UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 17

AMERICAN POSTAL WORKERS UNION LOCAL 238 (United States Postal Service)
and **Case 14-CB-253322**

JANA KERLEY, an Individual

MOTION TO TRANSFER PROCEEDING TO BOARD AND FOR DEFAULT JUDGMENT

Counsel for the General Counsel, pursuant to the provisions of Section 102.24 and 102.50 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended, files this Motion requesting that the National Labor Relations Board (Board) issue an Order transferring Case 14-CB-253322 to the Board, and, further moves that the Board issue an Order Granting Default Judgment sustaining all the allegations in the Complaint issued herein. In support of this Motion, Counsel of for the General Counsel states as follows:

1. The Charge in Case 14-CB-253322 was filed by an individual, Jana Kerley (Charging Party) on December 13, 2019, and was served by regular mail on American Postal Workers Union Local 238 (Respondent) by the Subregion on the same date.
2. A letter summarizing the allegations in Case 14-CB-253322 and requesting Respondent's evidence was sent by Field Attorney Julie M. Covel to Respondent on December 20, 2019, at the following email address: president.kawvalleyapwu@gmail.com. The email did not come back as undeliverable.
3. An Amended Charge in Case 14-CB-253322 was filed by the Charging Party against Respondent on February 12, 2020 and was served by regular mail on Respondent on the same date.

4. An Informal Board Settlement was sent by Field Attorney Julie M. Covel to Respondent on February 13, 2020, by email at the following email address: president.kawvalleyapwu@gmail.com. The email did not come back as undeliverable.
5. A Complaint and Notice of Hearing issued on February 27, 2020 and was served by certified mail on Respondent on the same date. In the paragraph titled "Answer Requirement," Respondent was notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it was required to file an Answer to the Complaint on or before March 12, 2020, and that failure to do so would result in all the allegations of the Complaint being deemed admitted to be true and so found by the Board.
6. The Region received confirmation on March 11, 2020, that Respondent had signed for the Complaint and Notice of Hearing on March 9, 2020.
7. By letter dated March 13, 2020, Field Attorney Julie M. Covel advised Respondent that an Answer had not been filed in response to the Complaint and Notice of Hearing, and further informed Respondent that Counsel for the General Counsel would file a Motion for Default Judgment with the Board unless Respondent filed said Answer by close of business on March 19, 2020. Enclosed with the letter was a copy of the Complaint and Notice of Hearing and Sections 102.20, 102.21of the Board's Rules and Regulations. Field Attorney Julie M. Covel's letter and enclosures were served on Respondent by email to the following address: president.kawvalleyapwu@gmail.com. The email did not come back as undeliverable.
8. To date, Respondent has not filed an Answer to the Complaint and Notice of Hearing.
9. Attached hereto and made a part of this Motion are the following documents, which are marked and described as follows:

a) G.C. Ex. A – Charge in Case 14-CB-253322 filed on December 13, 2019, and signed by Jana Kerley, the Charging Party.

b) G.C. Ex. B – Service letter to Respondent, dated December 13, 2019, and signed by Mary G. Taves, Officer in Charge.

c) GC Ex. C – December 20, 2019 email with the attached letter requesting evidence sent by Field Attorney Julie M. Covel to Respondent at president.kawvalleyapwu@gmail.com.

d) G.C. Ex. D – Amended Charge in Case 14-CB-253322 filed on February 12, 2020, and signed by Jana Kerley, the Charging Party.

e) G.C. Ex. E – Service letter to Respondent, dated February 12, 2020, and signed by Mary G. Taves, Officer in Charge.

f) G.C. Ex. F – February 13, 2020 email with attached Informal Board Settlement and letter sent by Field Attorney Julie M. Covel to Respondent at president.kawvvalley@gmail.com.

g) G.C. Ex. G – Complaint and Notice of Hearing, Case 14-CB-253322, dated February 27, 2020, signed by Mary G. Taves, Officer in Charge.

h) G.C. Ex. H – Affidavit of Service of Complaint, Compliance Specification and Notice of Hearing with Form NLRB 4668 Attached, showing a date of mailing of February 27, 2017. Certified mail return receipts and/or certified mail returns sheets attached.

i) G.C. Ex. I – March 13, 2020 email with attached letter advising Respondent of need to file Answer to Complaint and Notice of Hearing, sent by Field Attorney Julie M. Covel to Respondent at president.kawvalleyapwu@gmail.com

10. Counsel for the General Counsel submits that, as shown by the foregoing, Respondent's failure to file an Answer to Complaint, warrants a finding that Respondent admits the allegations of the Complaint and Notice of Hearing. Counsel for the General Counsel further submits that an Order Granting Default Judgment is fully warranted and necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay. *See, e.g., Lake States Industrial Services, Inc.*, 349 NLRB No. 25, (2007). Accordingly, Counsel for the General Counsel requests that the Board issue an Order Transferring this Proceeding to the Board and, issue an Order Granting Default Judgment on the allegations in the Complaint and Notice of Hearing previously issued herein, and for its entry of an Order granting all appropriate and traditional relief.

Respectfully submitted,

Date: April 1, 2020

/s/Julie M. Covel

Julie M. Covel
Counsel for the General Counsel
National Labor Relations Board, Region 14
8600 Farley, Suite 100
Overland Park, Kansas 66212-4677

STATEMENT OF SERVICE

I hereby certify that I have this date served copies of the foregoing Motion To Transfer Proceeding To Board And For Default Judgment on all parties listed below pursuant to the National Labor Relations Board's Rules and Regulations by electronically filing with service by electronic mail on the parties identified below.

/s/ Julie M. Covel

Dated: April 1, 2020

Julie M. Covel
Counsel for the General Counsel

PARTIES RECEIVING ELECTRONIC MAIL:

Michelle Fitzpatrick, President of APWU Local 238 — Respondent
President.kawvalleyapwu@gmail.com

Jana Kerley — Charging Party
blon_dee21@yahoo.com

UNITED STATES OF AMERICA	DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD	Case	Date filed
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS	14-CB-253322	December 13, 2019

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	b. Union Representative to Contact	
APWU Local 238	Michelle Fitzpatrick Union President	
c. Address	d. Tel. No.	e.e. Cell No.
PO Box 815, Mission, KS 66202	(913)281-0766	(816)255-9173
	f. Fax No.	g. e-Mail
		president.kawvalleyapwu@gmail.com

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) 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*)

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by failing and/or refusing to process the 2018 Line H grievance for arbitrary or discriminatory reasons or in bad faith.

RECEIVED NLRB, REGION 17 2019 DEC 13 PM 1:55 OVERLAND PARK, KS

3. Name of Employer	4a. Tel. No.	4b. Cell No.
United States Postal Service		
	4c. Fax No.	4d. e-Mail
5. Location of Plant involved (*street, city, state, and ZIP code*)	6. Employer representative to contact	
4900 Speaker Road, Kansas City, KS 66106		

7. Type of Establishment (*factory, mine, wholesaler*)	8. Principal product or service	9. Number of Workers employed
Postal Service	Mail	300

10. Full name of party filing charge	11a. Tel. No.	11b. Cell No.
Jana Kerley		(913)558-9990
	11c. Fax No.	11d e-Mail
		blon_dee21@yahoo.com

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

410 Hithergreen Dr., Lansing, KS 66043

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: Jana R Kerley	Jana Kerley	Tel No. 913-558-9990
(*signature of representative or person making charge*)	Print/type name and title or office, if any	Cell No. (913)558-9990
Address: 410 Hithergreen Dr., Lansing, KS 66043	Date: 12-13-19	Fax No.
		e-Mail blon_dee21@yahoo.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. 1-2624661271

Exhibit A

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010

Download
NLRB
Mobile App

December 13, 2019

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

Re: APWU Local 238 (USPS)
Case 14-CB-253322

Dear Ms. Fitzpatrick:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JULIE M. COVEL (Julie.Covel@nlrb.gov), whose telephone number is (913)275-6537. If this Board agent is not available, you may contact Supervisory Field Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)275-6527.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, 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.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone 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 National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents

Exhibit B

electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

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.

Very truly yours,

PAULA S. SAWYER
Acting Regional Director

By: Mary G. Taves

MARY G. TAVES
Officer in Charge

PSS:rml
Enclosure

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

APWU LOCAL 238 (USPS) Charged Party and **JANA KERLEY** Charging Party	**Case 14-CB-253322**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 13, 2019**,** I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

December 13, 2019
Date

Regina Lewis, Designated Agent of NLRB
Name

/s/ Regina Lewis
Signature

From:	Covel, Julie
To:	MA Fitzpatrick
Subject:	14-CB-253322: APWU Local 238 (New Charge and Request for Evidence) - URGENT
Date:	Friday, December 20, 2019 9:46:11 AM
Attachments:	Request for Evidence.pdf CHG.14-CB-253322.Signed Charge.pdf

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Michelle,

A new charge has been filed against APWU, Local 238 alleging that the Union failed to file and/or process the 2018 Line H grievance at the KCKS NDC facility. I have attached a copy of the charge and a copy of the Region's letter requesting evidence. Please be advised that the evidence is due to our office by January 8, 2020. If you have any questions, please contact me.

Sincerely,

Julie Covel
Field Attorney
National Labor Relations Board, Subregion 17
8600 Farley Street, Suite 100
Overland Park, KS 66212
Direct: (913) 275-6537
Fax: (913) 967-3010

Effective immediately, the NLRB is switching to mandatory electronic filing of all case documents. See GC 20-01. Below is information to assist you with this requirement.

Written instructions for using the Agency's E-filing system and the Agency's Electronic Filing Terms and Conditions have been posted on the Agency's website. See https://apps.nlrb.gov/myAccount/assets/E-Filing-System-User-Guide.pdf

The Agency's website also contains a video demonstration which provides step-by-step instructions. See https://apps.nlrb.gov/myAccount/assets/My%20Account%20Portal%20Overview/story_html5.html

For Frequently Asked Questions, please see https://apps.nlrb.gov/myAccount/#/FileCaseDocument/FAQ

Exhibit C

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677
Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010

Agent's Direct Dial: (913)275-6537

December 20, 2019

Sent via email only
Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202
president.kawvalleyapwu@gmail.com

Re: APWU Local 238 (USPS)
Case 14-CB-253322

Dear Ms. Fitzpatrick:

I am writing this letter to advise you that it is now necessary for me to take evidence from you regarding the allegations raised in the investigation of the above-referenced matter. Set forth below are the allegations and issues on which your evidence is needed, a request to take affidavits, a request for documentary evidence, and the date for providing your evidence.

Allegations: The allegations for which I am seeking your evidence are as follows.

Whether the APWU Local 238 breached its duty of fair representation to custodial employees at the KCKS NDC by failing to file and/or process the 2018 Line H grievance.

Board Affidavits: I am requesting to take affidavits from Michelle Fitzpatrick, Union Steward Crystal Herriage, Steward Mark Dempsey, and any other individuals you believe have information relevant to the investigation of this matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me by December 30, 2019, to schedule these affidavits.

Documents: Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. Copy of the 2018 Line H Grievance filed on behalf of custodians at the KCKS NDC, including but not limited to copies of the Step 1 Grievance Outline Worksheet, the Step 2 Grievance, the Step 3 Grievance, any supporting documentation attached to the grievance, and any responses to the grievance from the USPS;

2. Any requests for information made by the Union to obtain information necessary for the filing and processing of the 2018 Line H Grievance;

3. Any extensions of time filed by the Union with the Employer seeking to extend the time to file the 2018 Line H Grievance;

4. Minutes from the February 2019 Union Meeting held at Johnny's BBQ in Mission, Kansas where the issue of the 2018 Line H Grievance was discussed;

5. Communications, including emails, letters, text messages, and written documentation of verbal communication, between representatives of Local 238 (Union President, Vice President, Stewards, Executive Board) about the 2018 Line H Grievance, including the investigating, filing and processing of the grievance;

6. Communications, including emails, letters, text messages, and written documentation of verbal communication, between representatives of Local 238 (Union President, Vice President, Stewards, Executive Board) and National Business Agent Jeff Beaton about the 2018 Line H Grievance;

7. Communications, including emails, letters, text messages, and written documentation of verbal communication, between representatives of Local 238 (Union President, Vice President, Stewards, Executive Board) and unit employees (members or non-members) at the KCKS NDC about the 2018 Line H Grievance.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by January 8, 2020. If you are willing to allow me to take affidavits, please contact me by December 30, 2019 to schedule a time to take affidavits. Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted.

Please contact me at your earliest convenience by telephone, (913)275-6537, or e-mail, julie.covel@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/ Julie M. Covel

JULIE M. COVEL
Field Attorney

UNITED STATES OF AMERICA	DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD	Case	Date filed
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS	14-CB-253322	December 13, 2019

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	b. Union Representative to Contact	
APWU Local 238	Michelle Fitzpatrick Union President	
c. Address	d. Tel. No.	e.e. Cell No.
PO Box 815, Mission, KS 66202	(913)281-0766	(816)255-9173
	f. Fax No.	g. e-Mail
		president.kawvalleyapwu@gmail.com

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) 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*)

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by failing and/or refusing to process the 2018 Line H grievance for arbitrary or discriminatory reasons or in bad faith.

RECEIVED NLRB, REGION 17 2019 DEC 13 PM 1:55 OVERLAND PARK, KS

3. Name of Employer	4a. Tel. No.	4b. Cell No.
United States Postal Service		
	4c. Fax No.	4d. e-Mail
5. Location of Plant involved (*street, city, state, and ZIP code*)	6. Employer representative to contact	
4900 Speaker Road, Kansas City, KS 66106		

7. Type of Establishment (*factory, mine, wholesaler*)	8. Principal product or service	9. Number of Workers employed
Postal Service	Mail	300

10. Full name of party filing charge	11a. Tel. No.	11b. Cell No.
Jana Kerley		(913)558-9990
	11c. Fax No.	11d e-Mail
		blon_dee21@yahoo.com

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

410 Hithergreen Dr., Lansing, KS 66043

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: Jana R Kerley	Jana Kerley	Tel No. 913-558-9990
(*signature of representative or person making charge*)	Print/type name and title or office, if any	Cell No. (913)558-9990
Address: 410 Hithergreen Dr., Lansing, KS 66043	Date: 12-13-19	Fax No.
		e-Mail blon_dee21@yahoo.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.

1-2624661271

UNITED STATES OF AMERICA	DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD	Case	Date filed
FIRST AMENDED CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS	14-CB-253322	February 12, 2020

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	b. Union Representative to Contact	
APWU Local 238	Michelle Fitzpatrick - Union President	
c. Address	d. Tel. No.	e.e. Cell No.
PO Box 815, Mission, KS 66202	(913)281-0766	(816)255-9173
	f. Fax No.	g. e-Mail
		president.kawvalleyapwu@gmail.com

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) 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*)

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by failing and/or refusing to process the 2018 Line H grievance for arbitrary or discriminatory reasons or in bad faith.

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by willfully misinforming employees about the status of the 2018 Line H grievance in violation of Section 8(b)(1)(A) of the Act.

3. Name of Employer	4a. Tel. No.	4b. Cell No.
United States Postal Service		
	4c. Fax No.	4d. e-Mail
5. Location of Plant involved (*street, city, state, and ZIP code*)	6. Employer representative to contact	
4900 Speaker Road, Kansas City, KS 66106		

7. Type of Establishment (*factory, mine, wholesaler*)	8. Principal product or service	9. Number of Workers employed
Postal Service	Mail Processing	300

10. Full name of party filing charge	11a. Tel. No.	11b. Cell No.
Jana Kerley		(913)558-9990
	11c. Fax No.	11d e-Mail
		blon_dee21@yahoo.com

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

410 Hithergreen Dr., Lansing, KS 66043

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: Jana R Kerley	Jana Kerley	Tel No. 913-558-9990
(*signature of representative or person making charge*)	Print/type name and title or office, if any	Cell No. (913)558-9990
Address: 410 Hithergreen Dr., Lansing, KS 66043	Date: 2/11/2020	Fax No.
		e-Mail blon_dee21@yahoo.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

Exhibit D

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010

Download
NLRB
Mobile App

February 12, 2020

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

Re: APWU Local 238 (USPS)
Case 14-CB-253322

Dear Ms. Fitzpatrick:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney JULIE M. COVEL (Julie.Covel@nlrb.gov), whose telephone number is (913)275-6537. If the agent is not available, you may contact Supervisory Field Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)275-6527.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a

Exhibit E

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

SUSAN A. WADE-WILHOIT
Acting Regional Director

By: Mary G. Taves

MARY G. TAVES
Officer in Charge

SAWW:rml
Enclosure: Copy of first amended charge

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

APWU LOCAL 238 (USPS) Charged Party and **JANA KERLEY** Charging Party	Case 14-CB-253322

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **February 12, 2020,** I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

February 12, 2020
Date

Regina Lewis, Designated Agent of NLRB
Name

/s/ Regina Lewis
Signature

From:	Covel, Julie
To:	MA Fitzpatrick
Subject:	14-CB-253322: APWU Local 238 - Proposed Settlement Agreement
Date:	Thursday, February 13, 2020 9:28:49 AM
Attachments:	CHG.14-CB-253322.Signed Amended Charge.pdf Letter Sending SET and NEE.pdf Proposed Settlement Agreement and NEE.pdf

---

Michelle,

Good morning. I am following up on our conversation earlier this week about the charge filed by Jana Kerley against APWU Local 238 regarding the processing of the 2018 Line H grievance.

As I explained, the Region has made a merit determination on two allegations: (1) that the Union failed to process the 2018 Line H grievance for arbitrary reasons or in bad faith; and (2) that the Union willfully misled employees about the status of the 2018 Line H grievance. The attached amended charge reflects both of those allegations.

As we discussed, I returned by U.S. Mail the documents that you dropped off at our office on February 4, 2020, because the Agency now requires all documents to be e-filed. If those documents are resubmitted correctly, the Region is willing to consider the Union's evidence. However, I will need a Union official to give an affidavit explaining (1) the timeline of events; (2) the documents received from USPS that the Union relied upon to conclude the grievance was without merit; and (3) the Union's failure to communicate its decision to unit employees.

In the meantime, the case will continue to move forward based on the Region's merit determination. Consistent with Agency policy, I'm attaching a copy of the proposed settlement agreement and a separate letter that explains the settlement process and deadline for returning the settlement. Absent settlement by the above date or a reversal of the Regional determination, it will be necessary to issue a formal complaint.

Sincerely,

Julie Covel
Field Attorney
National Labor Relations Board, Subregion 17
8600 Farley Street, Suite 100
Overland Park, KS 66212
Direct: (913) 275-6537
Fax: (913) 967-3010

Effective immediately, the NLRB is switching to mandatory electronic filing of all case documents. See GC 20-01. Below is information to assist you with this requirement.

Written instructions for using the Agency's E-filing system and the Agency's Electronic Filing Terms and Conditions have been posted on the Agency's website. See https://apps.nlrb.gov/myAccount/assets/E-Filing-System-User-Guide.pdf

The Agency's website also contains a video demonstration which provides step-by-step instructions. See https://apps.nlrb.gov/myAccount/assets/My%20Account%20Portal%20Overview/story_html5.html

Exhibit F

For Frequently Asked Questions, please see
https://apps.nlrb.gov/myAccount/#/FileCaseDocument/FAQ

UNITED STATES OF AMERICA	DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD	Case	Date filed
FIRST AMENDED CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS	14-CB-253322	February 12, 2020

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	b. Union Representative to Contact	
APWU Local 238	Michelle Fitzpatrick - Union President	
c. Address	d. Tel. No.	e.e. Cell No.
PO Box 815, Mission, KS 66202	(913)281-0766	(816)255-9173
	f. Fax No.	g. e-Mail
		president.kawvalleyapwu@gmail.com

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) 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*)

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by failing and/or refusing to process the 2018 Line H grievance for arbitrary or discriminatory reasons or in bad faith.

Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by willfully misinforming employees about the status of the 2018 Line H grievance in violation of Section 8(b)(1)(A) of the Act.

3. Name of Employer	4a. Tel. No.	4b. Cell No.
United States Postal Service		
	4c. Fax No.	4d. e-Mail
5. Location of Plant involved (*street, city, state, and ZIP code*)	6. Employer representative to contact	
4900 Speaker Road, Kansas City, KS 66106		

7. Type of Establishment (*factory, mine, wholesaler*)	8. Principal product or service	9. Number of Workers employed
Postal Service	Mail Processing	300

10. Full name of party filing charge	11a. Tel. No.	11b. Cell No.
Jana Kerley		(913)558-9990
	11c. Fax No.	11d e-Mail
		blon_dee21@yahoo.com

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

410 Hithergreen Dr., Lansing, KS 66043

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: Jana R Kerley	Jana Kerley	Tel No. 913-558-9990
(*signature of representative or person making charge*)	Print/type name and title or office, if any	Cell No. (913)558-9990
Address: 410 Hithergreen Dr., Lansing, KS 66043	Date: 2/11/2020	Fax No.
		e-Mail blon_dee21@yahoo.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

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677
Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010

Agent's Direct Dial: (913)275-6537

February 13, 2020

Sent via email
Jana Kerley
410 Hithergreen Dr.
Lansing, KS 66043
blon_dee21@yahoo.com

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202
president.kawvalleyapwu@gmail.com

Re: APWU Local 238 (USPS)
Case 14-CB-253322

Dear Ms. Kerley and Ms. Fitzpatrick:

The investigation of the subject case has been concluded and the evidence revealed by the investigation has been carefully and thoroughly reviewed and considered. Based upon that evidence, a determination has been made that further proceedings are warranted on the following allegations:

- Within the past six months, the Union has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by failing and/or refusing to process the 2018 Line H grievance for arbitrary or discriminatory reasons or in bad faith.
- Within the last six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by willfully misinforming employees about the status of the 2018 Line H grievance in violation of Section 8(b)(1)(A) of the Act.

In accordance with established Board practice and procedure, I have prepared and am hereby forwarding for your consideration a proposed informal Settlement Agreement. You will note that the proposed Notice, which is attached and is a part of the Settlement Agreement, reiterates the statutory rights under the Act, notifies employees and members that the Charged Party will cease and desist from engaging in conduct proscribed by the Act, and contains remedial provisions covering the alleged unfair labor practices disclosed by the investigation.

It is my view that the enclosed proposed Settlement Agreement fully remedies all of the alleged unfair labor practices disclosed by the investigation and I am prepared, should you find it acceptable, to recommend it to the Regional Director for his approval. In that regard, it should

be noted that while I am recommending the enclosed agreement for your serious consideration and believe it fully remedies the alleged violations disclosed by the investigation, all proposed Settlement Agreements are subject to final review and approval by the Regional Director. It should be further noted that the proposed agreement is based upon presently available facts and is being made without prejudice to any other position that might be taken should these settlement efforts fail.

If you find the proposed settlement agreement acceptable and agree to resolve these matters on the basis outlined herein, please **sign and date one copy of the Settlement Agreement**, **initial and date each page of the notice**, and submit the Settlement Agreement using the Agency's E-filing system on www.nlrb.gov no later than close of business on **Wednesday, February 19, 2020**. If you are unable to file electronically, you may resubmit the documents accompanied by a signed and dated enclosed *Statement of Inability to E-File* form.

If the Regional Director approves the agreement, the Charged Party will subsequently be supplied additional copies of the Notice for posting along with a letter explaining the actions to be taken to comply with the agreement.

Absent settlement by the above date, it will be necessary to issue a formal complaint. Issuance of Complaint, however, should not be viewed as an impediment to further settlement negotiations.

If you have any questions or wish to discuss this matter further, please feel free to contact me.

Very truly yours,

/s/ Julie M. Covel

JULIE M. COVEL
Field Attorney

ENC.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF
APWU Local 238 (USPS) **Case 14-CB-253322**

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS**:

POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them in all places where the Charged Party normally posts notices to unit employees. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting. Further, if the Charged Party maintains bulletin boards at the facility of the Employer where the alleged unfair labor practices occurred, the Charged Party shall also post Notices on each such bulletin board during the posting period. The Regional Director will send copies of the signed Notices to the Employer whose employees are involved in this case, and request that the Notices be posted in prominent places in the Employer's facility for 60 consecutive days from the date of posting.

INTERNET POSTING - The Charged Party will also post a copy of the Notice in English and in additional languages if the Regional Director decides that it is appropriate to do so, on its internet at www.apwulocal238.com and keep it continuously posted there for 60 consecutive days from the date it was originally posted. The Charged Party will send an e-mail to the Region's Compliance Officer when it submits the Certification of Posting and provide a password for a password protected intranet site in the event it is necessary to check the electronic posting.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice**.**

BACKPAY — Within 14 days from approval of this agreement, the Charged Party will make whole unit employee(s) who worked at the USPS facility located at 4900 Speaker Road, Kansas City, KS 66106 who should have received payment as part of the 2018 Line H grievance. The amounts owing each individual will be computed in accordance with Board procedures. No withholdings should be made from the interest portion of the backpay.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees and Members made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve

the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____ No _____
Initials Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.
The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days' notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a Complaint that includes the allegations covered by the Notice to Employees and Members, as identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the General Counsel would ordinarily plead to establish the unfair labor practices.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party **APWU Local 238**		**Charging Party** **Jana Kerley**	
By: Name and Title	Date	By: Name and Title	Date
Print Name and Title below		Print Name and Title below	

Recommended By:	Date	Approved By:	Date
JULIE M. COVEL Field Attorney		SUSAN A. WADE-WILHOIT Acting Regional Director, Region 14	

Form NLRB-4781
(1-02)

/2+A@+031100

NOTICE TO
EMPLOYEES AND MEMBERS

POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

RFC L?RGML?J J?@MP PCJ?RGMLQ ?AR EGTCQ WMS RFC PGEFR RM8

- Dmpk* hmgl* mp _qqgqr _ slgml9
- Afmmqc _ pcnpcqclr_rgtc rm `_pe_gl ugrf wmsp cknjmwcp ml wmsp `cf_jd9
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- Afmmqc lmr rm cle_ec gl _lw md rfcqc npmrcarcb _argtgrgcq,

UC UGJJ LMR pcqrp_gl mp amcpac wms gl rfc cvcpagqc md rfc _`mtc pgefrq,

UC UGJJ LMR d_gj mp pcdsqc rm npmacqq wmsp epgct_lac dmp _p`grp_pw mp bgqapgkgl_rmpw pc_qmlq,

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Gl rfc ctclr rf_r gr gq lmr nmqqg`jc dmp ?NUS Jma_j 016 rm nspqsc rfc aj_qq _argml 0./6 Jglc F epgct_lac* **UC UGJJ** k_ic ufmjc &ugrf glrcpcqr' cknjmwccq dmp _lw b_k_ecq qsddcpcb _q _ amlqcosclac md msp d_gjspc rm npmacqq rfc epgct_lac,

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The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER,

64.. D_pjcw Qrpccr* Qsgrc /..
Mtcpj_lb N_pi* IQ 440/0+2455

Rcjcnfmlc8 &7/1'745+1...
Fmspq md Mncp_rgml8 68/3 _,k, rm 2823 n,k,

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 17

AMERICAN POSTAL WORKERS UNION
LOCAL 238
(United States Postal Service)

and **Case 14-CB-253322**

JANA KERLEY, an Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Jana Kerley, an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., the Postal Reorganization Act, 39 U.S.C. § 101 et seq. (PRA), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that American Postal Workers Union, Local 238 (Respondent) has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Charging Party on December 13, 2019, and a copy was served on Respondent by U.S. mail on the same date.

(b) The first amended charge in this proceeding was filed by the Charging Party on February 12, 2020, and a copy was served on Respondent by U.S. mail on the same date.

2.

(a) The United States Postal Service (Employer) provides postal services for the United States and operates various facilities throughout the United States in performing that function, including the Network Distribution Center located at 4900 Speaker Road, Kansas City, Kansas (Speaker Road Facility), the only facility involved in this proceeding.

Exhibit G

(b) The Board has jurisdiction over the Employer and this matter by virtue of Section 1209 of the PRA.

3.

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

(b) At all material times, the American Postal Workers Union, AFL-CIO (National Union) has been a labor organization within the meaning of Section 2(5) of the Act.

4.

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

Michelle Fitzpatrick	-	Local President
Mark Dempsey	-	Steward
Crystal Herriage	-	Steward

5.

(a) At all material times by virtue of Section 9(a) of the Act, the National Union has been the exclusive collective-bargaining representative of the following employees of the Employer, herein called the Unit:

> All maintenance employees, motor vehicle employees, postal clerks, including special delivery messengers merged into the clerk craft by memorandum of understanding dated November 20, 1997, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees employed by the Employer, but excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, rural letter carriers, mail handlers, and letter carriers.

(b) At all material times herein, Respondent has been an agent of the National Union for purposes of servicing Unit employees employed at the Employer's Speaker Road facility in Kansas City, Kansas.

(c) At all material times, the National Union and the Employer have maintained and enforced a collective-bargaining agreement, covering conditions of employment of the Unit and containing, among other provisions, a grievance and arbitration procedure, the most recent of which was effective by its terms from May 21, 2015 through September 20, 2018.

6.

(a) Beginning on or around June 13, 2019, and continuing to date, Respondent has failed to process a class action grievance concerning Line-H for fiscal year 2018 under the provisions of the agreement described above in paragraph 5(c).

(b) Beginning on or around June 13, 2019, and continuing to present, Respondent has misinformed employees about the status of the 2018 fiscal year Line-H grievance in response to employee requests about the status of the grievance.

(c) Respondent's conduct described above in paragraphs 6(a) and (b) was arbitrary and perfunctory.

(d) By engaging in the conduct described above in paragraphs 6(a) and (b) in connection with its representative status described above in paragraph 5, Respondent has failed to represent the Charging Party and other Unit employees for reasons that are arbitrary, perfunctory, discriminatory, or in bad faith and has breached the fiduciary duty it owes to said employee and the Unit.

7.

By the conduct described above in paragraph 6, Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act and within the meaning of the PRA.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **e-filed with this office on or before March 12, 2020**. Respondent also must serve a copy of the answer on each of the other parties.

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

means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **May 19, 2020, 9:00 a.m. CT at the National Labor Relations Board, 8600 Farley Street, Suite 100, Overland Park, Kansas 66212,** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: February 27, 2020

SUSAN A. WADE-WILHOIT
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 14, BY:

/s/ MARY G. TAVES

MARY G. TAVES
OFFICER-IN-CHARGE
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 17

AMERICAN POSTAL WORKERS UNION
LOCAL 238
(United States Postal Service)

and **Case 14-CB-253322**

JANA KERLEY, an Individual

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 27, 2020, I served the above-entitled document(s) by **certified or regular mail,** as noted below, upon the following persons, addressed to them at the following addresses:

Michelle Fitzpatrick, Union President APWU Local 238 PO Box 815 Mission, KS 66202	**CERTIFIED MAIL, RETURN RECEIPT REQUESTED** **7017 1070 0000 0183 6115**
Jana Kerley 410 Hithergreen Dr. Lansing, KS 66043	**CERTIFIED MAIL** **7017 1070 0000 0183 6122**
Roderick D. Eves, Deputy Managing Counsel United States Postal Service 1720 Market St. Rm 2400, Law Department - NLRB Unit Saint Louis, MO 63155-9948	**FIRST CLASS MAIL**

February 27, 2020
Date

Karen Clemoens, Designated Agent of NLRB
Name

/s/ Karen Clemoens
Signature

Exhibit H

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 14-CB-253322

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

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

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

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

Jana Kerley
410 Hithergreen Dr.
Lansing, KS 66043

Roderick D. Eves, Deputy Managing Counsel
United States Postal Service
1720 Market St. Rm 2400, Law Department -
NLRB Unit
Saint Louis, MO 63155-9948

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

Procedures in NLRB Unfair Labor Practice Hearings

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

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

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

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in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

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SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

Complaint 14-CB-253322
APWU LOCAL 238 (USPS)

9590 9402 4482 8248 4461 43

2. Article Number *(Transfer from service label)*

7017 1070 0000 0183 6115

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X M Fitzpatrick ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* M Fitzpatrick
C. Date of Delivery 7/9/2020

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☑ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

USPS TRACKING #

9590 9402 [illegible]82 8248 4461 43

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

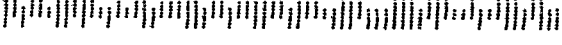
United States
Postal Service

RECEIVED
NLRB, REGION 17
2020 MAR 11 PM 1:
OVERLAND PARK, KS

• Sender: Please print your name, address, and ZIP+4® in this box•

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 FARLEY STREET - SUITE 100
OVERLAND PARK, KS 66212-4677
An Equal Opportunity Employer

OFFICIAL BUSINESS



From:	Covel, Julie
To:	MA Fitzpatrick
Subject:	14-CB-253322 APWU Local 238 - Urgent
Date:	Friday, March 13, 2020 11:53:41 AM
Attachments:	7 Day Letter To File Answer.pdf CPT.14-CB-253322.Complaint and Notice of Hearing (1).pdf SVC.14-CB-253322.Affidavit of Service for Complaint and NOH.pdf Rules and Regs 102 20 and 102 21.pdf

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Michelle,

Please see the attached letter advising the Union of its obligation to file an Answer to the Complaint and Notice of Hearing that issued in the above-referenced case.

Sincerely,

Julie Covel
Field Attorney
National Labor Relations Board, Subregion 17
8600 Farley Street, Suite 100
Overland Park, KS 66212
Direct: (913) 275-6537
Fax: (913) 967-3010

Effective immediately, the NLRB is switching to mandatory electronic filing of all case documents. See GC 20-01. Below is information to assist you with this requirement.

Written instructions for using the Agency's E-filing system and the Agency's Electronic Filing Terms and Conditions have been posted on the Agency's website. See https://apps.nlrb.gov/myAccount/assets/E-Filing-System-User-Guide.pdf

The Agency's website also contains a video demonstration which provides step-by-step instructions. See https://apps.nlrb.gov/myAccount/assets/My%20Account%20Portal%20Overview/story_html5.html

For Frequently Asked Questions, please see https://apps.nlrb.gov/myAccount/#/FileCaseDocument/FAQ

Exhibit I

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010

Agent's Direct Dial: (913)275-6537

March 13, 2020

Sent via email
Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202
president.kawvalleyapwu@gmail.com

Re: APWU Local 238 (USPS)
Case 14-CB-253322

Dear Ms. Fitzpatrick:

On February 27, 2020, a Complaint and Notice of Hearing issued in the above-captioned case scheduling a hearing for May 19, 2020. Pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, American Postal Workers Union, Local 238 (Respondent) is required to file an Answer to the Consolidated Complaint. Section 102.20 of the Rules and Regulations provides that, if no Answer is filed, all of the allegations in the Complaint shall be deemed to be admitted and may be so found by the Board. As set forth in the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing, Respondent's Answer was due on or before March 12, 2020. To date, an Answer has not been filed. If Respondent does not file an Answer by close of business on March 19, 2020, I will file a Motion for Default Judgment with the Board.

I have attached a copy of the Complaint and Notice of Hearing and the relevant sections from the Board's Rules and Regulations for your reference. Please note that Section 102.20 requires Respondent to "specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state…."

Please feel free to contact me with any questions.

Very truly yours,

/s/ Julie M. Covel

JULIE M. COVEL
Field Attorney

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 17

AMERICAN POSTAL WORKERS UNION
LOCAL 238
(United States Postal Service)

and **Case 14-CB-253322**

JANA KERLEY, an Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Jana Kerley, an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., the Postal Reorganization Act, 39 U.S.C. § 101 et seq. (PRA), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that American Postal Workers Union, Local 238 (Respondent) has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Charging Party on December 13, 2019, and a copy was served on Respondent by U.S. mail on the same date.

(b) The first amended charge in this proceeding was filed by the Charging Party on February 12, 2020, and a copy was served on Respondent by U.S. mail on the same date.

2.

(a) The United States Postal Service (Employer) provides postal services for the United States and operates various facilities throughout the United States in performing that function, including the Network Distribution Center located at 4900 Speaker Road, Kansas City, Kansas (Speaker Road Facility), the only facility involved in this proceeding.

(b) The Board has jurisdiction over the Employer and this matter by virtue of Section 1209 of the PRA.

3.

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

(b) At all material times, the American Postal Workers Union, AFL-CIO (National Union) has been a labor organization within the meaning of Section 2(5) of the Act.

4.

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

Michelle Fitzpatrick	-	Local President
Mark Dempsey	-	Steward
Crystal Herriage	-	Steward

5.

(a) At all material times by virtue of Section 9(a) of the Act, the National Union has been the exclusive collective-bargaining representative of the following employees of the Employer, herein called the Unit:

> All maintenance employees, motor vehicle employees, postal clerks, including special delivery messengers merged into the clerk craft by memorandum of understanding dated November 20, 1997, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees employed by the Employer, but excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, rural letter carriers, mail handlers, and letter carriers.

(b) At all material times herein, Respondent has been an agent of the National Union for purposes of servicing Unit employees employed at the Employer's Speaker Road facility in Kansas City, Kansas.

(c) At all material times, the National Union and the Employer have maintained and enforced a collective-bargaining agreement, covering conditions of employment of the Unit and containing, among other provisions, a grievance and arbitration procedure, the most recent of which was effective by its terms from May 21, 2015 through September 20, 2018.

6.

(a) Beginning on or around June 13, 2019, and continuing to date, Respondent has failed to process a class action grievance concerning Line-H for fiscal year 2018 under the provisions of the agreement described above in paragraph 5(c).

(b) Beginning on or around June 13, 2019, and continuing to present, Respondent has misinformed employees about the status of the 2018 fiscal year Line-H grievance in response to employee requests about the status of the grievance.

(c) Respondent's conduct described above in paragraphs 6(a) and (b) was arbitrary and perfunctory.

(d) By engaging in the conduct described above in paragraphs 6(a) and (b) in connection with its representative status described above in paragraph 5, Respondent has failed to represent the Charging Party and other Unit employees for reasons that are arbitrary, perfunctory, discriminatory, or in bad faith and has breached the fiduciary duty it owes to said employee and the Unit.

7.

By the conduct described above in paragraph 6, Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act and within the meaning of the PRA.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **e-filed with this office on or before March 12, 2020**. Respondent also must serve a copy of the answer on each of the other parties.

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

means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **May 19, 2020, 9:00 a.m. CT at the National Labor Relations Board, 8600 Farley Street, Suite 100, Overland Park, Kansas 66212,** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: February 27, 2020

SUSAN A. WADE-WILHOIT
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 14, BY:

/s/ MARY G. TAVES

MARY G. TAVES
OFFICER-IN-CHARGE
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 14-CB-253322

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

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

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

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

Jana Kerley
410 Hithergreen Dr.
Lansing, KS 66043

Roderick D. Eves, Deputy Managing Counsel
United States Postal Service
1720 Market St. Rm 2400, Law Department -
NLRB Unit
Saint Louis, MO 63155-9948

Michelle Fitzpatrick, Union President
APWU Local 238
PO Box 815
Mission, KS 66202

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ANSWER

Sec. 102.20 *Answer to complaint; time for filing; contents; allegations not denied deemed admitted*.—The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

Sec. 102.21 *Where to file; service upon the parties; form*.— An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on the other parties. An answer of a party represented by counsel or non-attorney representative shall be signed by at least one such attorney or non-attorney representative of record in his/her individual name, whose address shall be stated. A party who is not represented by an attorney or non-attorney representative shall sign his/her answer and state his/her address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of the attorney or non-attorney party representative constitutes a certificate by him/her that he/she has read the answer; that to the best of his/her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this section an attorney or non-attorney party representative may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

Sec. 102.22 *Extension of time for filing*.—Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

Sec. 102.23 *Amendment*.—The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the administrative law judge or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the administrative law judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the administrative law judge or the Board.