

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

ANGELA KSIOSZK,
Petitioner,

and

Case No. 18-RD-218994

USF HOLLAND, INC.,
Employer,

and

GENERAL TEAMSTERS, LOCAL 200
Union.

PETITIONER ANGELA KSIOSZK'S REQUEST FOR REVIEW

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REQUEST FOR REVIEW

On May 4, 2018, Regional Director Jennifer A. Hadsall dismissed the Petition for a Decertification Election filed in this case. (Ex. 1). That dismissal was based solely on the Board's "voluntary recognition bar" doctrine. *See Lamons Gasket Co.*, 357 NLRB 739 (2011).

Petitioner Angela Ksioszk submits this Request for Review pursuant to R & R 102.71. The Board should grant review because this case presents compelling reasons for reconsideration of the "voluntary recognition bar" and related Board rules and policies. *See* R & R 102.71(a)(2). Petitioner asks the Board to: (1) overrule *Lamons Gasket* and (2) recognize that "voluntary recognitions" are not as fair or reliable as certifications following a Board-supervised secret ballot election, so that employees subject to a "card check" or other informal recognition process should be allowed to file a decertification petition at *any* time thereafter, unless and until the union wins a secret ballot election and thereby converts its lesser "voluntary recognition" status into a Board-ordered certification.

ISSUE PRESENTED

Should *Lamons Gasket* be overruled, and employees be allowed to exercise their Section 7 and 9 rights to conduct a secret ballot election and reject a union that was "voluntarily recognized" by their employer?

INTRODUCTION

The Board-created “voluntary recognition bar” blocks elections from occurring once an employer unilaterally recognizes a union as its employees’ representative—at least until after a “reasonable time” to negotiate has elapsed and perhaps up to a year. *See, e.g., Keller Plastics, Inc.*, 157 NLRB 583, 587 (1966); *MGM Grand Hotel Inc.*, 329 NLRB 464, 469-475 (1999) (Member Brame, dissenting).

In *Dana Corp.*, 351 NLRB 434 (2007), the Board modified its prior recognition bar doctrine, recognizing the inferiority of “card checks” in contrast to Board secret ballot elections. As the Board noted, secret ballot elections are “held under the watchful eye of a neutral Board agent and observers from the parties. A card signing has none of these protections. There is good reason to question whether card signings in such circumstances accurately reflect employees’ true choice concerning union representation.” *Id.* at 439.

A mere four years later, however, in *Lamons Gasket, Co.*, 357 NLRB 739 (2011)—in what can only be described as “a purely ideological policy choice, lacking any real empirical support”—the Board reversed course and overruled *Dana*. *Lamons Gasket*, 357 NLRB at 748 (Member Hayes, dissenting). Card check campaigns and other coercive organizing tactics—which allow unions and employers to subvert Ms. Ksioszk’s and other employees’ right of free choice—are regularly used, placing enormous power in the hands of interested employers and their favored unions. *See, e.g., Mulhall v. UNITE HERE Local 355*, 618 F.3d 1279, 1286-88 (11th Cir. 2010) (recognizing that unwanted representation may result from neutrality agreements and card checks, constituting an “unwarranted and

unfair infringement on employee free choice”).

Accordingly, Petitioner asks the Board to once again reassess the voluntary recognition bar, and entirely reverse that discredited doctrine—which prevents employees from exercising their rights to a secret ballot election at a time of their own choosing.

STATEMENT OF THE FACTS

Petitioner Angela Ksioszk has worked as an office clerk at USF Holland, Inc., in Milwaukee, WI, for 25 years. In late 2017 or early 2018, General Teamsters Union, Local 200 (“Local 200” or “Union”) began an organizing drive to unionize Ms. Ksioszk and approximately eleven of her fellow administrative/clerical employees. During this organizing drive, the Union assured Ms. Ksioszk and her fellow employees that there would be a vote on whether to unionize—regardless of who signed the Union’s authorization cards. Indeed, on January 8, 2018, Local 200 filed with the Board for a certification election regarding this bargaining unit. *See USF Holland, Inc.*, Case No. 18-RC-212632. (Ex. 2). The parties reached a stipulated election agreement on January 12, 2018, with the election to take place on February 8, 2018. *Id.* However, on January 25, 2018, the Union and USF Holland apparently reached a secret recognition agreement, as the Union withdrew the petition for an election it had readily sought. *Id.* Thus, without consultation or employee approval, Local 200 and USF Holland deprived Ms. Ksioszk and her co-workers of their ability to vote in secret about whether to unionize.

On or about February 2, 2018, Ms. Ksioszk and five of her fellow employees filed *pro se* unfair labor practice charges against the Union and USF Holland, alleging

misrepresentations and unlawful recognition of a minority union. *See Teamsters Local 200 (USF Holland, Inc.)*, Case Nos. 18-CB-214477, 18-CB-214520, 18-CB-214490, 18-CB-214487, 18-CB-214514 and 18-CB-215222 and 18-CA-217930. (Ex. 3). On February 12, 2018, Ms. Ksioszk received a letter welcoming her to the Teamsters and informing her that USF Holland had voluntarily recognized the Union on February 8, 2018. (Ex. 4). On May 4, 2018, the Region dismissed these employees' *pro se* ULP charges for lack of legally sufficient evidence. (Ex. 5).

On April 19, 2018 (while still acting *pro se*), Ms. Ksioszk and the five other employees who filed unfair labor practice charges against the Union—constituting roughly 50% of the bargaining unit—signed a showing of interest petition for a decertification election. On April 23, 2018, Ms. Ksioszk (now finally represented by counsel) filed the instant “RD” Petition to decertify the Union from USF Holland. (Ex. 6).

On May 4, 2018, Regional Director Jennifer A. Hadsall dismissed Ms. Ksioszk's decertification petition without a hearing. (Ex. 1). That dismissal was based solely on the Board's voluntary recognition bar doctrine. *See Lamons Gasket Co.*, 357 NLRB 739 (2011). This Request for Review follows.

ARGUMENT

The Board should grant Petitioner's Request for Review because there is a compelling reason to reconsider the voluntary recognition bar and overrule *Lamons Gasket*: The secret ballot election is the superior vehicle to protect employees' Section 7 rights, and “voluntary recognitions” do not deserve protection via an election bar.

A. Employee free choice under Section 7 is the highest priority of the NLRA.

Employee free choice under Section 7 is the paramount interest of the NLRA. *See Pattern Makers League v. NLRB*, 473 U.S. 95 (1985); *Lechmere, Inc. v. NLRB*, 502 U.S. 527, 532 (1992); *Lee Lumber & Bldg. Material Corp v. NLRB*, 117 F.3d 1454, 1463 (D. C. Cir. (1997) (Sentelle, J., concurring) (employee free choice is the “core principle of the Act”) (citations omitted). Section 7 of the Act could not be clearer: “Employees shall have the right to self-organization, to form, join, or assist labor organization, to bargain collectively through representative of their own choosing ... and *shall also have the right to refrain from any or all such activities.*” 29 U.S.C. Section 157 (emphasis added); *cf. NLRB v. Savair Mfg. Co.*, 414 U.S. 270, 278 (1973) (“Any procedure requiring a ‘fair’ election must honor the right of those who oppose a union as well as those who favor it.”).

Indeed, the Act exists to enable employees to freely *choose* union representation, or freely *reject* union representation. It does not favor one choice over the other. As former Member Brame eloquently put it: “unions exist at the pleasure of the employees they represent. Unions represent employees; employees do not exist to ensure the survival or success of unions.” *MGM Grand Hotel, Inc.*, 329 NLRB 464, 475 (1999); *see also Baltimore Sun Co. v. NLRB*, 257 F.3d 419, 426 (4th Cir. 2001) (noting Section 7 “guards with equal jealousy employees’ selection of the union of their choice and their decision not to be represented at all”).

Any other notion—including the notion that the NLRA’s purpose is to increase labor organizations’ membership ranks or promote union-management labor stability at the expense of employee free choice—is false. The policy of “encouraging the practice and

procedure of collective bargaining,” stated in the preamble to the Act at 29 U.S.C. § 151, does not mean that the Act endorses favoritism towards unionization or employees who support unionization over those who wish to refrain from it. Only where a majority freely selects a union is there any policy interest in promoting collective bargaining or “labor stability.” *See generally, IBM Corp.*, 341 NLRB 1288 (2004) (finding *Weingarten* rights have no application in a setting where employees reject union representation); *Baltimore Sun Co.*, 257 F.3d at 426.

Collective bargaining is itself entirely predicated on the exercise of employee free choice enshrined in Section 7 of the Act:

[T]he Act itself, in its substantive provisions, gives employees the fundamental right to choose whether to engage in collective bargaining or not. The preamble and the substantive provisions of the Act are not inconsistent. Read together, they pronounce a policy under which our nation protects and encourages the practice and procedure of collective bargaining *for those employees who have freely chosen to engage in it.*

Levitz Furniture, 333 NLRB 717, 731 (2001) (Member Hurtgen, concurring) (emphasis added).

That union representation is predicated on the exercise of employee free choice is proven by the fact that the Act does not favor collective bargaining between an employer and a union that lacks majority support. Indeed, “[t]here could be no clearer abridgement of Section 7 of the Act” than for a union and employer to enter a collective bargaining relationship when a majority of employees do not support union representation. *See International Ladies Garment Workers v. NLRB*, 366 U.S. 731, 737 (1961); *see also Majestic Weaving Co.*, 147 NLRB 859, 860-861(1964) (finding that an employer

negotiating with a minority union is unlawful even if majority status occurs in the future).

In short, any policy the Board implements must make employee free choice—not “industrial stability”—its highest priority. The protection of employee free choice requires the overruling of *Lamons Gasket*.

B. Secret ballot elections are the superior vehicle to promote employee free choice under Sections 7 & 9 of the NLRA.

To facilitate the paramount policy of employee free choice, the Board in *Dana Corp.* limited the “voluntary recognition bar.” It did so by allowing employees to call for a secret ballot election within a specified time frame after recognition was formally announced. In implementing that change, the Board recognized that “[t]he preference for the exercise of employee free choice in Board elections has solid foundations in distinctions between the statutory process for resolving questions concerning representation and the voluntary recognition process.” *Dana Corp.*, 351 NLRB at 439.

Dana set forth four separate rationales to explain why a secret ballot election is more valued and reliable than a voluntary recognition. *First*, Board-supervised secret ballot elections have a great advantage over public card check campaigns in preventing union and employer coercion of voters. *Id.* at 438-439. *Second*, there is a strong potential for unions or employers to provide misinformation to employees about the card check process. *Id.* at 439. This is especially true here, as the ULP charges filed by the Petitioner and several of her co-workers attest. *See* Exs. 3 & 5. *Third*, secret ballot elections are clearly more fair and democratic than undemocratic card check campaigns. *Id.* *Last*, there are due process

advantages to secret ballot elections that do not exist in card check campaigns. *Id.* at 439-440 (footnotes omitted).

The text and history of the NLRA support the Board's conclusions in *Dana*. The NLRB's statutory representation procedures were established precisely to determine whether employees support or oppose representation by a particular union. In Sections 9(b) and (c) of the Act, Congress vested the Board with the duty to direct and administer secret ballot elections and decide representational issues so as to determine the "uninhibited desires of the employees." *General Shoe Corp.*, 77 NLRB 124, 127 (1948); *NLRB v. Sanitary Laundry*, 441 F.2d 1368, 1369 (10th Cir. 1971) (Section 9 of the Act imposes on the Board the broad duty of providing election procedures and safeguards). Indeed, secret ballot elections are the "gold standard" for determining union representation preferences, as everyone instinctively knows.

For example, the Supreme Court has long recognized that secret ballot elections are the preferred method for gauging whether employees desire union representation. *See Linden Lumber Div., Summer & Co. v. NLRB*, 419 U.S. 301, 304, 307 (1974); *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 602 (1969) ("secret elections are generally the most satisfactory—indeed the preferred—method of ascertaining whether a union has majority support"); *Brooks v. NLRB*, 348 U.S. 96 (1954) ("an election is a solemn and costly occasion, conducted under safeguards to voluntary choice").

Likewise, even before *Dana*, the Board emphasize[d] that Board-conducted elections are the preferred way to resolve questions regarding employees' support for unions. *Levitz*

Furniture, 333 NLRB at 723, citing *Gissel*, 395 U.S. at 602; *Underground Service Alert*, 315 NLRB 958, 960 (1994); *NLRB v. Cornerstone Builders, Inc.*, 963 F.2d 1075, 1078 (8th Cir. 1992); *MGM Grand Hotel Inc.*, 329 NLRB at 469-475.

In short, the Board must give secret ballot elections a higher status than voluntary recognitions achieved by potentially dubious means or even coercion.¹

C. The alternative, of using only post-recognition ULP charges to protect employees' interests, does not adequately protect employee free choice.

Board-supervised elections are far superior to the alternative of employees using post-recognition ULP charges to challenge whether a union has been properly recognized as the exclusive bargaining representative. (*See* Exs. 3 & 5). Unfair labor practice charges are an exceedingly poor substitute for a secret ballot election to determine employees' representational wishes, for several reasons.

¹ The conclusion that secret ballot elections are more reliable than voluntary recognitions not only makes sense, but has been born out in practice. There exists a long and sordid history of employers making backroom deals with favored unions that disregard employee free choice. *See, e.g., Duane Reade, Inc.*, 338 NLRB 943 (2003), *enforced sub nom. Duane Reade Inc. v. NLRB*, 2004 WL 1238336 (D.C. Cir. June 10, 2004) (union and employer conspire to achieve "voluntary recognition" of a minority union favored by the employer); *Shore Health Care Ctr., Inc.*, 317 NLRB 1286 (1995), *enforced sub nom. Fountainview Car Ctr. v. NLRB*, 88 F.3d 1278 (D.C. Cir. 1996) (supervisors and other agents of the employer actively encouraged employees to support the union); *NLRB v. Windsor Castle Healthcare Facilities, Inc.*, 13 F.3d 619 (2d Cir. 1994), *enforcing* 310 NLRB 579 (1993) (employer provided sham employment to union organizers and assisted their recruitment efforts); *Kosher Plaza Supermarket*, 313 NLRB 74, 80-82 (1993) (employer threatens discharge of employees who refuse to sign cards for favored union); *Brooklyn Hosp. Ctr.*, 309 NLRB 1163 (1992), *aff'd sub nom. Local 144, Hotel, Hosp., Nursing Home & Allied Servs. Union v. NLRB*, 9 F.3d 218 (2d Cir. 1993) (employer permitted local union, which it had already recognized as an exclusive bargaining representative, to meet on its premises for the purpose of soliciting union membership); *Famous Casting Corp.*, 301 NLRB 404, 407 (1991) (employer unlawfully supported union and coerced employees into signing authorization cards); *D & D Dev. Co.*, 282 NLRB 224 (1986) (employer actively participated in the union organizational drive from start to finish); *Roundup Co.*, 282 NLRB 1 (1986) (employer invited union it favored to attend hiring meeting with employees, at the expense of a rival union).

First, unfair labor practice procedures are inadequate to determine whether employees support or oppose union representation because that is not what the procedures are designed to accomplish. Sections 10 and 11 of the Act empower the NLRB to prevent and remedy violations of the Act. Sections 3(d) and 10 of the Act assign the General Counsel responsibility for investigating unfair labor practice charges, issuing and prosecuting complaints, and seeking compliance with Board orders in court. However, these sections of the NLRA were not designed to determine the representational wishes of employees. Congress specifically enacted Section 9 of the Act for that purpose.

Second, unfair labor practice proceedings are dependent upon a brave employee filing a ULP charge challenging the arrangement between her employer and ostensible union representative. What's more, even if an employee does file a charge, it is then filtered sparingly through the General Counsel's prosecutorial lens. *See* 29 U.S.C. 153(d); *NLRB v. UFCW*, 484 U.S. 112 (1987) (General Counsel has unreviewable discretion to issue or not issue complaints in ULP cases). Allowing the General Counsel to resolve what is effectively a representational issue—determining whether the union recognized by an employer has the uncoerced support of a majority of employees—should give the Board pause, as Congress empowered only the Board to decide representational issues. *See* 29 U.S.C. 159. This is especially true here, as the unsuccessful ULP charges filed by the Petitioner and several of her co-workers attest. (Ex. 3 & 5).

Third, an after-the-fact investigation of an unfair labor practice allegation does not affirmatively determine the employees' wishes. It merely hunts for unfair labor practices.

It is impossible for the General Counsel, after-the-fact, to divine the employees' true wishes by trying to piece together all the myriad events and circumstances that occurred in a card check drive and the subsequent voluntary recognition.

Lastly, a more stringent standard of union and employer conduct is used in unfair labor practice proceedings than in representational proceedings. Indeed, conduct that does not rise to the level of an unfair labor practice can still be found to violate employee free choice under the laboratory conditions standard for representation proceedings. *General Shoe Corp.*, 77 NLRB at 127. Thus, a union can become an exclusive bargaining representative through a card check procedure by engaging in conduct that would have precluded it from obtaining such status through a secret ballot election.

For example, the following conduct has been held to upset the laboratory conditions necessary to guarantee employee choice in an NLRB-conducted secret ballot election, and has caused entire elections to be held invalid: electioneering activities at the polling place, *see Alliance Ware Inc.*, 92 NLRB 55 (1950) and *Claussen Baking Co.*, 134 NLRB 111 (1961); prolonged conversations by representatives of a union or employer with prospective voters in the polling area, *see Milchem Inc.*, 170 NLRB 362 (1968); electioneering among the lines of employees waiting to vote, *see Bio-Medical Applications of P.R.*, 269 NLRB 827 (1984) and *Pepsi Bottling Co. of Petersburg*, 291 NLRB 578 (1988); speechmaking by a union or employer to massed groups or captive audiences within 24 hours of the election, *see Peerless Plywood Co.*, 107 NLRB 427 (1953); and a union or employer keeping a list of employees who have voted as they went into the polling

place (other than the official eligibility list). *See Piggly-Wiggly*, 168 NLRB 792 (1967).

The above conduct, which disturbs the laboratory conditions necessary for employee free choice does not, without more, amount to an unfair labor practice. Yet this conduct occurs with almost every card check drive and voluntary recognition. When an employee signs (or refuses to sign) a union authorization card, he or she is not likely to be alone. Indeed, it is likely that this decision is made in the presence of one or more union organizers soliciting the employee to sign. This solicitation could occur during or immediately after a union mass meeting or a company-paid captive audience speech. Since a union authorization card is ostensibly the equivalent to casting a ballot, the place where an employee signs (or refuses to sign) a card is the functional equivalent to a polling place in an election, as it is where the employee makes his or her choice. Moreover, the employee's decision is not secret, as in an election, since the union clearly has a list of who has signed a card and who has not. A choice against signing a union authorization card does not end the decision-making process for an employee in the maw of card check drive, but often represents only the beginning of harassment and intimidation for that employee.

In sharp contrast, each employee participating in an NLRB-conducted election makes his or her choice in private. There is no one with the employee at the time of decision. The ultimate choice of the employee is secret from both the union and the employer. Once the employee has made the decision by casting a ballot, the process is at an end.

Fully recognizing these principles, the Board has held that evidence of employee support derived from a card check campaign is not nearly as reliable as a secret ballot

election in gauging employee support for a union. The implementation of *Dana* illustrated this. The post-*Dana* empirical evidence, summarized in Member Hayes's dissent in *Lamons Gasket*, shows that employees rejected voluntarily recognized unions in secret ballot *Dana* elections more than one-fourth of the time. *Lamons Gasket*, 357 NLRB at 751.

In short, employees are entitled to laboratory conditions to make a free choice as to whether they desire union representation. As noted above, it is the Board's duty "to establish those conditions; it is also [the Board's] duty to determine whether they have been fulfilled." *General Shoe Corp.*, 77 NLRB at 127. After-the-fact ULP procedures governed by the General Counsel's unreviewable discretion cannot substitute for an election. (Ex. 3 & 5).

D. *Lamons Gasket* undermines the Board's primary function to conduct elections, and the "reasonable time to bargain" test leads to wasteful, duplicative litigation.

The voluntary recognition bar announced in *Lamons Gasket* does not work and cannot be practically applied. *Lamons Gasket* defines the voluntary recognition bar as lasting for at least six-months after the parties' *first bargaining session* (not the date of recognition) and then up to one year. 357 NLRB at 748. Thus, *Lamons Gasket* prevents petitions from being filed before the bar's initial six-month period even begins to run. Even after this absolute six-month negotiations period expires, a Region may still dismiss a petition for up to another six months if it determines that a reasonable time to bargain has not yet elapsed. The Region is required to make this determination based on a multi-factor test under *Lee Lumber & Building Material Corp.*, 334 NLRB 399 (2001). The factors used to determine

whether a reasonable time has passed are: (1) whether the parties are bargaining for an initial contract; (2) the complexity of the issues being negotiated and of the parties bargaining processes; (3) the amount of time elapsed since bargaining commenced and the number of sessions; (4) the progress made in negotiations and how near the parties are to an agreement; and (5) whether the parties are at an impasse. *Id.* at 402.

However, the application of *Lee Lumber* is particularly inapposite in the representation context, since these factors are used to decide whether a reasonable time has passed when dealing with an *unfair labor practice*. Putting aside the facts of that case, the application of the *Lee Lumber* factors to a voluntary recognition leads to strange results. For example, one of the factors is how near the parties are to an agreement. The Board has noted that if the parties are far away from an agreement, they should be given more time to bargain and the petition should be dismissed. But if the parties are close to an agreement, the parties should be given more time to bargain and the petition should be dismissed. *See MGM Grand Hotel*, 329 NLRB at 465. Thus, an employee may file a petition too early and then refile a month later and be too late. Employee rights should not be so dependent upon threading a needle, especially one over which they have no control.

Ultimately, reliance on a multi-factor test with shifting results necessitates employees file multiple decertification petitions, month after month, until they are finally granted an election. *See e.g., Student Transp. of Am.*, Case No. 06-RD-127208 (June 5, 2014) (employees in a successor situation, which also follows *Lee Lumber*, filed four different decertification petitions over a year-long period, until the Region finally granted an

election—which the union lost by an overwhelming vote of 88-13).

The absurdity of the recognition bar in practice was also demonstrated in *Americold Logistics*, 362 NLRB No. 58 (2015). There an employer voluntarily recognized the union as the bargaining agent pursuant to a card check conducted on June 18, 2012. *Id.*, slip op. at *1. However, the first bargaining session did not occur until October 2012—four months after recognition. *Id.* A petition for a decertification election was filed soon after, on November 19, 2012, and dismissed because the Region found that a minimum reasonable period of bargaining had not elapsed because the parties had only been bargaining for a month, even though the Union had been recognized for nearly six months. *Id.*, slip op. at *2. A second decertification petition was filed on April 8, 2013, and was again dismissed by the Region on the basis that the parties had not yet had enough time to bargain. *Id.* A third petition was filed on June 28, 2013, more than one year after the union had received recognition from the employer. *Id.* However, on June 29, the union ratified a collective bargaining agreement, potentially barring any election for three more years if the third petition was dismissed. *Id.*

The Region processed the third petition and held an election. The Regional Director ruled that because more than a year had passed since recognition a voluntary recognition bar could no longer exist. The Region, however, impounded the ballots after the union appealed the Region's decision to the Board. In a 2-1 decision, the Board overturned the election, and the Region destroyed the ballots. *Id.*, slip op. at *3-6. The Board majority found that, despite the fact a year had passed since recognition, because the start of

bargaining had been delayed, the time period to file a decertification petition was also delayed. *Id.* Thus, because of the voluntary recognition bar, the employees were denied an election for a full year after recognition, and were then denied an election for up to three more years because of the “contract bar.” As former Chairman Miscimarra recognized in his dissent, the result in that case did not “assure to employees the fullest freedom in exercising the rights guaranteed by [the] Act.” *Id.*, slip op. at *11 (citation omitted). Indeed, former Chairman Miscimarra explicitly stated he would overrule *Lamons Gasket*. *Id.*, slip op. at *6-13.

In short, the *Lamons Gasket* “reasonable time to bargain” rule is impractical, unmanageable, and unpredictable. It places employees on a treadmill to nowhere instead of allowing them to exercise their free choice rights under NLRA Sections 7 and 9.

E. This case is an ideal vehicle to reconsider and overrule *Lamons Gasket*.

What happened to Ms. Ksioszk and her fellow employees is “Exhibit A” for the ills of *Lamons Gasket* and the voluntary recognition bar. Despite filing both ULP charges and a decertification election petition likely supported by a majority of employees, no Board agent or official has ever determined whether Petitioner and a majority of employees at USF Holland actually desire representation by Local 200. For the NLRB to determine whether these employees support or oppose union representation, the NLRB must *itself* evaluate employees’ true preferences. Again, there are two avenues available: Unfair labor practice proceedings under the current *Lamons Gasket* framework (which have failed the employees, *see* Exs. 3 & 5), or a secret ballot election. The Board must favor the latter if it

is to properly and consistently protect the touchstone of the Act—employee free choice.

Once the Board recognizes that an election is the proper method to test whether an employer-recognized union has employees' uncoerced support, it follows that the voluntary recognition bar must be abandoned in totality, with no time limit on employees' right to call for a secret ballot election to oust the "recognized" union. (Of course a "recognized" union remains free to file an "RC" petition to become the *certified* representative, with its attendant benefits, if it chooses). A contrary result unfairly prevents Ms. Ksioszk and her co-workers from voting in secret despite the fact that roughly 50% of them indicated a desire to decertify the Union after voluntary recognition was achieved.

CONCLUSION

The Regional Director's dismissal of the petition raises substantial questions of law and policy. Under R & R 102.71, the Board should grant this Request for Review; overturn the Regional Director's dismissal; overrule *Lamons Gasket*; order an immediate election; and hold that voluntary recognitions are entitled to no "bar" of any kind for any period of time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2018, a true and correct copy of the foregoing Request for Review and attachments were e-filed with the NLRB's Executive Secretary and e-mailed (or mailed, as noted) to:

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Exhibit 1



UNITED STATES GOVERNMENT
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May 4, 2018

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Re: USF Holland, Inc.
Case 18-RD-218994

Dear Mr. Taubman and Mr. Garrison:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

Decision to Dismiss: As a result of the investigation, I find that further proceedings are unwarranted. The investigation disclosed that on February 9, 2018, the Employer lawfully recognized the Union as the collective-bargaining representative of a unit comprised of all regular full-time and regular part-time office administrators and clerical employees. In *Lamons Gasket*, the Board held an employer's voluntary recognition of a union, based on a showing of the union's majority status, bars an election petition for a reasonable period of time after the parties commence bargaining. The Board defined a reasonable period of time, during which the recognition bar will apply, to be no less than 6 months after the parties' first bargaining session and no more than 1 year. 357 NLRB 737 at 748 (2011) (overruling *Dana Corp.*, 351 NLRB 434 (2007)). Accordingly, as this petition was filed before the minimum reasonable recognition bar period, as stated in *Lamons Gasket*, I am dismissing the petition in this matter.

Accordingly, I am dismissing the petition in this matter.

Right to Request Review: Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **May 18, 2018**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on May 18, 2018**.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

JENNIFER A. HADSALL
Regional Director

By:


BENJAMIN MANDELMAN
Officer in Charge

cc: Office of the Executive Secretary (by e-mail)

ANGELA KSIOSZK
3701 E MARTIN AVE
CUDAHY, WI 53110-1909

STACY VANDVUSSY, HUMAN RESOURCES
DIRECTOR
USF HOLLAND, INC
6161 S 6TH ST
MILWAUKEE, WI 53221-5120

NICOLE A. BUFFALANO, ATTORNEY AT LAW
MORGAN LEWIS & BOCKIUS, LLP
300 SOUTH GRAND AVENUE, SUITE 2200
LOS ANGELES, CA 90071-3132

TOM MILLONZI, SECRETARY/TREASURER
GENERAL TEAMSTERS LOCAL NO. 200
6200 W. BLUEMOUND RD.
MILWUAKEE, WI 53213-4145

SCOTT D. SOLDON, ESQ.
SOLDON LAW FIRM, LLC
3934 NORTH HARCOURT PLACE
SHOREWOOD WI 53211

Exhibit 2

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USF Holland, LLC

Case Number: 18-RC-212632
Date Filed: 01/08/2018
Status: Closed on 01/25/2018

Location: Milwaukee, WI
Region Assigned: Region 18, Minneapolis, Minnesota
Reason Closed: Withdrawal Adjusted

News

NLRB orders Greater Omaha Packing to reinstate employees unlawfully fired for protesting their working conditions
March 14, 2014

Texas plastic surgery center settles charges of unlawful firings and retaliation
June 6, 2013

Board finds Houston engineering firm unlawfully fired employee for discussing salaries with coworkers
February 15, 2013

NLRB launches webpage describing Protected Concerted Activity
June 18, 2012

Acting General Counsel releases report on employer social media policies
May 30, 2012

Docket Activity

<u>Date</u>	<u>Document</u>	<u>Issued/Filed By</u>
01/25/2018	Letter Approving Withdrawal Request*	NLRB - GC
01/12/2018	Stipulated Election Agreement*	NLRB - GC
01/12/2018	Notice of Election	NLRB - GC
01/08/2018	Initial Letter to Petitioner in R case*	NLRB - GC
01/08/2018	Initial Letter to Employer in R case*	NLRB - GC
01/08/2018	Signed RC Petition*	Petitioner

The Docket Activity list does not reflect all actions in this case.

* This document may require redactions before it can be viewed. To obtain a copy, please file a request through our FOIA Branch.

Elections

Eligibility Date: 01/06/2018	Ballots Count Date: 02/02/2018
Election Date: 02/02/2018	Address: 6161 S 6TH ST MILWAUKEE, WI
Time: 8 to 8:30 am and 3:00 to 3:30pm	Place: North Conference Room at the Employer's facility, 6161 S. 6th Street, Milwaukee, WI

1 of 3 »

Eligible Voters:

All employees who were employed in the bargaining unit below during the payroll period ending 01/06/2018 and on the election date.

Election Status: Election Canceled

Voting Unit:

Included: All full-time and regular part-time office administrators and clerical employees. Excluded: Drivers, dock workers, professional employees, managerial employees, guards, and supervisors as defined by the Act, and all other employees.

Participants

<u>Participant</u>	<u>Address</u>	<u>Phone</u>
Employer Legal Representative Nicole Buffalano Morgan Lewis & Bockius	300 S. Grand Avenue, 22nd Floor Los Angeles, CA 90071-3132	(213)612-7443
Petitioner Legal Representative SCOTT SOLDON SOLDON LAW FIRM LLC	3934 N. Harcourt Place Shorewood, WI 53211	(414)870-2177

<u>Participant</u>	<u>Address</u>	<u>Phone</u>
Petitioner <i>Union</i> <i>General Teamsters Local Union No. 200</i>	Milwaukee, WI 53213-4145	(414)771-6363
Employer <i>Employer</i> <i>USF Holland, LLC</i>	Milwaukee, WI 53221-5120	(616)395-5000

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Exhibit 3

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name Teamster Local 200 6200	b. Union Representative to contact Tom Millonzi
c. Address (Street, city, state, and ZIP code) 6200 W Bluemound Rd Milwaukee WI	d. Tel. No. e. Cell No. f. Fax No. g. e-Mail

h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) **5B1** of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

SEE ATTACHMENT

3. Name of Employer

USF Holland

4a. Tel. No. 414-501-1600	b. Cell No.
c. Fax No. 414-501-1611	d. e-Mail

5. Location of plant involved (street, city, state and ZIP code)

**6161 S. 6th ST
Milwaukee WI 53221**

6. Employer representative to contact

John Kellenberger

7. Type of establishment (factory, mine, wholesaler, etc.)

8. Identify principal product or service

9. Number of workers employed

12

10. Full name of party filing charge

Kathleen M. Brantman

11a. Tel. No. 262-902-2243	b. Cell No. Same
c. Fax No.	d. e-Mail Kathy Brantman @ gmail.com

11. Address of party filing charge (street, city, state and ZIP code.)

2945 Lake Vista Ct Racine WI 53402

12. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By Kathleen M Brantman KATHLEEN M. Brantman
(signature of representative or person making charge) (Print/type name and title or office, if any)

Address 2945 Lake Vista Ct Racine WI 53402 (date) 2/2/18

Tel. No. (262) 902-2243
Cell No. Same
Fax No. N/A
e-Mail Kathy Brantman @ gmail.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name Teamsters "General" Local Union - No. 200		b. Union Representative to contact Thomas Millonzi	
c. Address (Street, city, state, and ZIP code) 6200 W. Bluemound Road Milwaukee WI 53213		d. Tel. No. 414-771-6363	e. Cell No.
		f. Fax No. 414-771-5850	g. e-Mail
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) <u>SBT</u> of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

' See Attached '

3. Name of Employer Holland		4a. Tel. No. 414-501-1600	b. Cell No.
		c. Fax No. 414-501-1611	d. e-Mail
5. Location of plant involved (street, city, state and ZIP code) 6161 S. 6 th St., Milwaukee WI 53221		6. Employer representative to contact John Kellenberger	
7. Type of establishment (factory, mine, wholesaler, etc.) Trucking Company - Freight	8. Identify principal product or service Freight	9. Number of workers employed 12	
10. Full name of party filing charge Cindy A. Southworth		11a. Tel. No. -	b. Cell No. 414-426-3976
		c. Fax No. -	d. e-Mail -
11. Address of party filing charge (street, city, state and ZIP code.) 3785 S. Ahmedi Ave., St. Francis WI 53235			

12. DECLARATION

I declare that I have read the above charge, and that the statements therein are true to the best of my knowledge and belief.

By Cindy A. Southworth Cindy A. Southworth
(signature of representative or person making charge) (Print/type name and title or office, if any)
Dispatch Clerk

Address 3785 S. Ahmedi Ave., St. Francis WI
53235 (date) 2-1-18

Tel. No.	-
Cell No.	414-426-3976
Fax No.	-
e-Mail	-

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name TEAMSTERS LOCAL 200		b. Union Representative to contact TOM MILLONZI	
c. Address (Street, city, state, and ZIP code) 6200 W. BLUEMOUND RD MILWAUKEE WI 53213		d. Tel. No. 414-771-6363	e. Cell No.
		f. Fax No. 414-771-5850	g. e-Mail
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) <u>SBI</u> of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) SEE ATTACHED LETTER			
3. Name of Employer HOWLAND INC		4a. Tel. No. 800-234-3127	b. Cell No.
		c. Fax No. 414-501-1611	d. e-Mail
5. Location of plant involved (street, city, state and ZIP code) 6661 S. 6TH ST, MILWAUKEE WI 53221		6. Employer representative to contact JOHN KELLENBERGER	
7. Type of establishment (factory, mine, wholesaler, etc.) TRUCKING	8. Identify principal product or service LTL FREIGHT	9. Number of workers employed	
10. Full name of party filing charge ANGELA KSIOSZK		11a. Tel. No. 800-234-3127	b. Cell No.
		c. Fax No.	d. e-Mail
11. Address of party filing charge (street, city, state and ZIP code.) 3701 E. MARTIN AVE, CUDAHY WI 53110			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.		12. DECLARATION	
By <u>Angela Ksioszk</u> — <u>ANGELA KSIOSZK</u> (signature of representative or person making charge) (Print/type name and title or office, if any)		Tel. No.	
		Cell No.	
		Fax No.	
Address <u>3701 E MARTIN AVE CUDAHY WI 53110</u> (date) <u>2/2/18</u>		e-Mail	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name General Teamsters Local 200	b. Union Representative to contact Tom Millonzi OR James Seelow	
c. Address (Street, city, state, and ZIP code) 6200 W. Bluemound Rd Milwaukee, WI 53213	d. Tel. No. 414-771-6363	e. Cell No.
	f. Fax No. 414-771-5850	g. e-Mail

h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) **5B1** of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

3. Name of Employer Holland	4a. Tel. No. 414-501-1600	b. Cell No.
	c. Fax No. 414-501-1611	d. e-Mail

5. Location of plant involved (street, city, state and ZIP code) 6161 S. 6th St Milwaukee WI 53221	6. Employer representative to contact
--	---------------------------------------

7. Type of establishment (factory, mine, wholesaler, etc.) TRUCKING	8. Identify principal product or service moving freight	9. Number of workers employed
---	---	-------------------------------

10. Full name of party filing charge Diane Jane Damask	11a. Tel. No. 414-476-8471	b. Cell No.
	c. Fax No.	d. e-Mail

11. Address of party filing charge (street, city, state and ZIP code.)
964 S. 57th St West Allis WI 53214

12. DECLARATION I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.		Tel. No.
By Diane Damask (signature of representative or person making charge)	Diane Damask (Print/type name and title or office, if any)	Cell No.
		Fax No.
Address 964 S. 57th St West Allis WI (date) 2-1-18		e-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name TEAMSTERS LOCAL 200	b. Union Representative to contact TOM MILLONZI
c. Address (Street, city, state, and ZIP code) 6200 W BLUEMOUND RD	d. Tel. No. 414 771-6363
	e. Cell No.
	f. Fax No. 414 771-5850
	g. e-Mail

h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) **5B2** of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

SEE ATTACHED LETTER

3. Name of Employer HOLLAND	4a. Tel. No. 414 501 1600	b. Cell No.
	c. Fax No. 414 501 1611	d. e-Mail

5. Location of plant involved (street, city, state and ZIP code) 6161 So. 6th ST MILW WI 53221	6. Employer representative to contact JOHN KELLENBERGER
--	---

7. Type of establishment (factory, mine, wholesaler, etc.) TRUCKING	8. Identify principal product or service LTL CARRIER	9. Number of workers employed
---	--	-------------------------------

10. Full name of party filing charge DEBORAH DAVIS	11a. Tel. No. 414 881-3119	b. Cell No.
	c. Fax No.	d. e-Mail

11. Address of party filing charge (street, city, state and ZIP code.) 817 LAKEVIEW AVE #1 So. MILW WI 53172
--

<p>12. DECLARATION</p> <p>I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.</p> <p>By <u><i>Deborah Davis</i></u> <small>(signature of representative or person making charge) (Print/type name and title or office, if any)</small></p> <p>Address _____ (date) _____</p>	Tel. No.
	Cell No.
	Fax No.
	e-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

January 31, 2018

National Labor Relations Board

310 W Wisconsin Ave- Suite 450W

Milwaukee WI, 53203

To whom it may concern:

The complaint at hand is that the current petition to allow office employees for USF Holland (Milwaukee location) to vote for Union organization has been withdrawn by the Teamster local 200. Thusforth not allowing the employees involved, the right to vote and make the best choice ultimately for themselves. We would like the right to vote again!!

Some facts to support our complaint are:

- Not all employees involved in the petition were notified by Teamster local 200 for the initial informational meeting which took place on December 17th, 2017. This left several employees uninformed of the potential organization to become unionized.
- Attendees for the first meeting on December 17th, 2017 were given cards to sign, at that point they were signed and filled out by those employees with the understanding that they were for informational purposes only to receive information from the Teamsters local 200. These employees were told the union could not give them information unless the card was filled out and turned in.
- On or around January 8th, 2018 the union notified again only certain employees that the company was not honoring the cards that were signed at the first meeting to start the organizational process. At that point they set up the process to vote. The date of February 2nd had been established for the vote.
- On January 11th, 2018 it was again only communicated to certain employees through text message that there would be a second informational meeting on January 14th, 2018 and this stated "I urge everyone to come to the meeting on Sunday everyone is welcome to come including" which at this point THEN they named names of the employees they had previously left out of previous informational meetings or texts.
- Make note that the communication from local 200 was mostly through text message that took place to the select few through an individual who is not a Teamster or part of any union. Nor was she appointed an official spokesperson by all involved. So ultimately this person was left to her own interpretation to decisions then the message was conveyed from there, again only to select few.
- On January 14th, 2018 the second informational meeting was attended by most. At this time the message was conveyed by other employees to all either verbally or through email and text to

attend the meeting. During the meeting it was announced that the vote would take place on February 2nd and was explained at great length on how the voting process would work. This put several employees at ease to have that right to vote because there were things discussed at the second meeting that weren't discussed at the first meeting that made some question their initial decision.

- On January 25th, 2018 the company sat all employees down and explained there will no longer be a voting process. Several were left with many questions, disappointed and feeling they did not have a voice in this life altering decision.
- Some employees reached out to the Local teamsters 200 to ask why, and have yet to get any response. When employees ask the employer, they are told they cannot discuss with them, they need to reach out to the local union.

Therefore with these things said and many other things going unsaid those that were not afforded the opportunity from the very beginning by the Teamsters local 200 are demanding the opportunity to vote and be given that voice they initially were told they would have. The parties involved would greatly appreciate the National Labor Relations Board to take these concerns into serious consideration and propose these employees the right to a vote again.

Thank you for your time,

Sincerely,

Kathleen M Brantman
Cindy A. Southworth
Angela Kiozko
Diane Damask
Deborah Davis

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case	Date Filed

INSTRUCTIONS:

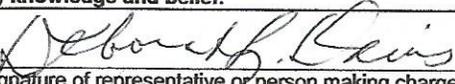
File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer USF Holland, Inc.		b. Tel. No. (414)501-1611	
		c. Cell No.	
d. Address (street, city, state ZIP code) 6161 S 6th St., Milwaukee, WI 53221-5120	e. Employer Representative Stacy Vandvussy Human Resources Director		f. Fax No.
			g. e-Mail
			h. Dispute Location (City and State) Milwaukee, WI
i. Type of Establishment (factory, nursing home, hotel) Trucking	j. Principal Product or Service Moving Freight		k. Number of workers at dispute location 12
1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (2) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Since about the end of January or beginning of February 2018, the Employer has unlawfully recognized and agreed to bargain with Teamsters Local 200 as the exclusive collective-bargaining representative of the administrative and clerical employees working at the Employer's Milwaukee, Wisconsin facility.</p>			

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Deborah Davis

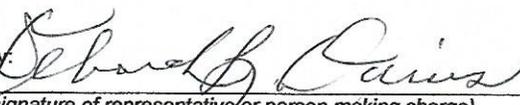
4a. Address (street and number, city, state, and ZIP code) 817 Lakeview Ave., Apt. 1, South Milwaukee, WI 53172-3875		4b. Tel. No.	
		4c. Cell No. (414)881-3119	
		4d. Fax No.	
		4e. e-Mail debDavis0422@gmail.com	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No.	
By:  (signature of representative or person making charge)		Office, if any, Cell No. (414)881-3119	
Deborah Davis Print Name and Title		Fax No.	
Address: 817 Lakeview Ave., Apt. 1, South Milwaukee, WI 53172-3875		e-Mail debDavis0422@gmail.com	
Date: 4-5-18			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1-2219319891

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		DO NOT WRITE IN THIS SPACE	
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		Case	Date filed
INSTRUCTIONS: File an original of this charge with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring.			
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name Teamsters Local 200		b. Union Representative to Contact Tom Millonzi Secretary/Treasurer	
c. Address 6200 W. Bluemound Rd., Milwaukee, WI 53213-4145		d. Tel. No. (414)771-6363	e.e. Cell No. (414)771-5850
		f. Fax No.	g. e-Mail
h. The above-named labor organization or its agents have engaged in and are engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (1)(A) and (2) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Since about the end of January or beginning of February 2018, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by demanding and accepting voluntary recognition from the Employer to act as the administrative and clerical employees' exclusive bargaining representative though the above-named labor organization did not and does not enjoy majority support among those employees.</p>			

3. Name of Employer USF Holland, Inc.		4a. Tel. No.	4b. Cell No.
		4c. Fax No.	4d. e-Mail
5. Location of Plant involved (street, city, state, and ZIP code) 6161 S 6th St., Milwaukee, WI 53221-5120		6. Employer representative to contact Stacy Vandvussy, Human Resources Director	
7. Type of Establishment (factory, mine, wholesaler) Trucking	8. Principal product or service Moving Freight	9. Number of Workers employed 12	
10. Full name of party filing charge Deborah Davis		11a. Tel. No.	11b. Cell No. (414)881-3119
		11c. Fax No.	11d e-Mail debdavis0422@gmail.com
11. Address of party filing charge (street, city, state, and ZIP code) 817 Lakeview Ave., Apt. 1, South Milwaukee, WI 53172-3875			
12. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By:  (signature of representative or person making charge)		Tel No.	
Deborah Davis Print/type name and title or office, if any		Cell No. (414)881-3119	
Address: 817 Lakeview Ave., Apt. 1, South Milwaukee, WI 53172-3875		Date: 4-5-18	Fax No.
			e-Mail debdavis0422@gmail.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. 1-2219350861

Exhibit 4

GENERAL TEAMSTERS LOCAL UNION No. 200

Affiliated With the International Brotherhood of Teamsters

Milwaukee Office: 6200 West Bluemound Road • Milwaukee, WI 53213
Phone: (414) 771-6363 • Fax: (414) 771-5850 • Toll Free (800) 272-3934

February 12, 2018



Angela Ksioszk
3701 East Martin Avenue
Cudahy, WI 53110

Dear Teamster Sister Angela:

Congratulations from all 1.4 million Teamsters to you is in order as your employer, USF Holland, agreed to voluntarily recognize all of you through a process performed on Thursday, February 8th!

The result was a success and you are now members of the most powerful labor Union in North America, the Teamsters!!!

Now the focus is on scheduling a meeting where Local 200 and the committee member(s) you pick will be taking proposals from you, and together we will forge a Labor Agreement with your employer that we may all be proud of.

I will be contacting the company to request negotiation dates and times as soon as your proposal meeting is concluded.

Watch your mail for more information as it becomes available.

FYI, Local 200 holds Freight craft meetings the **3rd Saturday of the month at 9:00 A.M.**, at the Teamsters Union hall located at 6200 West Bluemound Road, Milwaukee WI. (Please enter the building from the East side doors and proceed upstairs to the Union hall). Please feel free to attend.

Once again, congratulations and welcome to the Teamsters!!!

In Solidarity,

Thomas L. Millonzi
Secretary Treasurer
General Teamsters Local Union No. 200

Fond du Lac Office: 17 Forest Avenue • Suite 016 • Fond du Lac, WI 54935 • Phone: (920) 922-2880
Kenosha Office: 3030 39th Avenue • Kenosha, WI 53144 • Phone: (262) 633-6387

www.teamsterslocal200.com • <https://www.facebook.com/Teamsters-Local-200-228695721900/>



Exhibit 5



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 30
310 West Wisconsin Avenue, Suite 450W
Milwaukee, WI 53203-2246

Agency Website: www.nlr.gov
Telephone: (414)297-3861
Fax: (414)297-3880

May 4, 2018

FRANK D. GARRISON, ESQ.
GLEN TAUBMAN, ESQ.
NAT. RIGHT TO WORK LEGAL DEFENSE FOUNDATION
8001 BRADDOCK ROAD, SUITE 600
SPRINGFIELD, VA 22160

Re: Teamsters Local 200 (USF Holland, Inc.)
Cases 18-CB-214477, 18-CB-214520, 18-
CB-214490, 18-CB-214487, 18-CB-214514
and 18-CB-215222 and
Teamsters Local 200 (USF Holland, Inc.)
Case 18-CB-217937 and
USF Holland, Inc.
18-CA-217930

Dear Mr. Garrison and Mr. Taubman:

We have carefully investigated and considered your charges that TEAMSTERS LOCAL 200 AND USF HOLLAND, INC. have violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss the above-charges for the reasons discussed below.

In Cases 18-CB-214477, 18-CB-214520, 18-CB-214490, 18-CB-214487, 18-CB-214514, and 18-CB-215222, the Charging Parties alleged that since about December 17, 2017, the Union restrained and coerced employees in violation of Section 7 by securing authorization cards under false pretenses and withdrawing the petition for election. The evidence demonstrated the Union did not secure cards under false pretenses. Additionally, the Union, as the Petitioner in Case 18-RC-212632, had the right to withdraw its Petition (NLRB Casehandling Manual, Part 2 Representation Proceedings Sec. 11112.1(a)). Based on the foregoing, the evidence fails to establish a violation of the National Labor Relations Act.

In Cases 18-CA-217930 and 18-CB-217937, the Charging Party alleged that since about the end of January or beginning of February 2018, the Employer violated Section 8(a)(2) of the Act by unlawfully recognizing and agreeing to bargain with Union as the employees' exclusive representative and the Union violated Section 8(b)(1)(A) and (2) by unlawfully accepting voluntary recognition at a time when the Union did not have majority support among the employees. The evidence demonstrated that on February 9, 2018, based upon appropriate impartial verification, a majority of the employees supported the Union. Therefore, granting and acceptance of recognition was not a violation of the National Labor Relations Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal **MAY NOT** be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **May 18, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than May 17, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before May 18, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after May 18, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

May 4, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

JENNIFER A. HADSALL
Regional Director

By:

BENJAMIN MANDELMAN
Officer in Charge

Enclosures

cc: TOM I. MILLONZI, SECRETARY
TREASURER
TEAMSTERS LOCAL 200
6200 W BLUEMOUND RD
MILWAUKEE, WI 53213-4145

DEBORAH DAVIS
817 LAKEVIEW AVE APT 1
SOUTH MILWAUKEE, WI 53172-3875

SCOTT D. SOLDON, ATTORNEY
SOLDON LAW FIRM
3934 N. HARCOURT PLACE
SHOREWOOD, WI 53211

DIANE DAMASK
USF HOLLAND, INC
964 S 57TH ST
MILWAUKEE, WI 53214-3334

JOHN KELLENBERGER
USF HOLLAND, INC
6161 S 6TH ST
MILWAUKEE, WI 53221-5120

KATHLEEN BRANTMAN
2945 LAKE VISTA CT
RACINE, WI 53402-1327

NICOLE A. BUFFALANO, ATTORNEY
AT LAW
MORGAN LEWIS & BOCKIUS, LLP
300 SOUTH GRAND AVE., STE 2200
LOS ANGELES, CA 90071-3132

ANGELA KZIOSZK
3701 E MARTIN AVE
CUDAHY, WI 53110-1909

CINDY SOUTHWORTH
3785 S AHMEDI AVE
SAINT FRANCIS, WI 53235-4151

ROSEMARIE MOORE
918 MANITOBA AVE APT 1
SOUTH MILWAUKEE, WI 53172-2135

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

Exhibit 6



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 30
310 West Wisconsin Avenue, Suite 450W
Milwaukee, WI 53203-2246

Agency Website: www.nlr.gov
Telephone: (414)297-3861
Fax: (414)297-3880



Download
NLRB
Mobile App

April 25, 2018

URGENT

angela.ksioszk@usfc.com
ANGELA KSIOSZK
3701 E MARTIN AVE
CUDAHY, WI 53110-1909

Re: USF Holland, Inc.
Case 18-RD-218994

Dear Ms. Ksioszk:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Attorney ANGELA B. JAENKE whose telephone number is (414)930-7198. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Deputy Regional Attorney PERCY J. COURSEAUULT, III whose telephone number is (414)930-7195. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 a.m. Central Time on Thursday, May 3, 2018 in Hearing Room, 310 West Wisconsin Avenue, Suite 450W, Milwaukee, Wisconsin**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the

parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party, the regional director may postpone the hearing for up to 2 business days upon a showing of special circumstances and for more than 2 business days upon a showing of extraordinary circumstances. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by April 27, 2018 in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates with its employees electronically, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer and the Union are required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Central Time on May 02, 2018**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or

from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

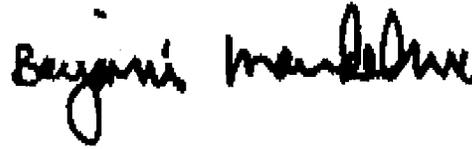
Procedures: Also enclosed is a Description of Procedures in Certification and Decertification Cases (Form NLRB-4812). We strongly urge everyone to submit documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

April 25, 2018

Very truly yours,

JENNIFER A. HADSALL
Regional Director



By: BENJAMIN MANDELMAN
Officer in Charge

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)

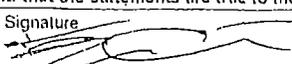
cc: GLENN M. TAUBMAN, ATTORNEY
AT LAW
NATIONAL RIGHT TO WORK LEGAL
DEFENSE FOUNDATION, INC.
8001 BRADDOCK ROAD, SUITE 600
SPRINGFIELD, VA 22160

FRANK D. GARRISON, ESQ.
NATIONAL RIGHT TO WORK LEGAL
DEFENSE FOUNDATION, INC.
8001 BRADDOCK ROAD
SUITE 600
SPRINGFIELD, VA 22160

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RD PETITION

Case No. 18-RD-218994 Date Filed April 24, 2018

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 7 below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RD- DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.			
2a. Name of Employer USF Holland, Inc.		2b. Address(es) of Establishment(s) Involved (Street and number, city, state, ZIP code) 6161 S. 6th St. Milwaukee, WI 53221-5120	
3a. Employer Representative - Name and Title Stacy Vandvussy, HR Director		3b. Address (if same as 2b - state name) 6161 S. 6th St. Milwaukee, WI 53221-5120	
3c. Tel. No. 414-501-1611	3d. Fax No.	3e. Cell No.	3f. E-Mail Address
4a. Type of Establishment (Factory, mine, wholesaler, etc.) trucking/freight		4b. Principal product or service trucking/freight	
5a. Description of Unit Involved Included: All full-time and regular part-time office administrators and clerical employees. Excluded: Drivers, dock workers, professional employees, managerial employees, guards, supervisors and all others			5b. City and State where unit is located: Milwaukee, WI
6. No. of Employees in Unit 2	7. Do a substantial number (30% or more) of the employees in the unit no longer wish to be represented by the certified or currently recognized bargaining representative? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
8a. Name of Recognized or Certified Bargaining Agent General Teamsters Local Union No. 200 (recognized, not certified, see 18-RC-212632)		8b. Affiliation, if any Int'l. Bro. of Teamsters (IBT)	
8c. Address Teamsters Local 200, c/o Tom Millonzi, Sec-Tres. 6200 W. Bluemound Rd., Milwaukee, WI 53213-4145		8d. Tel. No. 414-771-6363	8e. Cell No.
		8f. Fax No. 414-771-5850	8g. E-Mail Address contactinfo@teamsterslocal200.com
9. Date of Recognition or Certification February 8, 2018		10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) n/a	
11a. Is there now a strike or picketing at the Employer's establishment(s) involved? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		11b. If so, approximately how many employees are participating?	
11c. The Employer has been picketed by or on behalf of (Insert Name) n/a (Insert Address) n/a		a labor organization, of since (Month, Day, Year) n/a	
12. Organizations or individuals other those named in items 8 and 11c, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5 above (If none, so state) None			
12a. Name n/a	12b. Address n/a	12c. Tel. No.	12d. Fax No.
		12e. Cell No.	12f. E-Mail Address
13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election. Dana Co., 351 NLRB 434 (2007)		13a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
13b. Election Date(s) May 15, 2018	13c. Election Time(s) SAM to 8:30AM; and 3PM to 3:30PM	13d. Election Location(s) North Conference Room at Employer's facility	
14. Full Name of Petitioner Angela Ksioszk			
14a. Address (Street and number, city, state, ZIP code) 3701 E. Martin Avenue Cudahy, WI 53110		14b. Tel. No. 920-650-7276	14c. Fax No.
		14d. Cell No.	14e. E-Mail Address
14f. Affiliation, if any n/a			
15. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
15a. Name Glenn M. Taubman, Esq. and Frank Garrison, Esq.		15b. Title Attorneys for Petitioner	
15c. Address (Street and number, city, state, ZIP code) c/o National Right to Work Legal Foundation, Inc. 8001 Braddock Rd., Suite 600 Springfield, VA 22160		15d. Tel. No. 703-321-8510	15e. Fax No. 703-321-9319
		15f. Cell No.	15g. E-Mail Address gmt@nrlw.org; fdg@nrlw.org
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Frank D. Garrison	Signature 	Title Attorney	Date Filed April 24, 2018

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Angela Ksioszk has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 18-RD-218994 seeking an election to determine if the employees of USF Holland, Inc in the unit set forth below wish to be represented by General Teamsters Local No. 200 for the purposes of collective bargaining:

Included: All full-time and regular part-time office administrators and clerical employees.

Excluded: Drivers, dock workers, professional employees, managerial employees, guards, supervisors and all others

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (414)297-3861.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 30



<p>USF Holland, Inc Employer</p> <p>and</p> <p>Angela Ksioszk Petitioner</p> <p>and</p> <p>General Teamsters Local No. 200 Union</p>	<p>Case 18-RD-218994</p>
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NOTICE OF REPRESENTATION HEARING

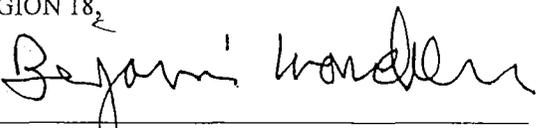
The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 a.m. Central Time on Thursday, May 3, 2018** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located in the Hearing Room, 310 West Wisconsin Avenue, Suite 450W, Milwaukee, Wisconsin, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, USF Holland, Inc and General Teamsters Local No. 200 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on May 02, 2018. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: April 25, 2018

JENNIFER A. HADSALL
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 18,

By 

BENJAMIN MANDELMAN
OFFICER-IN-CHARGE
NATIONAL LABOR RELATIONS BOARD
SUBREGION 30
310 WEST WISCONSIN AVENUE, SUITE 450W
MILWAUKEE, WI 53203-2246

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font

must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the

time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, www.nlr.gov, is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefore.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

**REVIEW THE FOLLOWING IMPORTANT INFORMATION
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at www.nlr.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.
18-RD-218994

Date Filed
April 24, 2018

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.
Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015 . A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER
18-RD-218994

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): CALENDAR YR 12 MONTHS or FISCAL YR (FY dates)

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES NO

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount):
 \$100,000 \$250,000 \$500,000 \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.