision, life insurance, and prescription coverage for its associates. Such coverage may require a weekly or monthly co-premium payment by the associate. Eligibility for coverage plans of benefits, rules and regulations, and other administrative details are contained in the Summary Plan Description for each respective health plan. You will be notified by the Administrator of the appropriate health plan when you become eligible to participate and enroll in health coverage and given an opportunity to elect or decline coverage at that time. If you have any questions about health coverage or the plan(s) you may be covered under, please contact a representative in the Associate Benefits Department.

Leave of Absence

Whenever appropriate, all leaves of absence will be counted toward the maximum of twelve (12) weeks of leave available to eligible associates under the Family and Medical Leave Act. As explained more fully in the Family and Medical Leave Act section covered later in this handbook, FMLA leave is available for an associate's serious health condition, or that of an immediate family member, and for childbirth or adoption. In the event an associate wishes a leave of absence for any reason, the associate should complete a leave form. In any event, the associate must make a written request for and be granted a Leave of Absence for all absences in excess of five (5) days. If a Leave of Absence has been granted, it is the associate's responsibility to provide ongoing updates as required herein, or by management. Failure to keep a LOA updated shall be grounds for immediate discharge.

Medical (Work Related and Non–Work Related) and FMLA Leave – The initial request and subsequent extension may be granted up to the maximum permitted by law or for your job as detailed in the Conditions of Employment or the Collective Bargaining Agreement for your work group. Each such extension must be requested in writing with proper medical support as directed by Sick Pay Administration. For work related injuries, the associate may be required to see a Company-selected doctor at Company's expense. All medical leaves will be treated as FMLA leave.

Before returning from a Medical Leave, the associate must present his/her store or facility manager with a return to work slip from his/her Health Care Provider, or the Company-selected doctor in the case of a work incurred injury to ensure that the associate can perform the essential functions of his/her job.

Personal Leave – This type of leave may be granted at management's discretion for reasons of a personal nature to associates who have one (1) or more years of service with the Company. Such leaves are not granted for purposes of engaging in gainful employment or enterprise elsewhere, nor are they granted to associates who are incarcerated. The maximum leave permitted will be as prescribed by law or for your job as detailed in the Conditions of

Employment or the Collective Bargaining Agreement for your work group. Personal leaves must be requested and granted in writing prior to the commencement of the leave.

If an associate's leave has expired or his/her request for a leave of absence or extension of a leave of absence is denied, the associate must return to work immediately or the associate will be separated immediately. The expiration date will be used as the date of resignation and separation.

Sick Pay

Certain associates may be eligible to receive sick pay for absences related to their medical inability to work. The payment of sick pay shall be as provided under the Conditions of Employment or Collective Bargaining Agreement for their job. Associates who are absent for three (3) or more workdays shall be required as a condition of applying for sick pay to submit medical certification of their absence as prescribed by King Soopers Sick Pay Administration. Medical certification may be required for absences of less than three (3) days.

Short Term Disability

Certain associates who are eligible for and participating in the health plan may be eligible for one of the two following Short Term Disability Coverage Plans under their health plan. Eligibility rules and benefits are as provided in the Summary Plan Description for each respective health plan. If you have questions about this coverage you should contact an associate in the Associate Benefits Department:

- Hourly paid, non-exempt weekly salary associates
- Salary continuation plan for exempt salary management associates

Hourly paid, non-exempt weekly salary associates plan – Associates who are eligible for and enrolled in their respective health and welfare plan may be eligible to receive, after a waiting period, a percentage of their average weekly income up to a maximum amount per week for up to 26 weeks due to a nonwork related condition.

Salary continuation plan for exempt salary management associates – This Company-paid plan provides a continuation of the earnings for an exempt salaried management associates in the case of a temporary absence due to disabling sickness or injury or until Long Term Disability coverage begins, if elected by the associate.

Retirement Benefits

The Company provides funding for retirement benefits for its associates. Eligibility for coverage, plan benefits, rules and regulations, and other administrative details, are contained in the Summary Plan Description for each respective retirement plan. If you have any questions about the retirement benefits you may be covered under, please contact a representative in the Associate Benefits Department.

Family Medical Leave Act (FMLA)

Eligibility for Leave – Any associate who has been employed by the Company at least 12 months and has worked at least 1,250 hours during the 12 months preceding the starting date of a leave of absence is eligible for family or medical leave of absence if certain conditions are met. Associates, except for certain highly compensated associates ("Key Associates"), will be returned to the same or equivalent position. **The granting of FMLA leave is governed strictly by law and is not subject to discretion on the part of management. FMLA leaves need to be requested through proper channels in writing on the proper form and sent to the Human Resources Department for review and approval.**

An eligible associate may take a leave for one or more of the following reasons:

Medical Leaves – The inability of the associate to perform one or more of the functions of his or her position due to a serious health condition, including conditions related to pregnancy.

Family Leaves:

- Father's attendance at the birth of a child
- Parent's care of a newborn son or daughter, if within twelve (12) months after the birth of the child
- Placement of a son or daughter with the associate for adoption or foster care, if within twelve (12) months after date of placement
- Care for a spouse, parent, or child (under 18 years or disabled) of the associate who has a serious health condition

Notice/Certification – If the necessity for the leave is foreseeable, an associate must notify the Company of the request for leave within 30 days before the leave begins. But in any

case, notice is required as soon as practicable. If the leave is foreseeable based on planned medical leave, the associate must also make a reasonable effort to schedule the treatment so as not to disrupt company operations. If the leave is unforeseeable, the associate is expected to give notice to the employer of the need for FMLA leave as soon as practicable under the circumstances; i.e., within no more than one or two working days.

An associate requesting leave must complete a "Leave of Absence Form" and provide appropriate documentation to verify the reasons for the leave. Any request for leave based on a serious health condition, whether it involves the associate or a family member as defined above, must be made in a timely manner and be supported by medical certification from the attending physician with information such as the date the condition started, the probable duration of the condition, and appropriate medical facts relating to the condition.

If the leave is for an associate's medical condition, the medical certificate must specify that the associate is unable to perform one or more of the functions of his or her job, including the duration of such a work restriction. For leaves stemming from the medical condition of a family member, the medical statement must specify that the associate is needed to care for the family member. In all cases of leave for a serious health condition, the Company reserves the right to request a second medical opinion at Company's expense.

Failure to provide notification and appropriate medical certification in a timely basis may result in delayed approval or denial of the leave.

Length of Leave – Each qualifying associate may be granted an unpaid family or medical leave for a period of up to 12 weeks during the 12-month rolling period following the first approved leave. When both spouses work for the Company, they are limited to a combined total of 12 weeks in the 12-month rolling period for a newborn or adopted child leave.

The hours accumulated toward sick pay and vacation pay will not be accrued during the leave or a leave to care for parents.

Benefits During Leave – An associate who qualifies for FMLA will be retained on their health plan with the same conditions as eligible active associates up to a maximum of 12 weeks. As an associate who is making payments, you must continue to pay your portion of the coverage premium up to a maximum of 12 weeks.

However, in the event that an associate fails to return from family or medical leave, the associate will be liable for the premiums paid by the Company to maintain insurance coverage unless: (1) the associate's failure to return to work stems from the continuation, recurrence, or onset of a serious health condition of the associate or a family member, or (2) the failure to return stems from circumstances beyond the control of the associate.

Return From Leave – An associate returning from leave may be reinstated to the same or equivalent position. Medical certification is required verifying an associate's ability to return

to work. Failure to return to work on the day after the leave expires may result in termination of employment.

A key associate is a salaried associate who is among the highest paid 10% of all associates within 15 miles of the associate's worksite. A key associate may or may not be reinstated to the same or equivalent position upon return from FMLA leave. The Company will determine on a case-by-case basis whether such associate will be reinstated.

Reduced Work Schedule/Intermittent Leave – In limited circumstances, as described below, an associate who is eligible for family or medical leave may be permitted to work a reduced schedule or receive periodic time off from work.

In cases of a serious health condition of the associate or a family member, such leave may be permitted in circumstances when it is medically necessary. Appropriate medical certification will be required. However, where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Company reserves the right to temporarily transfer the associate to a comparable position that better accommodates the associate's recurring periods of leave. Also, associates must attempt to schedule leave to avoid unduly disrupting the Company's operations.

In cases of newborn, adopted, or newly placed children, the Company may or may not agree to a reduced schedule or intermittent leave request.

Any leave that has been permitted based on a reduced work schedule or intermittent leave will be treated in the same manner as other absences under the Family and Medical Leave policy. Such absences will be counted as part of the 12-week period under the policy.

FMLA is not to be confused with Family Care Leaves as defined under the Collective Bargaining Agreements and Conditions of Employment which contain different requirements. Certain collective bargaining agreements have more generous terms than contained herein. In such instances, the more favorable terms shall be allowed.

Family Care Leave under the collective bargaining agreement will be designated as FMLA as long as the reasons for the Family Care Leave qualify under the FMLA.

Associates may substitute any paid leave for unpaid FMLA leave, or the Company may require the associate to make such a substitution.

Relationships to Other Leaves – The Company may require that associates first use all paid leave, including vacation and personal days, as a part of the twelve (12) weeks. The remaining weeks will be granted as unpaid leave. FMLA leave may reduce future year vacation eligibility.

If a husband and wife are both employed by the Company, even though both are "eligible," they will be limited to a combined total of twelve (12) weeks for birth or placement of a child, or to care for a dependent child or parent.

Associates who suffer a serious health condition as a result of an on-the-job injury covered by Workers' Compensation will have absences due to such condition counted as FMLA leave.

For any type of Leave of Absence – There are established channels for application and notification. Please see your supervisor or store secretary for the appropriate contact number, forms, and procedures for your group.

On-The-Job Injuries

King Soopers/City Market is self-insured and utilizes a third-party administrator under the Workers' Compensation Act. All associates are provided coverage to the extent outlined by the Act for "on-the-job" injuries or accidents, providing the following regulations are adhered to:

Reporting – Any on-the-job accident/injury or illness must be reported within four working days in writing to the associate's Safety Coordinator, immediate supervisor, or management person in charge. Failure to report, or a delay in reporting, could result in a reduction of compensation benefits and may also be in violation of Colorado law.

Medical Care – Injured associates must go to a Company-authorized physician or medical facility for medical costs to be paid by the Company. A list of authorized physicians and medical facilities that provide twenty-four (24) hour medical service is posted at each location. Every associate is urged to familiarize himself/herself with this list.

Medical Bills – All authorized medical bills incurred in connection with an on-the-job illness or injury should be sent to:

King Soopers/City Market
Risk Management
P. O. Box 5567
Denver, CO 80217

All bills should clearly identify the Associate's Name, Claim Number, and Date of Illness/Injury.

Penalties (provided under State law) – Associates should be aware that a 50% reduction in Workers' Compensation benefits may result if it is determined that an accident or injury on the job was caused by the associate's failure to use safety devices, or through other acts of willful negligence.

All associates can help reduce accident frequency. Watch for accident hazards, avoid shortcuts, be careful with knives, don't risk falls, and be especially careful around machinery. Always remove trash or other obstacles on the floor that may cause an associate or customer to slip or fall. Let's all help make King Soopers/City Market a safer place to work!

Associates With Temporary Restrictions – Associates, who are temporarily unable to perform the essential functions of their jobs as the result of a work-incurred illness or injury, if eligible, may be assigned temporary alternative duties/work assignments or placed on a medical leave of absence.

Associates With Permanent Restrictions – When an individual has reached Maximum Medical Improvement (MMI) and has received permanent restrictions, the associate will undergo an assessment by a King Soopers/City Market representative. The assessment is an interactive process between the associate and the Company to evaluate an associate's permanent restrictions, his/her ability to perform the essential functions of his/her job based on his/her permanent restrictions, potential jobs which may be available within his/her permanent restrictions, and other factors that may be relevant to this evaluation.

Other Regulatory Requirements

Many more regulations and laws apply to our operations ranging from various health department regulations, to safety regulations under OSHA, to drug handling regulations monitored by the Drug Enforcement Agency, weights and measures, and others. Specific guidance for compliance with each of these laws and regulations, as they relate to your work area, will be provided by your manager. When in doubt ask your manager. It is the duty and responsibility of all associates to ensure that all legal and regulatory requirements are maintained and observed. If you believe a violation has occurred, you are encouraged to report your concerns to the Labor Relations Department.

Training and Development

New Hire Orientation and Training

To enhance success on the job, an orientation should be provided to all new associates. This will require a joint effort of the Manager and the Human Resources Training Department.

New Hire Orientation – Each new associate should be scheduled to attend a New Hire Orientation class. As a new associate you are encouraged to address any questions you may have about your job to your Manager.

Among the topics to be covered during the orientation:

- The Company's vision and values

- The associate's role in the department and why it is Important
- The four keys and how the associate's role relates to the four keys
- Inclusive Business Culture
- The Performance Review process
- To whom they should go with any questions or problems.

On-The-Job Training – Managers are responsible for providing new associates with on-the-job training. To help ensure thorough and consistent training of all new associates, Managers assume an active role in this process. Your Manager is encouraged to observe and work with you frequently during the training period.

Formal Training – In addition to orientation and on-the-job training, many jobs have a formal training program identified for the associate. These formal programs are designed to provide the associate with skill development for his/her job, additional information regarding regulatory requirements, safety policies, procedures and practices, accepted methods for performing the job, etc. Formal training may be delivered in a variety of ways, including:

- **Classroom–type training** – the associate's work location or a central location where other associates of the Company come together to receive the same training program
- **Web Based** – where the associate learns on their own in a self-paced environment by accessing the formal training via a store/office computer or through the Internet.
- KTV/RMTV – Kroger Television and Rocky Mountain Television provide live and "Training on Demand" shows that provide associates with the ability to receive training via a satellite-based television.
- **Off-site training course** – The associate may be scheduled to attend a training program provided by an off-site vendor or educational institution.

Performance Appraisals (PED's)

NEW HIRES AND NEWLY PROMOTED ASSOCIATES

Newly hired and newly promoted associates are subject to a probationary period. During this time, your performance will be evaluated to assess your potential for continued employment. These evaluations will take place 30 to 90 days from the date of hire or promotion and may take place more frequently.

ALL ASSOCIATES:

Performance Excellence Discussions, also referred to as PED's, are evaluations completed on associates annually by their direct supervisor. These discussions are opportunities for you and

your supervisor to share information, set goals, identify barriers, and plan for your future. Other objectives of the PED process include:

- Communicate with associates why their roles are important and how what they do affects our customers and our company.
- Recognize good performance and discuss opportunities for improvement in a constructive manner.
- Align associates to support our Customer 1st strategy.
- Provide associates with feedback regarding how well they demonstrate the expected behaviors outlined in the Kroger Leadership Model.
- Provide opportunities for continued career growth and leadership skill development for our next generation of leaders.

The PED process evaluates performance based on associate performance during the prior fiscal year. For all salaried management, all ASP and all hourly management positions; the process begins in February; face-to-face discussions take place in April, and quarterly update meetings occurring throughout the year.

The PED process for Non-management hourly positions will follow the district's established timelines.

Federal and State Laws

Child Labor Laws- (King Soopers/City Market requires all associates be a minimum of 16 years old)

The Fair Labor Standards Act has set forth a number of requirements with regard to child labor. Under this Act, associates under the age of 18 are prohibited from working in a position where the job requires them to operate hazardous equipment (as defined in the Act). Because of these requirements, all retail positions in the Bakery, Produce and all Meat Departments, require the associate to be 18 years of age.

Federal, State and Municipal regulations protect associates under 18 years of age. These regulations range from the type of work, the equipment to be operated, and curfew laws. On the next page are some of the federal restrictions you will need to become familiar with.

Child Labor Requirements

- **14 and 15 Year Olds:** This group of associates is the most restricted under the law. From the time school starts in August until it ends in June, every week is considered a school week regardless of whether school is out for Christmas or Spring Break. During school weeks, 14-and-15-year-old associates cannot work more than 18 hours in a calendar week. In addition, during school weeks, these associates cannot start before 7:00 a.m. or work past 7:00 p.m.; they cannot work more than three (3) hours on a day when school is in session, and they cannot work more than eight (8) hours on Sunday, Saturday, or a day when school is not in session.

  When school is out for the summer, these associates cannot start before 7:00 a.m. or work past 9:00 p.m., nor can they work more than 40 hours in a calendar week.

  For all weeks of the year, a 14-and-15-year-old associate may not work more than eight (8) hours in any rolling, consecutive 24-hour period. This 24-hour period begins when the associate clocks in and ends 24 hours later.

- **16 and 17 Year Olds:** These associates do not have school/summer week restrictions, however they cannot work more than eight (8) hours per calendar day, more than 40 hours per calendar week, or more than eight (8) hours in a rolling, consecutive 24-hour period.

- **Hazardous Duties:** In addition to the hours restrictions set forth above, associates under the age of 18 are prohibited from operating certain hazardous equipment. Please refer to your poster for a detailed list of these restrictions. In general, these associates may not operate power-driven saws, slicers, choppers, grinders, tenderizers, knives, cleaning equipment and pallet jacks. They also may not operate motor vehicles, may not unload trucks, or fix or repair equipment. Associates who are 14 and 15 year olds are prohibited from working on ladders. Associates who are 16 and 17 years old may use ladders provided they do not climb higher than ten (10) feet off the ground (measured from the floor to the top of their head).
- **Enforcement:** Violations of the above provisions are subject, depending on the specific violation, to enforcement by the U.S. Department of Labor or the Colorado Department of Labor. Fines are assessed on a per incident basis and increase per incident for multiple violations. A complaint filed over a specific incident could trigger a two-year back review for the entire company. Please review these requirements with your management teams. Strict compliance is expected.

If you have any question as to whether an associate may perform a particular task, please contact Labor Relations for clarification.

U.S. DEPARTMENT OF LABOR CHILD LABOR LAW RESTRICTIONS

CATEGORY	AGE 14 & 15	AGE 16 & 17
Operating or Cleaning Power-Driven Equipment (Either Gas or Electric), such as Power Mules, Floor Machines, Buffers	*PROHIBITED*	*PROHIBITED*
Operating Company or Private Vehicles for Pickup or Delivery	*PROHIBITED*	*PROHIBITED*
Working from Ladders	*PROHIBITED*	*PROHIBITED at 10 Feet or above (Example: No hanging signs from the ceilings)*
Operating or Cleaning Bakery Machines, Mixers, Fryers, Slicers, Proof Boxes, Ovens	*PROHIBITED*	*PROHIBITED*
Operating or Cleaning Power-Driven Circular Saws or other Cutting Equipment. (Example: Deli Slicers, Bread Slicers, Meat Saws)	*PROHIBITED*	*PROHIBITED*
Packaging and Processing of Meat	*PROHIBITED*	*PROHIBITED*
Operating or cleaning Food Slicers and Grinders. (Example: Cutting Equipment-Garbel)	*PROHIBITED*	*PROHIBITED*
Use of Compactor or Balling Machines	*PROHIBITED*	*PROHIBITED*
Work in any Freezer or Cooler	*PROHIBITED*	*ACCEPTABLE*
Loading or Unloading of Trucks	*PROHIBITED*	*PROHIBITED*
Work Connected with Maintenance and Repair of Equipment	*PROHIBITED*	*PROHIBITED*

HOURS

AGE 14 & 15:	*AGE 16 & 17:*
* *No more than 3 hours on a school day* * *May not start work prior to 7:00 a.m. nor work past 7:00 p.m. (9:00 p.m. during the summer)* * *No more than 8 hours on Sunday* * *No more than 8 hours on Saturday* * *No more than 18 hours a week during school weeks (40 hours during the summer)* * *No more than 8 hours in a consecutive 24-hour period*	* *No more than 8 hours a day* * *No more than 8 hours in a 24-hour period* * *No more than 40 hours a week* * *INDIVIDUAL COUNTIES AND SCHOOL DISTRICTS MAY HAVE ADDITIONAL RESTRICTIONS BEYOND THE ABOVE.*

King Soopers/City Market requires all associates be a minimum of 16 years old)

Americans with Disabilities Act (ADA)

ADA prohibits discrimination against an individual with a disability. ADA defines an "individual with a disability" as a person who has a physical or mental impairment that substantially limits one or more major life activities.

Associates with a Physical or Mental Limitation: An associate who has a physical or mental limitation that impairs him/her from performing the essential functions of his/her job for more than a temporary basis will undergo an assessment by a Company Representative. The assessment is an interactive process between the associate and the company to evaluate associate's permanent restrictions, his/her ability to perform the essential functions of his/her job based on his/her permanent restrictions, potential jobs which may be available within his/her permanent restrictions, and other factors that may be relevant to this evaluation.

Contact the Labor Relations Department for assistance with ADA practices.

Equal Employment Opportunity

It is the policy of King Soopers/City Market to provide equal opportunity for all applicants for employment and to administer all human resource practices, such as recruiting, hiring, promoting, and all other terms, conditions, and privileges of employment, in a manner which does not discriminate on the basis of age, color, disability, gender, national origin, race, religion, or sexual orientation.

This policy complies with the law and, most importantly, upholds the fundamental American concept of equal opportunity for all people. Each associate has an individual responsibility to observe this policy, and each member of management is responsible and accountable for ensuring compliance.

If you are aware of any violation of this policy, please contact your Store or Facility Manager and/or Human Resources Department. King Soopers/City Market strongly encourages any associate who feels he/she is being discriminated against to report the incident to his/her location manager. If for any reason it is deemed inappropriate to deal with the location manager contact: at King Soopers, Stephanie Bouknight, Manager of Labor Relations, at 303-778-3258; at City Market contact Deb Ross, Labor Relations Manager, at (970) 244-1096; or any of the following individuals:

Kings Soopers/City Market

- Stephanie Bouknight, Manager of Labor Relations, King Soopers, (303) 778-3258
- Deb Ross, Manager of Labor Relations, City Market, (970) 244-1096
- Trail Daugherty, Director of Human Resources, (303) 778-3377
- Russ Dispense, President, (303) 778-3292
- Dave Savage, Vice-President of Operations, (303) 778-3088
- Frank Romero, Vice-President of Merchandising, (303) 778-3330

The Kroger Help Line at 1-800-689-4609; TDD, 877-673-6803

Transfers

Transfers within King Soopers/City Market Division

Associate transfers between stores is based on a number of factors such as the associate's work performance/attendance at their current location, Conditions of Employment requirements as set forth by the Company or as contained in a collective bargaining agreement, length of service, etc. Associates who wish to transfer to another location within the division and within their current classification will be considered along with all other candidates subject to these conditions when openings occur. An associate should complete a Transfer Request Form and forward the Request to the store where they desire to transfer. Transfers between locations are at the discretion of the Company. The manager of each location handles transfer requests within the same classification and within the location to another department. Transfers are not permitted between different job classifications. Associates interested in changing job classifications should consult their location manager or their Human Resources Coordinator.

Associates desiring to transfer from King Soopers to City Market or vice versa should contact their Store Administrative Assistant for more information about transfer policies and procedures.

Interdivisional Transfers within the Kroger Co.

The Kroger Co. maintains a policy with respect to associate transfers between divisions (i.e., Fry's, Kroger, Ralph's, Smith's, etc.). Continuity of employment upon transfer is governed under that policy. If you are interested in transferring to another division you will need to contact the Human Resources Department at the division where you are interested in transferring. Some divisions may require the successful completion and passing of a drug screen and criminal background check prior to the start of employment.

STANDARDS OF CONDUCT...

King Soopers/City Market has set forth policies, procedures, standards of conduct, and work rules, which are essential to the operation of our business. The following pages set forth many of these policies, procedures, standards of conduct, and work rules. Additional policies, procedures, work rules, or standards of conduct may be set forth separately for your work area. The Company reserves the right to add to, eliminate, or modify, any of the respective policies, procedures, work rules, and standards of conduct at any time. You are responsible for ensuring that you are following all these policies, procedures, work rules, and standards of conduct, whether published in this book or not, as well as any directives from management. Associates will be held accountable for these policies, procedures, work rules, and standards of conduct whether on duty or not. Failure to follow these policies, procedures, work rules and standards

of conduct may result in disciplinary action up to and including termination, which may include discharge on the first offense.

Appearance and Hygiene Standards

King Soopers/City Market wants to convey a clean, neat, and well-organized appearance to our customers at all times. It is very important that associates maintain a high standard of personal hygiene and appearance. Unless otherwise directed by your work rules or management, you should dress appropriately for your position. In certain positions, uniforms may be provided. King Soopers/City Market reserves the right to change these standards without prior notice.

Appearance Standards for All Associates

All associates are expected to maintain personal grooming habits consistent with a retail food handling environment. This includes but is not limited to the following:

- Hair must be clean, neatly styled and combed at all times. No extreme colors will be tolerated, i.e., green, blue, etc. Hair must be styled in business-like fashion; hair needs to be kept away from the face and should be tied back, if necessary. Nontraditional hairstyles are prohibited; this would include but is not limited to Mohawks, spikes, sculptures, etc.

- Hands should be clean and nails are to be clean and trimmed. Excessively long nails will not be accepted.

- If jewelry is worn it should be simple and businesslike. Any other type of visible body jewelry is not permitted.

- Buttons and pins. In addition to the associate's name badge, not more than one (1) King Soopers/City Market pin and/or not more than one personal accessory pin no larger than one and one-half inch in diameter may be worn.

- All tattoos must be in good taste and non-offensive in nature. Management may require tattoo(s) that are potentially offensive to our customers and not suitable for the working environment to be covered.

- Male associates are to be clean shaven. Beards and mustaches are permitted if clean and neatly trimmed, and covered as required for meat, deli, and bakery departments.

- Associates shall maintain a level of personal cleanliness acceptable to management. Associates shall comply with all applicable state and local health standards.

Body Piercing

- Earrings on associates are limited to no more than four (4) earrings in each ear. Associates may not wear long, dangling earrings or earrings that create a safety hazard.
- One small nose stud is allowed. However, piercings are not allowed on the lip, tongue, eyebrows.
- Gages are allowed with clear being the preferred choice. Only open gages are allowed.
- No other visible body piercing shall be allowed including, but not limited to, multiple earrings, nose rings, lip rings, eyebrow rings, chains attached to earring rings, and/or nose rings/studs, chin studs, tongue studs/spikes, etc.

Cell Phones, Pagers and Other Electronic Equipment

While on the premises, unless otherwise authorized by management, during working hours associates are expected to give their full attention to their work and our customers. Therefore, the use of personal electronic devices (such as, but not limited to mobile phone, iPod/MP3 players, iPad/tablet computers, personal computer, etc.) is prohibited during working hours without the expressed permission of management. The use of such devices is permitted during breaks or lunches.

This includes, but is not limited to making/receiving personal phone calls; checking or sending/receiving text messages; checking or sending/receiving personal Emails; accessing the Internet; listening to music/audio programs; watching videos/movies. It is also prohibited to use the device to take pictures, video or audio, of people, displays, fixtures, etc., as well as uploading pictures, video or audio to any social networking or personal Internet site.

Hygiene and Personal Practices

All associates must practice good personal hygiene at all times while working in food-handling departments. These practices include regular hand washing, wearing clean clothes, and the use of effective hair/beard restraints.

Retail Dress Policy

This section supplements the above referenced "Appearance Standards for All Associates" for retail/store associates.

Attire – Associates are expected to report to work as follows:

General Guidelines – Clothing should be neat, clean, pressed, and in good repair. Torn, faded, or excessively worn clothing will not be permitted. Associates are also expected to report to work neat and clean. No extremes in style, make-up, and hairstyle or hair color, shall be permitted. Management retains the right to determine what constitutes acceptable standards of dress and appearance under these guidelines.

- Company issued Name Badge
- Blue/White Oxford Shirt (long or short sleeves) or associates may purchase from the Company at the Company's cost and wear a Company authorized Golf Shirt
- Apron

Company Approved Pants, Black or Khaki dress-type pants of dress wool, cotton or knit materials only. Black denim pants in good condition. Dockers-type pants are also acceptable. All styles of pants must fit around the waist (no bagging or sagging).

- In addition to the above guidelines for service, floral, etc., associates in Deli, Bakery, Meat and Seafood will be required to wear a King Soopers/City Market baseball-style hat, Gatsby hat, or hair net that effectively keeps the hair under control.

  - Management – All Management Associates will wear:

    - Company-Issued Name Badge
    - Oxford Shirt (long or short sleeve)
    - Company Approved Pants
    - Black Vest (Meat and Seafood Managers will wear black vest while on sales floor)
    - King Soopers/City Market baseball-style cap or Gatsby hat in the appropriate department
    - Service Department Manager will dress in professional attire. Head Clerks will wear either the service department uniform or professional attire. Either choice will include black vests. No denim or tennis shoes.

Pants – Black or khaki dress-type pants of dress wool, cotton or knit materials only. Black denim pants in good condition. Dockers-type pants are also acceptable. All styles of pants must fit around the waist (no bagging or sagging).

Sweaters – Only Black or Navy cardigan-style sweaters or sweater vests are permitted. Sweatshirts are not permitted except those with the King Soopers/City Market logo. The associate may purchase these from the store secretary (allow time for ordering). T-shirts, undershirts, and undergarments with color, designs, or logos, are not permitted.

Shoes – Must be white or black athletic shoes only with white or black corresponding laces; neat dress shoes are also acceptable. Shoes must have closed toe and heels with non-skid soles. Socks or nylon hose must be worn with shoes.

Deli employees must wear slip-resistant shoes. The Deli employee may choose to wear their own purchased slip-resistant shoes or the employee will be provided, and must wear, Shoes for Crews slip resistant over-shoes.

The following types of shoes are not considered to be safe, or appropriate, and are not acceptable to be worn while on duty:

- Open-toe or open-heel shoes
- Sandals, slippers, or ballet style shoes
- Hard-sole or slick-sole shoes
- Canvas-type shoes
- Extremely high heeled, or platform shoes
- Western (cowboy) boots with leather soles/heels
- Leather-sole footwear
- Shoes with holes in the sole or otherwise worn out
- Shoes with laces or fasteners which are untied or loose.
- Footwear that has a heel, or sole, with exposed springs as support, such as coil spring heels, Z-Coil shoes, etc. Shoes with separated toes, such as Toe Shoes.
- Shoes constructed from resin and/or foam-like shoes, such as Crocs.

Shirts – All styles of shirts must be tucked in.

Aprons, Vests, and Tunics – Aprons must be worn as designed, not folded down. Vests and tunics must be buttoned.

Ties, Aprons and Name Badges – The Company will provide associates (3) shirts, (2) aprons, (1) name badge, and (1) hat in appropriate departments. The Company will replace these items, when worn-out or damaged as a result of normal wear and tear. The associate must return worn and damaged items before replacement will be issued. Associates are required to wear these items while at work and will be required to replace at their cost lost ties, aprons, name badges, and hats.

Pharmacy Dress Policy

PHARMACISTS:
Male pharmacists are required to wear a white pharmacy smock over a shirt and tie. The zippered smock is no longer available for order, and thus has been phased out. It

should NOT be worn over a t-shirt.
Female pharmacists are required to wear a white pharmacy smock over a dress, skirt, and blouse, or slacks and blouse. Tank tops, camisoles, T-shirts, shorts, skorts, or tube tops are not acceptable attire.

INTERNS:
Interns are required to wear a plain white smock with appropriate attire as described above.

PHARMACY TECHNICIANS:
All Pharmacy Technicians will wear a uniform as determined by the company dress policy (see below) for retail employees. In addition, a navy pharmacy technician smock will be worn over the normal uniform attire.
All certified and non-certified technicians will wear the new polo shirt with the navy pharmacy technician smock over it. The company will furnish a specific number of polo shirts to the employee depending on his/her employment status. The company will also provide the navy smock. Black or khaki pants are the responsibility of the employee. During the winter months, employees may wear black or white turtlenecks under their smocks instead of the polo shirts, if approved by Store Management.

Optimum Wellness Clerks Dress Policy

White Oxford Shirt
Company Approved Pants and Shoes
Evergreen Vest with Optimum Wellness logo

Starbucks Dress Policy

Pants: Black pants (no denim, leather, athletic or stretch-style fabrics. Leggings should not be worn.
Shirt: Black (If you wear an undershirt or a sweater, it needs to be Black on Black, no colors.)
Shoes: Black or brown closed-toe shoes.
Apron: Starbucks logo aprons only. Apron must be clean at the beginning of each shift. Aprons must be worn at all times while working.
Nametag: Nametags must be worn at all times.
Hat: Starbucks logo hat with hair pulled back if longer than shoulder length. Nothing should be added to the hat (i.e., buttons, name tags, etc.).
Piercings: No facial piercing allowed (including clear). All facial piercings must be removed when working in Starbucks. If you have any exotic piercings, they must be covered at all times.
Tattoo: All visible tattoos must be covered.
Fingernails: No acrylic or painted nails.

***Note** – Depending on your store, you may be more limited than these options. Check with your store supervisor to make sure you are following the correct guidelines.
In addition, please refrain from wearing strong colognes and perfumes as it overpowers the coffee aroma and taste. Also, large, flashy jewelry, including bangles, watches, and more than one ring, is not allowed.

Main Office Dress Policy

This section supplements the above referenced "Appearance Standards for All Associates" for main office associates:

Associates shall be allowed to wear business casual attire every day. However, associates who will be conducting business meetings out of the office, visiting stores, meeting with customers, etc., are expected to dress according to traditional business standards of dress.

The following is our policy regarding expected standards of dress for business casual. If you have questions as to whether an item of dress would be acceptable, you should discuss them with your department manager, when in doubt; choose options that will be more conservative.

Business Casual Dress Standards for General Office Associates – As a King Soopers/City Market associate, your daily appearance will be a reflection on you and on the Company. Below represents general business casual dress guidelines for all associates based at the main office.

General Guidelines – Clothing should be neat, clean, pressed, and in good repair. Torn, faded, or excessively worn clothing will not be permitted. Clothing choices should be appropriate for the workplace. Associates are also expected to report to work neat and clean. No extremes in style, make-up, and hairstyle or hair color shall be permitted. Management retains the right to determine what constitutes acceptable standards of dress and appearance under these guidelines.

Male Associates:

- Collared shirt with fold-over collars. Ties are optional.
- Dress pants of wool, cotton blend, Dockers-type khaki or knit material. No denim material.
- Dress shoes, dress or western boots, black or brown casual shoes. All must be worn with socks.

Female Associates:

- Tailored slacks, wool, cotton; or knit dress pants (including non-fitted Capri pants – mid-calf length) and Dockers-type pants. No denim material.
- Shirt or blouse.
- Dresses and skirts are not to be more than three (3) inches above the knee (denim is OK).
- Dress, casual shoes (including dress sandals), or dress or western boots.

Not Acceptable:

- T-shirts
- Painter pants or baggy pants
- Denim/blue Jeans
- Athletic clothing
- Form-fitting clothing
- Spandex clothing
- Sweats
- Shorts
- Combat, hiking, or hunting boots
- An athletic shoe, slippers, sandals, flip-flops, clogs, etc.

This list is to be used as a general guide and does not consist of all style preferences. If you have any concerns or questions as to what attire may or may not be acceptable, please ask your location manager. However, associates who will be conducting business meetings out of the office, visiting stores, meeting with customers, etc., shall be expected to dress according to traditional business standards of dress.

Loss Prevention Program

Loss prevention is a serious concern for all of us. As a part of our loss prevention program, we established a Loss Prevention and Safety Hazard Hot Line (303-698-3500). The Hot Line gives associates an avenue to present their ideas and suggestions on reducing shrink, safety hazards, and losses in our Company.

Think Safety – Reduce Shrink – and Eliminate Theft

Our shrink program guarantees confidentiality for any ideas or suggestions you may have for loss prevention. It offers awards (either gifts or cash) if your ideas can be used to reduce costs or uncover deceptive or fraudulent behavior. The program works like this:

- A special 24-hour telephone number has been established to receive information. (An automatic answering device to assure confidentiality answers the phone.) You may identify yourself by entering a nine-digit number. Retain this number as a reference for future information.

If you would like to have the Loss Prevention Department contact you directly, please leave your name and phone number. Associates who wish to remain anonymous may write to the Director of Loss Prevention. Be sure to use the same numerical identification system mentioned above.

Honesty

We are proud of the honest and loyal associates who make up the majority of our workforce. Associate honesty and integrity is essential to our success, as well as the success of each associate. To preserve these ideals, any associate who engages in dishonest behavior will be subject to immediate discharge. This section contains a number of policies, procedures, standards of conduct, and work rules, which may be considered dishonesty, and a violation of this policy. Associates are advised that violations of policies, procedures, work rules, and standards of conduct in other sections of this manual, supplemental work rules, etc. may also be considered violations of the honesty policy based on the facts of each such violation.

The Company has put into place a number of policies (such as, but not limited to, refund, scan guarantee, freshness guarantee, and coupon redemption) as part of a comprehensive program to enhance the image of King Soopers/City Market with its customer. Without prior location manager approval, associates are not allowed to take advantage of the Division's liberal coupon and scan guarantee policies for personal gain, or otherwise favorably profit for themselves, friends, or relatives as a result of inside knowledge or information.

The following list, while not all inclusive, represents examples of dishonest behavior:

- Theft, removal, or concealment of cash or merchandise or services
- Fraud or embezzlement of cash
- Under-ringing sales or accepting merchandise that has been under-rung
- Consuming or removing any product from the premise that has not been properly paid for in advance, whether salable or not

- Failure to turn in items that are lost and found in the store or facility or improperly removing lost and found items for personal use unless determined "abandoned" by management
- Fraudulent use or acceptance of coupons
- Pricing your own purchases or recording your own sales or transactions with the Company
- Knowingly processing a refund transaction for an item not purchased
- Using your personal loyalty card (SooperCard or City Market Value Card), or loyalty card number, to obtain rewards, points, discounts, sweepstakes entries, or benefits fraudulently. This includes but is not limited to:
  - The use of your personal loyalty card for customer transactions
  - The use of your personal loyalty card for the purpose of sweet hearting (extending a discount) to other-than-dependent/co-dependent family members, friends, coworkers, or members of organizations to which the associate belongs
  - The use of your personal loyalty card by other-than-dependent/co-dependent family members, friends, or coworkers, or members of organizations to which the associate belongs
  - The use of their personal loyalty card when purchasing company supplies (i.e. food or supplies for associate events)
- Using their 123-Rewards MasterCard to obtain rewards, points, discounts, sweepstakes entries, or benefits fraudulently. This includes, but is not limited to:
  - The use of your 123-Rewards MasterCard for the purpose of sweet hearting (extending a discount) to other-than-dependent/co-dependent family members, friends, coworkers, or members of organizations to which the associate belongs
  - The use of their 123-Rewards MasterCard by other-than-dependent/co-dependent family members, friends, or coworkers or members of organizations to which the associate belongs
  - The use of their 123-Rewards MasterCard when purchasing company supplies (i.e., food or supplies for associate events)
- Using a loyalty card, or loyalty card number, not registered to the associate, dependent, or co-dependent household family member living at the same address.
- Removal and/or use of a product without management approval and/or adherence to recording procedures
- Removal of any record, including computer records, which reflects amounts owed the Company by the associate or others
- Recording time on timecards/time and attendance system for which no work was performed, or to otherwise achieve compensation in an amount greater than what was actually due
- Violation of associate purchase policy and sampling policies
- Writing "bad checks" to the Company
- Acceptance of payroll check overpayment

- Unauthorized markdowns of merchandise, including the intentional damage of merchandise for markdown
- Unauthorized removal of donations from a collection station
- Unauthorized removal of Company property
- Fraudulent attempts to obtain benefits such as Workers' Compensation, Sick Leave, Funeral Leave, medical prescriptions, or other benefits
- Presenting coupons to, and accepting redemption of, coupons from a checker for items not purchased or multiple coupons for the same item purchased
- Redeeming coupons for an associate, friend, or relative for items not purchased or redeeming multiple coupons for the same item
- Not charging for merchandise under the scan or freshness guarantee, for associates, friends, and relatives without management approval
- Accepting or demanding the receipt of merchandise without payment under the scan or freshness guarantee policies without management approval
- Otherwise using insider information for personal gain
- Generating for personal use or to give to friends, relatives, associates, or customers, in-store (Catalina) coupons. In-store coupons, which are legitimately generated, should be given directly to the customer.
- In-store coupons abandoned by the customer are to be discarded and may not be retained for use by associates, friends, relatives, or other customers
- Not being truthful during an investigation

Altering Company Documents/Records

The alteration, forgery, unauthorized removal or destruction of any Division records, documents, or other types of media, which adversely affects the operation of the Division, may result in immediate discharge.

Associate Checks

Returned checks from any associate is an extremely serious violation, because trust and good faith have been compromised. Associates are responsible for insuring that all checks cashed at King Soopers/City Market stores are covered by sufficient funds. Under this policy, associates are held responsible for: two-party checks, any personal checks presented for payment by the associate and made payable to King Soopers/City Market, or another person's check endorsed and cashed by the associate (for friends or relatives). Associates may be held financially responsible under this policy for checks presented on a joint checking account by the associate's spouse or other parties where the associate shares the account.

Associates, who write checks to King Soopers/City Market on accounts with insufficient funds, closed accounts, stop payments, writes a bad check to cover another bad check ("check

kiting"), or engages in acts involving checks which defraud the Division, will be subject to immediate discharge.

Notwithstanding the above, associates who refuse or fail to make whole any outstanding checks plus all fees and charges to the Division within three (3) business days after notification by management will be immediately discharged.

Payment of checks under this provision in no way exempts the associate from disciplinary action as a result of writing a bad check. An associate writing a bad check for the first time will receive a written warning; the second time will result in a three (3) day suspension, and the third time an associate writes a bad check they will receive a five (5) day suspension and final warning. An associate who writes a bad check after receiving a final warning will be immediately discharged.

Newly hired associates that have outstanding checks written to the Division prior to their employment are subject to the same policy requiring payment within three (3) business days after notification from management. A newly hired associate who refuses to pay or fails to make whole any outstanding checks, fees, and charges will be immediately discharged.

Associate Purchases

Associates are also customers and as such, their patronage is encouraged and welcomed. However, it is very important that associates observe the following regulations when shopping either before work, after work, or during lunch periods. Violating these procedures may be considered dishonesty and subject to immediate discharge.

During business hours:

- Associates will not wait on themselves, mark down, ring up their own purchases, or price their purchases.
- Associates wishing to make purchases for breaks or lunches are required to include the purchase time as part of the actual time for their break or lunch.
- After merchandise is paid for, it must be removed from the premises and not taken back into the store. The only exception(s) to this rule would be for items purchased solely for associate's personal use, such as cigarettes, candy, magazines, books, etc. After such items are purchased and brought back into the work area or check stand, a receipt must accompany them.
- When buying and/or removing purchases from the store, it is imperative that associates leave the store through customer exits.

- Merchandise purchased by associates must be shown to the checker at the time of purchase to establish the proper identity and price. Associates may not consume or otherwise use products until they have been paid for and are accompanied by a receipt.

- All purchases must be made at retail store outlets only.

- Associates making purchases of these items must observe qualifying restrictions and quantity limitation of advertised specials, special buys, etc.

- All alcoholic beverages to be sold and/or purchased must be in accordance with state and local laws. These laws require all purchasers be at least 21 years of age, and able to produce appropriate identification. Separate policies dealing with the verification of age are available at your work site.

Supplies, Raw Materials/Ingredients and Associate Business Activities – Store Managers, at their discretion, may allow an associate to purchase raw materials/ingredients and supplies, such as icing, flowers, spices, containers, cakes, decorations, etc., for their personal off-duty use with the understanding that such purchases will not be allowed if the raw materials/ingredients, or supplies, are used for the production of goods and services for which the associate receives payment, and where such goods and services are in direct competition with those sold, or offered for sale, by the Company. Where such purchases are approved by the store manager, the associate will be expected to pay cost plus an appropriate gross profit mark-up as determined by the store manager.

Associates are expressly forbidden while on duty or while in the store from offering or accepting a solicitation from a customer to produce any product, good, or service for a customer that would be in direct competition with products, goods, or services offered by the Company.

Violation of this section shall be considered an act of dishonesty and the associate shall be subject to immediate discharge.

Coupons

Associates who generate and/or improperly use coupons for their personal benefit (or the benefit of others) shall be subject to disciplinary action up to and including termination. For more details, see Dishonesty and Misconduct in this manual.

Credit Card Cash Back

Most of the major credit card companies prohibit the receipt of cash back on a credit card transaction. King Soopers/City Market are subject to these limitations and are not authorized to override these requirements. Therefore, the giving back of cash to a customer or

associate is strictly prohibited. Further, associates are prohibited from running their own credit card transactions and/or receiving cash back from credit card transactions. The exception to this policy is when the employee uses his/her credit card at the self-checkout registers; in this case the employee may do their own transaction as any other customer would since it is a self-service transaction that is overseen by a cashier.

Certain credit cards allow for cash back, such as Discover. For these cards, where the Company has published authorization to give cash back, then customers and associates may receive cash back to the limits allowed by each applicable credit card company. In any event, no employee is allowed to conduct these transactions themselves; again, the exception is the transaction purchased at the self-checkout registers where a cashier oversees the purchase. If you have any questions as to the application of this policy, please discuss with your store or location manager.

Customers and associates using check cards or debit cards may get cash back as long as the system approves it. (A pin number is required for this transaction, and the card has to be recognized by the current networks King Soopers/City Market use today.) Cash back in excess of $100.00 requires "Management Override." Cash back limits are subject to the individual's bank limits or the $1,000 cash back store limit per a 24-hour period set by Kroger or whichever is less.

Associates are prohibited from processing their own debit or check card transactions with the exception of self-checkout transactions. Any associate who violates this policy will be subject to immediate discharge.

Donations

Donations shall be directed toward the intended charitable organization. Unauthorized removal of a donation from a collection station is defined as an act of dishonesty.

Fraudulent Attempts to Obtain Benefits

Attempting to fraudulently obtain any benefits such as Workers' Compensation, Sick Leave, Funeral Leave, Medical Prescriptions, or other advantages will be considered as dishonesty and subject to immediate termination.

Gratuities and Accommodations

No associate or a member of their immediate family will accept or receive gifts or accommodations of more than nominal value from anyone doing business with King Soopers/City Market without the express permission of the store or location manager. In

addition, any product given to an associate by a vendor, or any product for which the division was given credit for by a vendor, which is left with a store associate, must be turned over immediately to the store manager for disposition. No associate is permitted to take any product, which has been credited by a vendor or given by a vendor, or to discount such product to other associates or customers without the permission of the store manager.

Solicitation of a gift or product of any kind, or acceptance of gifts in the form of cash/gift certificates, or the acceptance of product from a vendor or someone seeking to do business with the Company, by any associate of King Soopers/City Market without the permission of the store manager or department director is strictly forbidden. Violation of this policy may result in immediate discharge.

The Company recognizes that occasionally a supplier may in good faith sponsor contests, trips, recreational outings, etc., that accrue to the benefit of the individual associates. We encourage buyers, merchandisers, and management to suggest that the suppliers offer an equitable cost reduction or promotional allowance instead. If the supplier is unable to reduce the cost of the merchandise, the offer must be reviewed by a member of the Executive Committee for a decision to accept or reject the offer.

Loyalty Card (Sooper Card/City Market Value Card

Associates are welcome to obtain and enjoy the benefits of the Company's Loyalty Cards for their own personal purchases. However, associate use of the Company's Loyalty Cards is limited to their own purchases, or those of their immediate family (spouse/children). Associates are prohibited from using their Loyalty Card to obtain Loyalty Card discounts, sweepstakes entries, points, or other rewards, for purchases for customers, associates, or extended family members. Further, associates may not use a Loyalty Card, or Loyalty Card number, not registered to them (or an immediate family member) for their own purchases, nor may they use such card(s), or numbers, for customer, associate or extended family purchases where such card, or number, is not registered to the individual presenting the card. A customer's Loyalty Card number and other related information is confidential and may not be distributed or released without the approval of the President or a Vice President of the Company. Violation of this policy may be grounds for immediate discharge.

REWARDS PROGRAM

Loyalty Card (SooperCard or City Market Value Card)

Associates are welcome to obtain and enjoy the benefits of the Company's loyalty cards for their own personal purchases. The use of the loyalty card is limited to the associate, spouse/domestic partner, dependent children, or co-dependent household family members living at the same address.

Your store secretary (SAA) can link an existing loyalty card in order for you to obtain the associate only discounts. It is very important that your name, address and phone number in CAM match the information in Express HR.

The following includes, but is not limited to; examples considered dishonest and such violations of policy may result in immediate discharge:

- Associates are prohibited from using their personal loyalty card, or loyalty card number, to obtain rewards, points, discounts, sweepstakes entries, or benefits, fraudulently for purchases by customers, associates or extended family members.
- Associates may not use a loyalty card, or loyalty card number, not registered to them (or spouse/domestic partner, dependent children, or co-dependent household family members living at the same address) for their own purchases.
- Associates may not use a loyalty card, or loyalty card number, that is not registered to the individual presenting the card.

A customer's loyalty card number and other related information is confidential and may not be distributed or released without the approval of the President or a Vice President of the Company. Violations of this policy may be grounds for immediate discharge.

Associates that discover discrepancies with their loyalty card such as rewards, points discounts, sweepstakes entries or benefits due to purchases not made or for receiving discounts they are not eligible to receive must notify their location manager or the Division Office at 303-778-3356 (Loyalty Hotline) to resolve the error.

Markdowns

At no time will there be any markdowns or discounting of retail prices to yourself or others. Markdown or discounted retail prices will be done at the direction of the management person in charge and must be made available for sale to the general public. All markdowns shall be performed in accordance to the established company guidelines for marking down product.

Personal Containers

Management reserves the right to inspect personal containers such as lunch pails, boxes, thermoses, purses, etc., carried by associates upon entering or exiting the premises.

Property of Others

Any money or property found on the Division's premises, including parking areas, must be turned over to management immediately. Only management associates are authorized to

establish the owners of such property. Failure to turn in items or money that is found shall be considered dishonesty.

Sampling of Merchandise

"Sampling" is authorized to give associates an opportunity to develop product knowledge and better be able to acquaint the customer with the varieties of products we carry. Sampling is allowed only under the direct supervision, personal observation, and the direction of the department manager. Sampling means one bite-sized piece. Associates are not allowed to eat or take product from sample plates put out for customer sampling except as provided above. Associates who consume products outside of this policy may subject themselves to disciplinary action up to and including discharge. In a proper case, an associate may be immediately discharged for reasons of dishonesty.

Job Performance

Your job performance will be of great importance in determining your success at King Soopers/City Market. It is expected that you will perform your job in an accurate, diligent, and proficient manner, in accordance with the methods and standards prescribed for your position and in accordance with these policies, procedures, standards of conduct, and work rules.

When you have a question about some aspect of your job, please ask! When you have questions concerning your performance, ask your supervisor. If management is being critical, find out why. Seek out areas needing improvement. It is your responsibility to perform your job in a satisfactory manner, but always remember that one of management's primary roles is to assist you in reaching this goal.

Attendance

Associates are expected to be at work during their scheduled work hours and days. King Soopers/City Market associates have a history of good attendance, and this is a necessary ingredient for a successful business. Associates are expected to be at their workstations and/or desks when the workday begins.

In case of unavoidable and unforeseen absence, it is your personal responsibility to immediately telephone your immediate supervisor or another member of management. Reporting an absence to non-management associates is not acceptable and may subject the associate to disciplinary action. You will need to furnish your reason for the absence and anticipated date of return and other information to a member of management. If, and only if, you are physically unable to report your absence, it is your responsibility to have someone call your immediate supervisor or another member of management to report your absence. Whenever possible, reporting an absence or tardy must be done prior to the beginning of the associate's shift. Each location may establish their own requirements concerning reporting;

however, as a courtesy to coworkers and management, absences should be reported at least two (2) hours prior to the beginning of your shift.

If someone phones in for you, it is your responsibility to contact your supervisor as soon as possible thereafter. If you are uncertain as to the date of your return, you must call in once a day, or as may be otherwise requested by your Supervisor, informing him/her of your status. If you are unable to complete your work shift, it is your responsibility to notify your supervisor of your status.

Repeated tardiness and absences demonstrate a disregard for our Company, customers, and fellow associates. Unexcused absences, (i.e., not calling or reporting for work for three (3) consecutive work days) will be grounds for immediate discharge.

Failure to call and report your absence or late arrival within the established guidelines is considered an unexcused absence. Excessive tardiness or absenteeism will not be tolerated.

Confidential Data/Records/Customer Info

In the course of performing your work, you may have access to many records and/or reports that are considered confidential. Confidential information includes, but is not limited to: personnel records, sales and performance records, operations, budgets, future plans, our customers' financial backgrounds and personal facts, prescription and other medical records, associate records, and other sensitive information. This information should be safeguarded at all times.

Because improper disclosure of this information may cause harm to the Company, customer, or an associate, it is extremely important that the confidentiality of this information be maintained. Disclosure of confidential information, other than as authorized by your Manager, is serious. Disclosure to those outside our Company may also be a violation of law.

In addition, all computer-based software and programs, including electronic mail, and the information they contain, are the Company's property and are to be used for business purposes only.

No records or files are to be removed from the building unless special arrangements are made with your manager. This also includes copies of records or files.

The unauthorized disclosure, removal, copying, destruction, or personal use of these documents will result in immediate termination.

Interaction with the Media

At no time should any associate be interviewed or questioned by anyone in the media. All interview requests need to be sent to Kelli McGannon, Manager of Community Affairs. It is against company policy for associates to give any statements to any media outlet.

Customer Service

King Soopers/City Market has an outstanding reputation for customer service and courtesy. Our customers expect our associates to be G.R.E.A.T. – Greet, Reach Out, Engage, Be Professional, and Thank. These elements are an essential part of our Customer 1st Strategy and an essential and required part of our job duties.

- **Greet** – All associates are expected to greet customers they encounter in the store. Smile, look at the customer, and make every customer feel like you are glad they are in our store. The behavior must include a warm smile, friendly greeting, and eye contact. Greeting customers applies anytime and anywhere in the store and parking lot. A 'Greeting' may be any of the following: "Hello. How are you today?" "Hi. May I help you?" "Hello, nice to see you!" "Welcome to King Soopers/City Market "Good Morning!" Avoid slang as it may be offensive to some.

- **Reach Out** – Reach out to the customer! Anticipate unspoken needs. Don't wait for the customer to ask for help. The behavior that is most appreciated by our customers is helpfulness. You can provide helpful assistance by asking customers: "How may I help you?" "May I help you find something?" "Let me know if there is anything I can help you find!" ALWAYS ESCORT the customer to the item or provide a specific shelf location. The aisle number is not an acceptable response. When you are unable to help, seek a fellow associate's assistance. We encourage you to offer helpful suggestions and suggestive-sell whenever possible; i.e., "Would you like some cheese to go along with that ham?" Most often, customers will welcome your suggestions, as they may not be aware of the multitude of Products, Specials and Services we have to offer.

- **Engage** – Engage the customer! Maintain a positive attitude. Focus your energy on the customer. Focus on fulfilling customer requests in a positive, eager, and friendly manner. Focus your conversation on them and their needs. Do not engage in non-business conversations with coworkers while a customer is present. Also, remember to acknowledge those waiting in line for service with, "I will be right with you." To determine which customer is next, always ask those waiting, "May I help who's next please?" Do not say, "Who's next?" or "Next".

Before you move on to the next task, confirm that you have met the customer's needs by asking: "Is there anything else I may get you today? Will that be all today? Do you have any other questions about that item? I hope you like that product. If not, let us know. May I give you a sample to try and see if you like it? Did you find the item you were looking for?" Always follow through until the shopper is satisfied. Be professional and kind when solving price, product, service, or refund issues. If you can't satisfy the customer, apologize, and then call a Management Associate for assistance.

- **Be Professional** – As a King Soopers/City Market Associate, you represent our business to our customers. Your appearance and demeanor are very important. Always maintain a neat and clean appearance. Keep your name badge readable, and above all make sure your appearance conforms to our Appearance Standards and policies contained in this handbook.

- **Thank** – When customers select our store, we want them to know we appreciate their business. Always make eye contact and thank the customer, or end every interaction with a positive parting comment: "Thank you so much!" "Thanks for stopping by!" "Thanks for shopping at King Soopers/City Market!" "Thanks, I hope you feel better soon (RX)." "Thank you for your patience!" "Thanks for letting me know you needed help." There are times when the customer will thank you first, always respond with "You're welcome! Come back and see us again!" "It was my pleasure!" "Thank you for your business!". "You are very welcome". "I am sorry you had to wait." "Thanks a lot; we'll see you next time."

Your responsibility is to ensure that our customer's "shopping experience" makes them want to return. Anything less will be viewed as a violation of our Customer 1st Key to Success and your responsibility to be G.R.E.A.T.

Personal Business

Appointments of a personal nature should be made on the associate's personal time.

Safety

"Safety" is an attitude and requires awareness of policy and procedures regarding potentially hazardous or unsafe conditions. Every associate is responsible, as is the Company, for maintaining a safe work environment. Individuals who exhibit disregard for the safety of a customer or coworker will be subject to discipline up to and including termination. Each of us has an obligation to ourselves, our fellow associates, and our customers, to obey all safety rules and regulations and to report any safety hazards to management immediately. The Safety Hazard Hot Line telephone number is 303-698-3500; Kroger Comp Audit, 1-800-689-4609; KS/CM Loss Prevention Hotline 877-377-3464.

Voluntary Termination

Upon resignation, associates are asked to give a two-week notice to the Company as a business courtesy.

Standards of Personal Conduct

It is every associate's responsibility to behave in a professional manner when interacting with his or her fellow associates, management, and customers. Associates in management positions need to be particularly sensitive to their personal standards of conduct.

If an associate's behavior is deemed inappropriate for our business environment, the associate risks disciplinary action up to and including termination.

Alcohol and Controlled Substances

King Soopers/City Market recognizes the abuse of alcohol, narcotics, or controlled substances as defined under federal law affects all facets of society and is of concern when it comes to associates' safety, productivity, and security. Substance abuse creates hazards for our associates and customers, results in property damage and reduces productivity. King Soopers/City Market serves its associates, customers, and shareholders by taking the initiative to prevent drug abuse from entering our work environment and to maintain a workforce that is free from drug activity.

Guidance with respect to these matters is provided below, beginning with definitions of words and phrases used in this policy:

Alcohol	Any ethanol-containing beverage or any alcohol, isopropanol, or methanol ingested to cause a positive saliva or breath alcohol test.
Illegal drugs	Any Schedule I drug under the federal Controlled Substances Act, or any Schedule II-V drug used, possessed, sold, or detected in an individual's sample without a valid prescription (or authorization) from a licensed medical practitioner. **For purposes of this policy, "Illegal drug" also means the improper or unauthorized use of any prescription drug.**
Medical Review Officer (MRO)	A licensed medical doctor or doctor of osteopathy who has expertise in drug test interpretation and drug pharmacology and is designated by the Company to review and verify test results.
Positive drug test	A drug test which shows any measurable amount of an illegal drug.

Positive alcohol test	An alcohol test which shows any measurable amount of alcohol.
Prescription drugs	Any Schedule II-V drug authorized or prescribed by a physician or other licensed medical practitioner. Purported authorization or recommendations for use of Schedule I drugs such as marijuana or heroin are illegal under federal law, and therefore such substances are not legally prescribed medications and are not considered prescription drugs.
Refuse to be tested	Refusing to submit to a drug or alcohol test as required, refusal to report for the test in a timely manner, adulterating or substituting the urine or other specimen, or otherwise failing to cooperate with the testing process.
Under the influence	Appearing or behaving in a manner unable to perform one's duties safely and appropriately as determined by the observations and documentation of a member of management or a Loss Prevention associate.

This policy addresses associates' use, transfer, and/or sale of alcohol and illegal drugs, as well as the improper or unauthorized use of any prescription drug.

The possession, sale, transfer, use, manufacturing, or distribution of an illegal drug is prohibited in any store or facility of King Soopers/City Market, including the parking lot. Furthermore, this policy prohibits the possession, sale, transfer, use, manufacture, or distribution of an illegal drug while on duty even if away from any store or facility. Only prescription drugs that are taken consistently with the direction of a health care provider, and that do not impair an associate's ability to perform his/her duties safely, will be allowed to be taken while associates are on duty. If an associate is informed or believes that any prescription or other medication may interfere with his or her ability to perform the job safely, he or she must inform the supervisor. Associates will not identify the medication they are taking; rather, they will advise their supervisor concerning the symptoms they may experience on the job. Associates reporting such information will be appropriately assigned.

The transfer, sale, or use of alcohol is prohibited on any Company premises (any store or facility of King Soopers/City Market, including parking lots), or while an associate is on duty.

Pre-Employment Drug Testing – All applicants for positions with the Company will undergo drug testing as a condition of employment, unless such testing is prohibited by law. Employment will be denied to any applicant who has a positive drug test or who refuses to be tested. Offers of employment, or continued employment, is conditioned on the applicant's successfully passing the pre-employment drug test. An applicant's conviction of a drug-related crime may in certain instances be grounds for denial of employment. Applicants who have a positive test result or who refuse to be tested are not eligible to reapply for a position with the Company for at least 6 months after the date of their first application.

Post-Employment Drug Screening – The potential for injury to oneself or coworkers is increased four (4) times when evidence of drug use is present. Therefore, to ensure the safety of all associates and customers and to prevent equipment damage, King Soopers/City Market reserves the right to schedule an associate for a drug-screening test following any type of on-the-job accident or in situations in which management believes the associate is not fit for duty or may have alcohol or illegal drugs present in his/her system. A directive to submit to a drug screen test will be made if, in the manager's/supervisor's

judgment, the associate involved exhibits behavior or appearance consistent with being under the influence of alcohol or drugs.

Discipline – A violation of the alcohol & drug policy is grounds for immediate discharge. Violations include but are not limited to:

- Using, possessing, selling, transferring, trafficking in, or trading illegal drugs on or off duty while on Company property, including parking lots and Company-owned or leased vehicles, while conducting business on behalf of the Company, or while participating in any Company-sponsored event
- Reporting for work, remaining on duty, or being on Company property under the influence of drugs or alcohol
- Reporting for work unfit for duty as the result of alcohol or illegal drug use
- Reporting for work, remaining on duty, or being on Company property with the presence of an illegal drug or alcohol in one's system in any amount
- Abusing prescription drugs that may adversely affect an associate's work performance, or the associate's safety, or the safety of others; or failing to inform management of the use of prescribed medication that may have such an effect
- Testing positive for drugs or alcohol, refusing to submit to an alcohol or drug test, or engaging in conduct to obstruct or subvert such a test
- Being convicted of a drug related crime, whether on or off duty (i.e., the possession, use, or distribution of drugs, etc.)
- Purchasing or attempting to purchase alcohol, if underage; or knowingly selling or transferring alcohol to a minor, or purchasing it on his/her behalf

Return to Duty and Follow-up Drug and Alcohol Testing – It is the responsibility of affected associates to seek treatment for any problem related to drug or alcohol use. An associate who is enrolled in a treatment program will still be subject to disciplinary action for any violation of this policy, including any violations of the policy that preceded enrollment in any treatment program. Information on drug counseling and assessment centers is available from Human Resources. If benefits apply to such programs, they will be paid in accordance with your benefit plan schedule.

Any associate who returns to work following treatment for alcohol or drug abuse may be required to undergo alcohol and/or drug testing prior to resuming his/her duties. In addition, any associate returning to work following alcohol or drug abuse treatment may be subject to periodic, unannounced drug and/or alcohol testing for up to one year.

Company Property and Facilities

All equipment, fixtures, materials, merchandise, and structures at all Company locations, are Company property. Anyone found moving, disfiguring, abusing, defacing, damaging, discarding, or destroying any of the above-listed items, or any security devices, will be in violation of this policy and subject to immediate termination.

Restroom facilities are located at all locations and are available to associates and customers alike. These facilities should be maintained in a clean and sanitary manner. Any problems with equipment or supply shortages should be reported to management immediately.

Associate lounges, lunchrooms, etc., are provided for your enjoyment and use. Each associate is responsible for cleaning their area of use by disposing of trash in the proper receptacles. Unless otherwise permitted, food and drink must be consumed in these areas only.

Crimes/Weapons on Company Property

An associate who commits a crime on Company property, or carries weapons, explosives, or incendiary devices onto Company property (including parking lots and company vehicles), whether on duty or off, or who otherwise violates this policy as described below, shall be subject to immediate termination.

Weapons: The storage, possession, or use of any firearm (including hunting rifles, stun guns, starter pistols, etc.) or weapon (including knives, bow and arrows, martial arts weapons, etc.), whether real or facsimile, while on Company property (including parking lots and Company vehicles) is prohibited.

Explosive/Incendiary Devices: The Company prohibits any associate from manufacturing, storing, or carrying onto Company property (including parking lots and Company vehicles), any explosive or incendiary device designed or constructed to explode, burst, or smoke.

Misconduct

All associates are expected to behave in a manner reflective of current **laws, regulations,** and accepted **social standards of behavior** in the workplace. Any actions, either words or deeds, that are in violation of this policy, will subject the associate to discipline up to and including termination.

All Company worksites maintain a strict policy prohibiting harassment because of race, religion, color, national origin, ancestry, disability, medical condition, age, gender, sexual orientation, or any other basis protected by Federal, State, or Local Law, ordinance, or regulation. All such harassment is unlawful. This standard applies to all persons involved in the operation of King Soopers/City Market, including supervisors, coworkers, and customers, as well as any person doing business with or for the Company.

Any associate who feels they have been harassed is encouraged to report the incident to their location manager either in person, in writing, or by telephone.

Associates may not wait on friends or relatives without management approval. Associates may not use customer or associate confidential data (i.e., address, phone number, employer, Social Security number, license number, etc.) for personal, business, religious, political, or social reasons.

In addition, associates may not disclose "inside" information to other associates and/or customers for the purpose of allowing such individuals to take advantage of certain Company programs (i.e., informing a customer to select certain items because they will mis-scan and, consequently, will be given away free). Associates have a responsibility to report to management immediately any situation that will result in a cost or loss of sales to the Company (including, but not limited to, mis-scan items, out-of-code product, customer coupon abuses, forged checks, etc.)

Propriety

As an associate, your actions directly affect the success of our Company. It is important that your conduct reflects the values, policies, ethics, practices, and procedures of King Soopers/City Market at all times.

Any action or conduct by an associate, whether on or off duty, that is a violation of the company's policies or rules of conduct and causes, or could reasonably cause, the company economic damages or constitutes disparagement of the company's products, services, employees, strategy, or business prospects, may be cause for immediate termination.

Management associates and associates with access to proprietary information shall not be permitted to work for competition and, as a result of employment at a competitor, may be demoted or removed from their position and/or discharged.

Harassment

Philosophy – King Soopers/City Market and Kroger are committed to a workplace free from unlawful discrimination, which includes sexual harassment and other forms of harassment because of one's race, color, religion, gender, national origin, age, disability, or sexual orientation.

Any form of harassment undermines the Company's insistence upon associate integrity, and is considered serious misconduct. No associate, either male or female, should be subjected to offensive conduct or innuendo, either verbal or physical, from coworkers, supervisors, customers or vendors.

All associates have a responsibility to maintain the workplace free of harassment and to report such misconduct when it occurs, just as any form of unlawful discrimination should be reported.

Policy – Proven sexual harassment or harassment because of an individual's race, color, religion, gender, national origin, age, disability, or sexual orientation will result in discipline up to and including discharge.

Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct if (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any supervisor who personally observes activity in violation of this policy, or receives a complaint from an associate or customer, and fails to promptly investigate and take appropriate action to stop such activity shall be deemed to be in violation of this policy and shall be subject to demotion and/or disciplinary action to include termination.

Examples of sexual harassment include but are not limited to the following:

- Conditioning promotion, demotion, performance evaluations and the like upon submission to sexual favors
- Touching that is unwanted, uninvited, or offensive
- Displaying sexually suggestive or explicit material, pictures, or cartoons
- Relating sexually suggestive or explicit stories or "jokes"
- Making sexually suggestive or explicit gestures

Harassment because of one's race, color, religion, gender, national origin, age, disability, or sexual orientation is defined as:

Verbal or physical conduct that (1) denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, sexual orientation, gender, age, or disability, or that of the individual's relatives, friends, or associates, and

(2) has the purpose or effect of creating an offensive work environment, unreasonably interferes with an individual's work performance, or otherwise adversely affects an individual's work performance.

Examples of such harassment include, but are not limited to the following:

- Making derogatory ethnic or racial statements, or belittling one's religion or religious practices
- Perpetuating stereotypes about one's age, gender, etc. ("You're too old to change your ways". "This is women's work.")
- Refusing to assist an associate or customer because of his/her race, gender, etc.
- Disparaging the sexual orientation of an associate, his/her associates, or a customer

Reporting and Investigation Procedure For Sexual and Other Forms of Harassment – If you believe that a coworker, supervisor, customer, or vendor is harassing you because of your race, color, religion, gender, national origin, age, disability, or sexual orientation you should take these steps:

1) Firmly and clearly tell the person who is harassing you that his or her behavior is unwelcome and should stop at once. If possible, take a witness to this discussion. Write a statement about the incident and what you did to stop it, including dates, times, and places. This statement will be helpful if the harassment continues and the Company needs to investigate. If you are uncomfortable with telling the person who is harassing you to stop, then proceed to the reporting procedure below.

2) Report the incident to your immediate supervisor, your store or location manager, your District Manager/Director, another member of management, or any of the following management individuals at either King Soopers or City Market:

Kings Soopers/City Market

- Stephanie Bouknight, Manager of Labor Relations, King Soopers, (303) 778-3258
- Deb Ross, Manager of Labor Relations, City Market ,(970) 244-1096
- Trail Daugherty, Director of Human Resources, (303) 778-3377
- Russ Dispense, President, (303) 778-3292
- Dave Savage, Vice-President of Operations, (303) 778-3088
- Katie Wolfram, Vice-President of Merchandising, (303) 778-3330

Associates may also call the confidential Kroger help line toll-free at 1(800) 689-4609, 24 hours a day to report perceived harassment. Your report should be as specific as possible; including the name of the person who is harassing you, a description of the conduct and the effect that conduct is having on your working conditions and work performance, and the name of any witnesses who could assist in the investigation.

Upon receipt of a complaint of harassment, management must immediately report such complaint to the Labor Relations Department who will coordinate the investigation of the complaint.

All claims of harassment will be investigated promptly and will be handled professionally and as confidentially as circumstances permit. Your further participation in the investigation may be necessary. No retaliation or reprisal of any kind shall be taken against an individual complaining about harassment or participating in the investigation of such complaints. Any associate, including management associates, who are in violation of this non-retaliation policy shall be subject to discipline up to and including discharge.

It is important to protect the integrity of our procedures for redressing harassment complaints. Therefore, any associate who intentionally makes false or malicious complaints of harassment through our procedures shall be subject to discipline up to and including discharge. Our policy of prohibiting retaliation/reprisal against individuals complaining of harassment shall not be construed as precluding disciplinary action against individuals who are found to have made intentionally false and malicious complaints.

Penalties for Sexual and Other Forms of Harassment – Sexual and other forms of harassment may violate both the Company policy and Federal law. Therefore, the offending associate may be subjected to a variety of penalties.

For violating Company policy, an associate may, in an appropriate case, have disciplinary action taken against him/her up to an including termination, even on a first offense.

For violating Federal law, associates subject themselves and/or the Company to both civil lawsuits and punitive/financial liability.

Threats and Violence

Our policy is to maintain a work environment free from intimidation, threats, or violent acts. Violence and threats of violence, either overt or implied, against associates, on or off Company property, will not be tolerated. This includes, but is not limited to, intimidating, threatening or hostile behaviors, physical abuse, vandalism, arson, sabotage, use of weapons, carrying weapons of any kind onto Company property, using any object in a threatening or weapon-like manner, or any other act which in management's opinion is deemed inappropriate to the work place. Threats or acts of violence also include physical or verbal aggression towards others, writings, gestures, and any and all other forms of expression that could be interpreted by a reasonable person as a threat or potential threat of bodily harm to themselves or others.

Violations of this policy will result in disciplinary action up to and including termination of employment and the involvement of local law enforcement authorities as needed. In

addition, comments regarding violent events or otherwise threatening actions or behavior by an associate may result in disciplinary action up to and including termination.

Associates who feel they have been subjected to any of the behaviors listed above should immediately report the incident to their Supervisor, Loss Prevention, or the Labor Relations Department. All complaints will be investigated.

Technology

Computer Resources/Protection

Use of Computer Resources – Every user of any computer resource (including, but not limited to, personal computers, laptop computers, local area networks, mainframe terminals, in-store computer systems, wireless devices, data files, cell phones and smart phones, etc.) is responsible for ensuring that such use is restricted to only those authorized activities required to perform his/her job function, and that said use is conducted in an ethical, moral, lawful, and professional manner in accordance with this policy. Additionally, every user is to be held personally responsible and directly accountable for his/her own activity on all computer information systems to which he/she have access. Associates are expressly forbidden from intentionally inputting or attempting to input, any information known to be false or harmful to the Company into any computer information system. Associates are strictly prohibited from running software, or accessing Internet sites, which are of a sexual or improper nature, nonbusiness purpose, or which interfere with the associate's job duties.

Confidential and personal information; e.g. Social Security numbers, credit card numbers, etc., are never to be stored on a laptop or wireless device, e.g. cell phone, smart phone, (iPhone, Droid) or tablet (IPad or Droid). Company information should never be E-mailed to a personal Email account like Yahoo, MSN, Gmail, etc.

Software – The Company requires strict adherence to all software license agreements by all of its associates. Any duplication of licensed software, except for a single copy made for backup purposes, constitutes not only a violation of Company policy, but is also a violation of the Federal Copyright Law, and may result in both criminal penalties and civil damages to the Company and Individual, and may result in discipline up to and including termination. Any associate needing to use Company-owned software at home must first consult with Information Systems Management before removing the software from the premises. In addition, personal software, or any software acquired outside of normal acquisition procedures, must not be installed on any Company computer. The authorized hardware/software configuration of each computer system must be maintained at all times to preserve system integrity, validate warranties, and ensure compliance with licensing agreements.

E-Mail – Each E-mail communication received or transmitted on the Company's computer systems, whether business or personal, is a Company record and is stored

electronically for varying periods of time until destroyed. Users of the E-mail system should not expect that their messages are private. The Company may retrieve and review E-mail messages at its discretion. Personal E-mails are to be kept to a minimum. No associate is permitted to send or receive E-mail messages which are inappropriate for the workplace, or the content of which would violate Company policies, standards of conduct, or procedures.

Security Systems – Various security packages have been installed on the Company's computer information systems to prevent unauthorized access to these computer resources. The Company's Local Security Administrator (LSA) maintains access control to these systems by the issuance of a unique user ID to each person requiring access to a particular system(s). Request for a security clearance must be initiated by the manager of the user's department and submitted in writing/E-mail to the LSA for approval. In determining the appropriate level of clearance, managers should subscribe to the practice of "least privilege" which refers to the granting to users of only those accesses minimally required to perform their job duties. Each manager is responsible to notify the security administrator in a timely manner of associates who have terminated, transferred, or otherwise no longer require access to a particular system or function. In the case of a password being compromised, the respective manager shall request the invalidation of the password and the issuance of a new one.

Once access is granted to an individual user, and an initial password is assigned and communicated, confidentiality is the responsibility of that user. The purpose of this password is to authenticate the user's identity to the system. To this end, each associate bears the responsibility of maintaining the security and individual exclusivity of his password. This password is not to be disclosed to anyone. Users' ID's and passwords should never be shared.

Associates who disclose, allow access to confidential data under their control, or use such data for personal gain may be subject to termination. Associates must comply with all security practices in place for the specific system(s) to which they have access. Any attempt to circumvent said computer security may be cause for immediate termination.

Management Responsibilities – In addition to the responsibilities noted specifically above, the responsibility for the protection of management information generated by the Company, either through a computer or by any other means, is that of the manager having jurisdiction over the function or facility which generates, receives, uses, or distributes such information. All managers are charged with the responsibilities of limiting information to those who need to know, and with the protection of the information against disclosures to those who do not need to know, both within and outside the Company. All managers are personally responsible for understanding the sensitivity and criticalness of their data and the extent of losses that could occur if computer resources are not protected.

In addition, managers are required to ensure that all users of their management information and computer resources are informed of the policies and procedures in place to protect these assets. Management must also ensure that computer resources are utilized only

for authorized activities with a bona fide business purpose, and that due care is practiced in their use.

Software License and Shareware Policy

The Company licenses the use of computer software from a variety of third-party companies. The Company does not own this software, but is licensed to use it under the terms and conditions of the software license agreement that accompanies each product. The Company's associates and its agents are bound by law, by this policy, and by the Kroger Business Ethics Policy, to adhere to the software license agreement. It is the responsibility of all Company associates and its agents to:

- Maintain in one location the software license agreement, all software products, and the original software diskettes (if provided) for each copy of the software.
- Adhere to all the terms of the software license agreement, especially in the area of software utilization and maintenance of multiple copies for use in backup of the original software.
- Refrain from using of shareware (software that is available through public distribution) in order to avoid the potential for unauthorized software use and to reduce the risk of introducing a virus into the Company computer environment.

Anyone involved in the illegal reproduction or use of software may be subject to civil damages and criminal penalties, including fines and imprisonment. The Company cannot tolerate the illegal duplication of software or the use of software for which a lawful license has not been obtained. Company associates who make, acquire, or use unauthorized copies of computer software will be disciplined as appropriate under the circumstances, up to and including termination.

Enterprise Computing Standards

Due to the pervasiveness of computing resources and assets in many of the Company's job positions, every associate must be aware of and adhere to a minimum set of Enterprise Computing Standards. In addition to adhering to these minimum standards and any modifications, associates must also be aware of and adhere to any additional Enterprise Computing Standards as they pertain to the scope of the associate's specific job.

Associates who do not adhere to these standards will be disciplined as appropriate under the circumstances, up to and including termination.

Additional Information on Computer Information Systems Policies and Procedures

Additional information can be found on Barney Web at:

Departments, Services & Travel > Corporate Information Security > Policy Standards

Corporate Information Security Policy
Kroger Information Security Policy – Associate Responsibility

Work Rules

In addition to these policies, procedures, standards of conduct, and work rules contained in this manual, each location may have additional rules or guidelines. Associates will be responsible for observing these rules. Failure to follow such rules may lead to disciplinary action up to and including termination. Ask your location supervisor for a copy of the work rules for your location or area.

Alcohol and Tobacco Product Sales

Our policy requires employees to verify, through a photo ID that includes date of birth, the age of any person buying alcoholic beverages or tobacco products who is 30 years of age or younger.

State Law, as well as Company policy, prohibits an employee from selling or permitting the sale of alcoholic beverages to a person under the age of twenty-one (21), or to sell or permit the sale of cigarettes or tobacco products to any person under the age of eighteen (18).

Tobacco products are defined as any product containing tobacco or snuff which is prepared in such manner as to be suitable for chewing and/or smoking in a pipe or otherwise.

Only the following types of identification may be relied upon as proof of age of a customer. Identifications presented must be valid (not expired), have a photograph and a description of the bearer:

1. Driver's license containing a picture issued by any state
2. Identification card containing a picture issued by any state
3. Passport
4. Alien Registration Card
5. Military ID

If you suspect that a fraudulent or altered identification has been given to you for proof of age, you should call for management assistance.

Employees should always check for acceptable proof of age if there is any doubt about the age of the customer. If acceptable proof of age is not available from the customer, no sale should be provided.

It is not permitted to sell alcoholic beverages or tobacco products to any customer if the seller knows or suspects that such purchase is being made on behalf of an underage individual(s).

It is not permitted to sell alcoholic beverages to persons who exhibit or display visible signs of intoxication; i.e., swaying, bloodshot eyes, slurred speech, loud/bolsterous behavior.

All alcohol sales are for off premises consumption.

Employees must be 18 years or older to scan, sell, or collect funds for 3.2% alcoholic beverages. **Employees must be 21 or older to scan, sell, or collect funds for all other alcoholic beverages sold. (**Store #124 and #412)

Fermented malt beverages, including 3.2 beer cannot be sold to any person from **12 a.m.-5 a.m. and 12 a.m.-7a.m. for all Denver City and County Stores (1, 5, 7, 19, 21, 26, 29, 35, 56, 72,83, 93)**

These policies are mandatory. Employees who fail to follow these policies will be subject to the disciplinary action up to and including suspension and/or termination on the first offense.

If your store is the target of a "sting", where underage person(s) working for law enforcement attempt to purchase alcohol illegally, contact your District Manager immediately.

Additional work rules may have been established for store associates regarding alcohol and tobacco sales. Please see your store manager for more details regarding the laws and procedures for tobacco and alcohol sales in your state and store.

Purchasing or attempting to purchase alcohol/tobacco products if underage, or knowingly selling or transferring alcohol/tobacco products to a minor or purchasing it on their behalf, may be grounds for immediate discharge.

An associate who sells alcohol or tobacco products and violates federal or state law as well as local ordinances may also be required to pay any fines assessed by government authorities and may be prosecuted.

Associate Files and Records

Personnel Files are the property of the Company. While these files are not directly accessible to associates, you may request copies of specific information from your file from your location/store manager.

Our employment records must be kept up to date. It is each associate's responsibility to keep their records up to date with the Company. It is not acceptable for the associate to use the store address and phone number in lieu of providing their official address and phone number. Please utilize the Express HR kiosk located in the associate lounge to change the following items:

- Change of name
- Change of address
- Change of W-4
- Change of direct deposit
- Change of emergency contact information

Bulletin Boards and Distribution of Material

Companywide, each location will be equipped with a bulletin board. Every associate is responsible for checking the bulletin board daily to keep abreast of current postings and general information; i.e., OSHA requirements, Department of Labor posters, hazardous communication training, and emergency evacuation plans. Associates may not, without authorization from the store manager, remove or post information to the bulletin boards. Distributing any personal material in the work or selling areas is prohibited during working hours.

Food Safety

Associates assigned to work in a department where food is exposed, prepared, handled, and served, must follow strict sanitation and health standards to eliminate any threat to public health during food handling. In addition to the general guidelines for these departments, there may be other, more specific standards.

Associates who change or extend code dates beyond the standard set by the manufacturer or Company, or who use out-of-code product as ingredients in other products produced by the company will be subject to immediate discharge.

Customer Accidents

Your daily activities and workplace responsibilities impact the safety of our customers. Therefore, each associate should be involved in the prevention of customer accidents.

This begins by taking floor-care duties very seriously. Many customer accident claims could be avoided with thorough and consistent execution of the sweep programs. Be sure to sign the sweep sheet legibly, and accurately record the times you begin and complete your sweeps. The integrity of this system is of paramount importance to our overall safety program.

All associates should watch for and clean up any debris on the floor as you move about your work location – even if you are not the person assigned to that task.

Collisions with customers can occur when associates who operate shopping carts, U-boats, pallet jacks, and other transport devices are not extremely cautious when they move about on the sales floor. Please be aware of all the activities around you at all times. Your awareness assures our customers a safe and more pleasant shopping experience.

IF YOU WITNESS AN ACCIDENT OR
ARE INVOLVED IN AN ACCIDENT WITH A CUSTOMER:

1. **Apologize to the customer and DEMONSTRATE CONCERN to the customer.**
2. *IMMEDIATELY NOTIFY MANAGEMENT of the accident.*
3. *DO NOT MAKE STATEMENTS TO THE CUSTOMER about what you believe caused the accident.*
4. *DO NOT MAKE ANY STATEMENTS TO THE CUSTOMER REGARDING PAYMENT OF BILLS. Leave discussions about how the matter will be handled up to management.*

Gum and Tobacco Chewing

Chewing gum or tobacco (including the use of any smokeless product) on the sales floor is strictly prohibited.

Handling of Product

Many jobs require handling products at various points in the distribution and sales process. Each associate involved is responsible for exercising care when handling products to minimize spoilage and/or damaging the product. Associates who fail to act with appropriate care and diligence where such failure results in the spoilage, damage, or loss of product will be subject to disciplinary action up to and including discharge.

INSUBORDINATION

One of our core values is Respect and we expect all associates to treat all employees with courtesy, respect, and professionalism. Insubordination, or the failure to follow management directive, is considered misconduct, and any words or deeds that are in violation of this policy will subject the associate to discipline up to and including termination.

Insubordination may involve different scenarios and is generally defined as:

- The willful or intentional failure by the associate to obey a lawful and reasonable verbal or written instruction of the supervisor or manager which relates to the employee's job function
- The silent or overt refusal by the associate to perform assigned instruction(s)
- The failure to obtain, maintain, or renew required licenses, certifications, credentials, conditions, or other professional designations which permit the associate to perform a job
- The failure to keep in good standing with the union because of nonpayment of dues, or repeated acts of agitation against employer working conditions, pay scale, policies, or procedures; except that orderly action on the part of an employee or through union negotiation shall not be so considered if such action does not interfere with work performance.

Lockers

When lockers are provided to associates, it is with the understanding that they are not private. Management reserves the right to enter and inspect any locker at any time. If you have personal items you believe to have substantial value, do not leave them in your locker. For information concerning locks and keys, please check with your supervisor. All merchandise must have a receipt attached if it is to be left in a locker, otherwise it is to be consumed or removed from the premises.

Lost and Found Regulations

All cash, money orders, checks, negotiable instruments and/or property found on Company premises, including parking areas, shall be immediately turned into management. Only management is authorized to establish the owners of the property. Failure to turn in cash,

money orders, checks, negotiable instruments, and/or other property found on the premises shall be considered an act of dishonesty and shall subject the associate to immediate discharge.

Parking

Each location has set aside certain areas for associate parking. Associates should check with their supervisor or location manager concerning the parking provisions and policies at their location.

Personal Car for Company Business

On occasion an associate may be asked to use his/her personal vehicle for Company business. Mileage reimbursement is based upon the I.R.S. rate for union employees and the rate established by the Company's accounting department for non-union associates to cover items such as depreciation, license tags, gas, oil, tires, and insurance coverage. It is imperative that associates understand the need to carry adequate liability insurance to protect their personal interests. Collision and comprehensive coverage is also a part of the per mile reimbursement. Should the associate incur any bodily injury while on Company business - regardless of fault such injury would be covered by Workers' Compensation Insurance.

For associates whose normal job assignment requires them to use their personal vehicle for travel on Company business, such associates shall be paid the published mileage rate for all miles traveled per day that exceeds the normal round trip mileage from their home to the base work location. Please obtain a copy of the Travel Policy for more information regarding mileage, travel time, and personal vehicle usage.

PROFANITY IN THE WORKPLACE

One of our core values is Respect, and we expect all associates to treat all employees and customers at all times with courtesy, respect, and professionalism. The use of profane language or gestures is prohibited in the workplace. This includes the unwanted, deliberate, or repeated use of profane or vulgar words, obscene expressions, and racial slurs of any type that may be construed as offensive, whether such actions are spoken and/or written. Such language or gestures constitutes misconduct and can interfere with performance or create an intimidating, hostile, or offensive work environment. Employees using profanity on the sales floor will be immediately terminated.

PROHIBITED ITEMS ON THE SALES FLOOR AND WORK AREAS

To best assist our customers as well as follow safety and sanitation guidelines, the following items are prohibited on the sales floor and work areas:

- Purses/Wallets (not in pocket)
- Backpacks

- Personal electronic devices
- Food or beverage
- Unpaid merchandise

Solicitations

All forms of solicitation are strictly prohibited within the store including sales areas, backrooms, and production areas. The Company has reserved certain areas in front of the stores for solicitation by outside organizations. Solicitation in these areas must be requested in writing by the organization to the store or location manager. The granting of solicitation in these areas is at the sole discretion of the store/location manager.

Associates are always free to express their views and to solicit support for such views or for community or other programs in which they are personally interested. Generally, such expressions and canvassing should be done privately; they should not disrupt company activities or infringe on the rights of others.

King Soopers/City Market does not permit the following:

- All forms of solicitation are strictly prohibited within the store/plant/office including sales areas, backrooms, production areas, offices, or during working time.
- Use of Company facilities, equipment, letterhead, communications media (including mail and bulletin boards), or other resources for the purposes of political, religious, or other canvassing, or for purposes that are not accepted parts of the Company's programs and functions
- Distribution of literature or printed matter in selling during working hours.

Exceptions to this policy are the charity campaigns or periodic Red Cross Blood Drives approved by management.

For the protection of King Soopers/City Market and its associates, the following policy must be strictly adhered to:

Shoplifting Apprehension Policy

For the protection of King Soopers/City Market its employees and guests, the following policy must be strictly adhered to:

Only trained Loss Prevention Personnel should attempt to detain or apprehend a shoplifting suspect. Attempting to physically detain or apprehend a suspected shoplifter has serious legal and financial liabilities if done incorrectly. Only Loss Prevention Personnel are thoroughly trained and qualified to do so. Store personnel are only trained to deter or discourage a suspected shoplifter by providing excellent customer service. Attempting to physically detain or chase a suspected shoplifter is

a direct violation of the Kroger Shoplifting Policy. Any violation of this policy may result in disciplinary action, up to and including termination.

Smoking

Smoking (including the use of smokeless products) will not be permitted in any store, facility, or company-owned/rented vehicle. Violation of this policy will subject the individual to disciplinary action up to and including termination.

Telephone Use

Company telephones are for Company business. Incoming personal calls must be limited to those of an emergency nature. Unauthorized long distance calls or other "pay for service" calls such as "900" toll lines are prohibited. Any personal calls made on Company property that incur charges must be reported to management and paid in full when billed. Failure to pay such charges shall constitute dishonesty.

Timekeeping

The Company uses a system called Kronos to record time worked by an associate. Kronos is a centralized corporate application. Your time punches will be collected using Biometric readers. Biometric devices have greater security than a time clock since a finger image is required for authentication. Time extracts from the finger image then creates a time record, called a template. Once the template is generated, the actual finger image is erased. Finger images never exist outside the Biometric device. The application is designed to ensure the privacy of every user by not storing any actual finger images. The stored finger templates are of use only within the Biometric device and cannot in any way be used externally for identification or authentication. The temporary finger images provided via the capture window never leave the Biometric device and are erased once each template is created.

The system categorizes and totals associates' hours. All hourly paid associates are required to record their work time via the Kronos system as they arrive and depart to and from work and lunch breaks. You will receive a fifteen (15) minute rest period for each four (4) hour period worked. You will be entitled to a third relief period when working a shift greater than or equal to ten (10) hours. You will also receive a thirty (30) minute unpaid lunch period if you are working a shift in excess of five *(5)* hours. In order to follow government law, associates must take a lunch within five (5) hours into their shift. It is the associate's responsibility to advise his/her manager on duty if he/she has not taken a lunch and he/she is about to reach (5 ½) hours of work.

For those hourly associates whose jobs prevent them from logging worked time on Kronos, they will be required to complete a paper time card which will be punched into Kronos by their administrative assistant. Associates using paper time cards are required to report the exact time of their arrival, length of their lunch breaks, and departure time at the end of their shift on their card. All time entries must be made as the associate arrives and departs to and from work and lunch breaks.

Associates must remain on company property when he/she are on his/her breaks. Associates wishing to make purchases for breaks or lunches are required to include that time as part of their time allotted for break or lunch.

All worked time must be accurately and completely recorded on Kronos, or the paper time card. Such entries must reflect the true hours worked. Early arrival or late departures of your own volition are not allowed. Your immediate supervisor must approve all early arrivals and unscheduled overtime. Recording time on Kronos, or your time card, for work not performed is considered dishonesty and may subject you to immediate discharge. At NO time is it acceptable for an associate to make any corrections to their own punches or any member of their immediate family, nor is it okay to override yourself at the time clock.

Off-the-clock work is defined as any work performed by an associate, whether voluntary or not, which is requested by or benefits the employer for which an associate is not paid. If an associate performs work, he/she must be paid. Allowing time off instead of paying wages is not permitted.

Department Heads Visiting Their Departments on A Day Off: No Department Head, or other hourly associate, should be allowed to work while not on the clock. Making out orders, straightening the rack, giving instructions, etc., are violations of this policy.

Department Heads or other associates picking up supplies at another store or moving product from one store to another must be on the clock and have the approval of management prior to performing this activity.

Unauthorized Work: Any associate working hours other than scheduled or authorized must be paid for all time worked, and must be disciplined for performing that work. Discouraging unauthorized work by simply stating that "Unauthorized work will not be paid for" is a violation of the law, because the work, authorized or not, must be paid. Therefore discipline must be administered.

Substituting or Trading Time: Under no circumstances will an associate be allowed to work hours not on the clock and then be given compensatory time off with pay. It should also be clear that working one associate and recording the time to another associate is considered dishonesty and will be disciplined accordingly.

Meetings: Business-related meetings, such as a Department Head meeting or a Front End meeting to discuss customer service, etc., must be recorded as time worked and paid.

Homework: Counting coupons, writing schedules, working on price change sheets, etc., at home by an hourly associate, including Department Heads, is not permitted. This is considered off-the-clock work.

The above-mentioned examples are not the only types of off-the-clock work that can occur in a store. The policy is; **an associate who is off the clock can do no work of any kind.** All hourly associates must be paid regular or overtime rate, whichever is applicable for work performed.

The importance of adhering to this policy cannot be overstated. All members of management must be committed to the elimination of off-the-clock work. The **Store Manager** will be held responsible for violations of this policy when they are found. Strong disciplinary action will be taken against those violating this policy, up to and including discharge.

Visiting

Entertaining personal friends or relatives is not permitted during business hours. In this regard, it is the associate's responsibility to discourage such practices.

Kroger Leadership Model

Passion For People

Passion for Results

October 2013

KING Soopers City Market

EUID: WG41228
Name (Last, First): Geaslin, Wendy
Store ID (DIV STR): 001
Doc Type: Personnel – Warning Notice

KING SOOPERS/CITY MARKET BEHAVIOR NOTICE

ASSOCIATE Wendy Geaslin LOC 01 DEPT ____ SEC ____
EUID WG41228 DATE ACTION TAKEN 5-21

Type of Infraction: (Please check as applicable)
____ Violation of Company Policy/Rule/Procedure X Misconduct ____ Dishonesty
____ No Call, No Show ____ Safety Violation
____ Excessive Absenteeism/Tardiness ____ Unsatisfactory Job Performance (UJP)
X Other (explain) disrespectful to mgr.

Action to be taken (check one): ____ Written Warning ____ 1 Day Suspension ____ 3 Day Suspension ____ 5 Day Suspension/ Final Warning
Dates of suspension ____ to ____ X Discharge

THIS SECTION MUST BE COMPLETED. Detail below: 1) Unacceptable behavior 2) Dates and details of unacceptable behavior 3) Expected behavioral improvements 4) Consequences of future incidents of unacceptable behavior.

On 5-14-14 Wendy + the union met with me to discuss an incident that had occurred the prior week. During this meeting Wendy was very obstinate + was being very disrespectful by making faces + saying inappropriate things. She was warned to stop this behavior when she stated she did not have to respect me until I respected her or earned her respect. I am terminating her at this time for gross misconduct.

PRINT NAME OF MANAGER: Theresa [illegible]
SIGNATURE OF MANAGER: [signature] DATE: 5.21.14
SIGNATURE OF Associate: RTS DATE: 5.21.14
(Associate's signature does not constitute agreement with this document.)
PRINT NAME OF WITNESS: LISA Panzarella
WITNESS SIGNATURE: Lisa Panzarella DATE: 5.21.14
(One copy to Associate file and a copy to Associate) Page 1 of 1
Danni from UFCW was present.

King Soopers/City Market Behavior Notice Revised 10/2012

JOINT EX. 4
27-CA-129598

Respondent 0322

J-4

EXHIBIT NO._____ RECEIVED ✓ REJECTED_____

22-CA

CASE NO. 129598 CASE NAME: King

NO. OF PAGES: 2 DATE: 8/11/15 REPORTER: KS